now sells to only 40 PCB customers in the U.S. and that its U.S. production has been slashed to about 40 million pounds a year from the 1970 peak of 85 million pounds. Monsanto also makes PCBs in Europe and sells them under the same restrictions.

But the production cutback has failed to reduce pollution levels for several reasons. One is the chemicals' persistence in the environment; PCBs "could be around for years and years to come," says Nicholas S. Fisher, a marine ecologist at the Woods Hole Oceanographic Institute in Massachusetts. Also, many U.S. users of PCBs cut off by Monsanto are obtaining supplies from European producers for use in hand soaps, copying-ink toners and other products that readily contribute to pollution, federal officials believe. And finally, even Monsanto customers in their manufacturing processes accidentally spill PCBs, and direct emissions of the chemicals into waterways have never been stopped.

COMPLETE BAN URGED

As a result of the apparent failure of voluntary controls, environmentalists are urging a ban on PCBs. "They are a hazard to human health, so there should be a complete phaseout of PCBs in every use as soon as possible," says Karim Ahmed, a biochemist with the Natural Resources Defense Council in New York.

According to Barry Commoner, a biologist and director of Washington University's Center for the Biology of Natural Systems, the lack of environmental caution in introducing PCBs amounts to "an absolutely shocking and staggering case history."

Mr. Commoner says the ability of PCBs to cause chloracne, a skin ailment, was well-documented by 1943 because of outbreaks among workers handling PCBs and products containing them. But nobody bothered to consider the eventual public-health problems that might result from the environmental pollution, he says.

It's true that only after environmental problems in general and DDT in particular became issues in the 1960s did PCBs finally become suspect. In 1966, researchers discovered PCBs in the tissues of fish that at first had been thought to be suffering from DDT intoxication. Subsequent studies confirmed PCBs as a widespread contaminant, entering the environment through pollution of waterways, the burning of trash containing PCBs and other routes.

Then the alarm grew as new evidence of PCB's toxicity came to light. In 1968, more than 1,000 people in Japan suffered an epidemic of a disfiguring skin disease, dubbed Yusho, that later was traced to rice oil heavily contaminated with PCBs. The victims also suffered abdominal pains and disturbances in liver function. The chemicals had been used as a heat-transfer agent in making the oil, which apparetly had been contaminated by leaking equipment.

Evidence of toxicity cnotinues to increase. After PCBs became an issue three years ago, the Food and Drug Administration set maximum levels, effective in 1973, to be tolerated in foods; the tolerance for fish, for example, was put at five parts per million. But recent research suggests that PCBs may be hazardous at the stipulated levels or lower.

The evidence comes from the University of Wisconsin's Primate Research Center. James R. Allen, a professor of pathology, says rhesus monkeys, only a few months after being put on diets containing as little as 2.5 parts per million of PCBs, suffered loss of hair, general metabolic disturbance and, in effect, a severe stomachache. Moreover, even low levels of PCBs in monkeys apparently caused abortions and sickly offspring. "This indicates that if man were exposed to similar levels over the same time, he also would become extremely ill," Mr. Allen says.

The monkey studies are considered significant because many fish contain more than five parts per million of PCBs. Through an insidious phenomenon known as bioaccumulation, PCBs tend to build up in the fatty portions of animals and man; authorities say PCB concentrations in fish may be up to 250,000 times as great as in the water in which they feed.

Fish from the Great Lakes, the Hudson, Milwaukee and Ohio rivers and other waterways are showing worrisome PCB levels. Recent samples from Lake Michigan average 5.6 parts per million in bloater chubbs, 22.9 parts per million in large lake trout and 10.5 parts per million in coho salmon. PCB levels tend to be somewhat lower in edible portions of fish but still exceed the five-parts-per-million limit.

Two shipments of Great Lakes canned salmon recently were seized by the FDA as contaminated, and several states have been trying to police fish sold within states. But many people, mainly sport fishermen, are believed to be eating contaminated fish, despite warnings by health authorities in New York and the Midwest. And serious problems could loom for commercial fishermen. After studying Lake Michigan, for example, a special task force recently concluded, "Although all species aren't affected by PCBs, the potential exists for a significant portion of this fishery being curtailed."

Moreover, there are hints that PCBs also might cause cancer in man, although this possibility is far from having been proved. One soon-to-be-published study by Renate D. Kimbrough, a physician currently with the federal Center for Disease Control in Atlanta, provides the strongest indication to date that PCBs can cause liver cancer in rats. "This serves as a warning that PCBs may be a low-grade carcinogenic agent in man," she says. Some scientists speculate that if the chemicals cause cancer in man, it would be only after heavy exposure over many years and possibly only in longtime workers in PCB plants.

The dangers to some forms of animals has been definitely established. For example, mink that ate Great Lakes fish containing PCBs failed to reproduce, and PCB pollution is said to have forced some mink growers out of business. And the chemicals are prime suspects in wildlife problems. Robert W. Risebrough, an ecologist with the University of California's Bodega Marine Laboratory, says there is a "strong but still unproven" case that PCBs are killing birds such as the herring gull and osprey.

Scientists also worry that PCBs in the oceans will eventually decimate some forms of algae, with a possibly fatal impact on tiny animals, near the bottom of the food chain, that eat those specific algae. Experimentation also has suggested that PCBs somehow interfere with the process of photosynthesis through which plants flourish. More recent research at Woods Hole, however, suggests that photosynthesis isn't impaired, but cell division is; the result would be fewer cells and less total photosynthesis in types of algae sensitive to PCBs. Nobody knows what the eventual impact, if any, will be on man.

Amid all these uncertainties, few people are seriously arguing that PCBs shouldn't be cleaned up. The EPA promises "aggressive" action. Mr. Schweitzer of the toxic-substances office says that next February the EPA will finally set effluent limitations for PCBs aimed at stopping industrial pollution. (Since 1972 the agency has had the authority to issue such standards, but hasn't done so. In the absence of standards, most PCB users have been free to pollute waterways, though some regional EPA offices have tried to regulate emissions through permits.)

The EPA also is citing PCBs in renewing its call for passage of the long-proposed Toxic Substances Control Act. The legislation, which isn't considered likely to clear Congress soon, would expand the EPA's powers to curb pollution. But environmentalists call the proposed legislation weak since it wouldn't require new testing procedures.

SENATE—*Tuesday, October 28, 1975*

The Senate met at 11 a.m. and was called to order by Hon. JOHN GLENN, a Senator from the State of Ohio.

PRAYER

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

Almighty God, from whom all thoughts of truth and peace proceed, kindle, we pray Thee, in the hearts of all men a true love of peace, and guide with Thy pure wisdom those who take counsel for the nations of the Earth. Help us to see others in the light of the faith we possess. Grant us grace to do what can be done to remove old hatreds, to diminish ancient rivalries, to check presumptuous judgments, and to correct the errors of the past. Give Thy grace and higher wisdom to the President, to all who serve here and elsewhere in this Nation's Government, and grant to each one faithfulness in every duty, perseverance in all that is just, and a heart in tune with Thy spirit.

In the name of the Prince of Peace, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 28, 1975.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JOHN GLENN, a Senator from the State of Ohio, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, October 23, 1975, be dispensed with.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The ACTING 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.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, the Committee on Banking, Housing and Urban Affairs has been attempting to force out of that committee a very far-reaching piece of legislation. It is a measure that has been lobbied for by the New York City politicians and by New York City bankers. Its purpose is to bail New York City out of its financial difficulties.

I do not underestimate the power of the New York City politicians, and the New York City bankers.

With that in mind, I feel that those who want to protect the working people of our Nation against this raid on the Federal Treasury must use the rules of the Senate to delay that legislation. That being the case——

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. HARRY F. BYRD, JR. I yield.

Mr. MANSFIELD. Mr. President, I think I understand what the Senator is driving at. In view of the fact that we do have some special orders, and an agreement for the transaction of routine morning business not to extend beyond 12 noon, would the Senator be willing to allow all committees except the one which he has in mind to meet?

Mr. HARRY F. BYRD, JR. I have no objection to that.

Mr. MANSFIELD. Mr. President, I ask unanimous consent, then, that all committees except the Committee on Banking, Housing and Urban Affairs be authorized to meet during the session of the Senate today.

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

Mr. MANSFIELD. Mr. President, it is my understanding that that committee has until the termination of morning business, that is, until noon, to meet officially.

The ACTING PRESIDENT pro tempore. That is correct.

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

Mr. MANSFIELD. I yield.

Mr. HELMS. I did not understand the Senator's last statement.

Mr. MANSFIELD. That the Committee on Banking, Housing and Urban Affairs has until noon to meet, or until the end of morning business, whichever comes first, because of the fact that we have three special orders and then 15 minutes for the conduct of routine morning business.

Mr. HELMS. I understand. I thank the Senator.

SCHEDULE OF NONLEGISLATIVE PERIODS FOR 1976

Mr. MANSFIELD. Mr. President, while a liberal schedule of nonlegislative days was established for 1975, it is interesting to note that as of October 23 the Senate had been in session more hours than in the previous year on the same date. In 1974, the Senate was in session 146 days for 908 hours, whereas in 1975, we have also been in session 146 days for over 930 hours. This is even more noteworthy since Congress was in adjournment during the entire month of August which is required by law.

Senators have been better able to schedule visits to their home States as a result of early scheduling of brief breaks in the legislative activity throughout the year. At the same time, attendance for record votes has increased. As a matter of fact, during 1975, an average of only 10.6 percent of the membership was absent during voting. This is the best record since 1964. In the intervening years, absenteeism has been as high as 23.6 percent and averaged nearly 16 percent.

The joint leadership is pleased to announce the 1976 schedule at this time so that Senators can make their plans well in advance to insure maximum attendance in the Senate.

I ask unanimous consent that the schedule for next year be printed in the RECORD at this point.

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

Congress reconvenes Tuesday, January 6.

Lincoln's Birthday (Thursday, February 12)—From conclusion of business Friday, February 6, until Monday, February 16.

Easter (Sunday, April 18)—From conclusion of business Wednesday, April 14, until Monday, April 26.

Memorial Day (Monday, May 31)—From conclusion of business Friday, May 28, until Wednesday, June 2.

July 4 (Sunday) and Democratic Convention—From conclusion of business Friday, July 2, until Monday, July 19.

Republican Convention—From conclusion of business Wednesday, August 11, until Monday, August 23.

Labor Day (Monday, September 6)—From conclusion of business Wednesday, September 1, until Tuesday, September 7.

Expected Adjournment Sine Die—Saturday, October 2.

Mr. MANSFIELD. Mr. President, it is anticipated that the Senate will try for an adjournment by December 12 of this year, and return next year on January 6. If, however, we cannot complete our work by December 12, for each day beyond that, a day would be added beyond January 6, so that it will be possible for the entire membership to have a 3-week interregnum between the end of the first session and the beginning of the second session of this Congress.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes, indeed.

Mr. HUGH SCOTT. That was the first question I was going to ask to clarify the matter. It is expected, I believe, under the recess schedule for next year, that hopefully we may be able to adjourn sine die by October 2.

Mr. MANSFIELD. That is correct. I believe that is in the schedule.

Mr. HUGH SCOTT. I think it ought to be pointed out that next year's schedule allows for fewer nonlegislative periods than this year's schedule.

Mr. MANSFIELD. That most certainly is correct, but it also takes into consideration the fact that, on the basis of our system, we do have a Republican and a Democratic national convention next year for the purpose of selecting our respective presidential candidates.

Mr. HUGH SCOTT. I noticed with Democratic convention is about twice as some amusement that the recess for the long as the recess for the Republican convention.

Mr. MANSFIELD. Ah, but it goes over the Fourth of July holiday, in part.

Mr. HUGH SCOTT. I was not objecting. I had been consulted on the schedule, and had agreed to it. I think it simply points out that Democrats fight longer and take a longer time to select their candidates. But, as Abraham Lincoln used to say, "No matter how much the cats fight, there always seems to be plenty of kittens," the truth of which I note sorrowfully.

Mr. MANSFIELD. Well, the Democrats do have a reputation for scrapping. Maybe that is what holds us together.

Mr. HUGH SCOTT. I would not be surprised. Actually, I think a little scrapping among the Republicans is extremely healthy, and I am in no way opposed to it. I want people to know we are alive as a party, that we have differing opinions, and that we hold them sincerely and often strongly.

I think that we can probably do this in less time, chiefly because we are more efficient than the Democrats.

Mr. MANSFIELD. And less numerous.

Mr. HUGH SCOTT. And, unfortunately, less numerous, as the distinguished majority leader notes. I do not think a premium is put on efficiency in this country. I think amiable inefficiency gets more votes apparently than somewhat solid efficiency. I am sorry that my party presents that image. I try in propria persona not to present that. I believe politics is fun. I believe we should not be ashamed of it.

In the British Government, and I taught politics in a British university once, they are not ashamed of it. They call themselves politicians, and they practice the art of politics.

There is no reason why we should tuck our tails between our legs and run every time some predatory journalist accuses us of being politicians. We are, and it is an honorable profession.

I pointed out only this weekend in Erie that in my opinon it is the most honorable profession. I pointed out that the distinguished majority leader and I, in working out the problems of the Senate's day-to-day progression, never need anything in writing. Our given word, I believe, is as good as Fort Knox.

I am not sure that that is true—in fact, I said bluntly it was not true in any other profession, and someone had to bring up the diamond merchants in Amsterdam who seem to do the same thing. But short of the diamond merchants in Amsterdam, I do believe we have this relationship among ourselves as politicians which is something of which to be very proud.

Mr. President, if I could be recognized on my own time, if the distinguished majority leader is finished——

Mr. MANSFIELD. Mr. President, will the Senator allow me to continue?

Mr. HUGH SCOTT. Yes.

ORDER FOR VOTE TO OCCUR ON SLAY NOMINATION AT 2 P.M.

Mr. MANSFIELD. Mr. President, I discussed this matter with the distinguished Republican leader, and this has been cleared with both Senators BAYH and GOLDWATER. I ask unanimous consent that the vote on the Slay nomination occur at the hour of 2 p.m. rather than 1 p.m.

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

ORDER FOR VOTE TO OCCUR ON RATIFICATION OF PENDING TREATIES IMMEDIATELY FOLLOWING VOTE ON SLAY NOMINATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that immediately following the vote on the Slay nomination the vote occur on the treaties listed in the calendar which are six in number, and that there be one vote on all of these treaties which were reported by the Committee on Foreign Relations unanimously, but they count as six votes.

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

Mr. HUGH SCOTT. Mr. President, I am glad that the distinguished majority leader has pointed out the high attendance record in this session, because it is quite correct, and it is much better than most previous sessions. It is because Senators have been able to plan their time better, and to see the people who wish them to speak in various parts of the country, including their own constituents. We can do it best in the time we are not required to be in the Senate.

I am glad to say my own record is in the neighborhood of 91½ percent attendance. Whenever it slips, someone writes a story in the paper. When it goes up, they go dumb.

So I have to say these things in the hope that some lone person somewhere will print it. If he does not at least the RECORD will show it.

Mr. President, there are 64 days left in 1975. The $64 question is when will Congress pass an energy bill that can become law? It would be very interesting to see what we do in these 64 days.

Our people are going to be confronted with a severe natural gas shortage. My State is going to suffer through loss of jobs. Homeowners are going to suffer. Some of our industries are going to grind either to a slowdown or a halt. Nothing whatever has been done on the fuel-oil crisis in the way of securing a compromise between the President and Congress.

It does look as if Congress would rather have no action than some action, and it is regrettable. The press is giving us the dickens about it. I think in this case the press is absolutely right.

The record of Congress is deplorable in this regard. We are meeting oftener and working harder, but we are not getting the major jobs done in the energy field. I regret it, and I will not be a party to that performance. I have said so many times.

OPEN COVENANTS NOT SO OPENLY ARRIVED AT

Mr. HUGH SCOTT. Mr. President, there was a very good article in the Sunday, October 26, Washington Post, called "Open Covenants Not So Openly Arrived At," in which the distinction is made between the need for confidentiality in our relationships as distinguished from the necessity of secrecy in our relationships.

In my opinion, we have lost sight of this distinction. Fortunately nothing can be done without some degree of confidentiality.

So the question has to be looked at from the standpoint of how can men and women relate to problems without some protection of the confidentiality leading up to decisions and yet how can we protect the public's right to know so that matters shall not be classified as secret which ought to be in the public domain.

I think this article by Warren Bennis, president of the University of Cincinnati, is excellent, and I ask unanimous consent that it may 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, Oct. 26, 1975]

OPEN COVENANTS NOT SO OPENLY ARRIVED AT

(By Warren Bennis)

The British Foreign Office gives its fledgling diplomats three cardinal rules of behavior: 1. never tell a lie; 2. never tell the whole truth, and 3. never miss a chance to go to the bathroom. An old Tammany boodler, who dislikes leaving any traces of his dealings, had a terser rule: "Don't write. Send word."

Both sets of rules, I fear, are likely to become more and more a tacit standard of conduct for those who, in the post-Watergate climate of suspicion, share the hazardous privilege of running large organizations—including, in my own case, the nation's second largest urban multiversity.

Never have the American people felt such universal distrust of their presumed leaders—whether in government, the law, the clergy or education. Year after year of calculated deception over Vietnam, compounded by the conspiracy, skullduggery and chicanery of Watergate, have left them trusting almost no one in authority.

Consider a recent Gallup survey in which college students were asked to rate the honesty and ethical standards of various groups: Political officeholders (only 9 per cent rated "very high") were eclipsed only by advertising men (6 per cent), lawyers rated 40 per cent, journalists 49 per cent. I am proud that college teachers rated highest (70 per cent), but since college presidents were not included, I can't seek shelter under that umbrella.

In short, virtually all leaders are in the doghouse of suspicion. And the understandable reaction to all these credibility gaps is creating a growing insistence that every public act, of whatever public institution, be conducted, as it were, in Macy's window.

Some symptoms:

"Sunshine laws" have now been passed by numerous states, prohibiting closed meetings at any federally supported institution. Hawaii has even made it a crime to hold a private meeting of any sort without giving advance notice.

The Buckley amendment requires that personnel records in institutions with federal support (particularly those concerning students) be open to inspection by the person concerned.

The Freedom of Information Act, first passed in 1967 and recently strengthened over the President's veto by amendments that became effective last Feb. 19, requires that most records of federal agencies be provided to anyone upon request.

The intended purpose of all such measures is wholesome. It is to create a standard, for all public business, of what Woodrow Wilson called "open convenants openly arrived at." I believe wholeheartedly in such a purpose.

I have argued that goals will be achieved effectively almost in proportion to the extent that the organization can achieve a climate where members can level with one another in open and trusting interpersonal relationships. I believe this because denial, avoidance or suppression of truth will ultimately flaw the decision-making—and in the case of business, the bottom line as well.

At the same time, I am convinced, as a practical administrator, that these well intended goldfish-bowl rules will have unintended results worse than the evils they seek to forestall. They are likely to produce more secrecy, not less (only more carefully concealed), and on top of it, so hamstring already overburdened administrators as to throw their tasks into deeper confusion.

For secrecy is one thing. Confidentiality is another. No organization can function effectively without certain degrees of confidentiality in the proposals, steps and discussions leading up to its decisions—which decisions should then of course, be open, and generally will be.

An amusing case in point. The Nixon Administration moved heaven and earth seeking to restrain, perhaps even imprison, New York Times editors in their determination to publish the Pentagon Papers. The Times won the right from the Supreme Court (under some continuing criminal risk) to resume publishing these assertedly "secret" studies of Vietnam War decisions. Yet the editors themselves surrounded their preparation of these stories with a secrecy and security the Pentagon might envy—renting a secret suite of hotel rooms, swearing each member of a small secret staff to total secrecy, confining them for weeks almost like prisoners, restricting their communications to an elite handful with "need to know" and setting the stories themselves on sequestered, closely guarded typesetting machines. Thus the ultimate challenge to "official" secrecy was performed in ultimate "private" secrecy.

What the Times editors knew, of course, was what every decision-maker knows, instinctively. The mere fact of discussions becoming known, at the wrong stage of the procedure, can prevent a desirable decision from ultimately being carried out.

On a less cosmic level, some experiences of my own bring home how vital confidentiality can be in determining whether or not ultimately "open decisions openly arrived at" can be made at all.

Case 1:

Shortly after I became president of the University of Cincinnati, of which the city's largest hospital (General) is a part, a U.S. senator announced an investigation of whether whole-body radiation, carried out at General on terminal cancer patients, constituted "using human beings as guinea pigs." The charges were totally false, but

there were some awkward aspects in the way the whole thing had been handled that caused me to investigate (privately) the reasons.

This was on the eve of a Hamilton County election absolutely crucial to the hospital, on which thousands of the poor rely for treatment. It was far from sure whether a major bond levy for General Hospital would pass or fail. It did pass, but during three critical weeks I had either to evade all questions or fuzz my answers, relating to my own and to the senator's investigation. I never lied. I never told the whole truth. I often went to the bathroom.

Case 2:

Last year a group of black graduate students made charges of racism against their college faculty. I met with this group and heard out their grievances. I told them that, if the faculty would agree, I would ask a blue-ribbon panel of distinguished local citizens, including two black leaders.

That was Wednesday. On the next day, the dean of the College had arranged to meet with the faculty. The plan was to make this proposal for such a committee. I had no reason to think the faculty would object.

But by late that Wednesday afternoon The Cincinnati Post was blazoning the entire story—the protest meeting, my proposal to the blacks, tomorrow's meeting arranged with the faculty, etc. Apparently, the protesters had "leaked" the details of our meeting on the assumption that it would further their cause. The opposite happened. The faculty were irritated by reading about arrangements they had not been consulted about. By the time I *could* consult them, they were sufficiently angry to vote down the whole proposal of an outside committee. Werner Heisenberg's "uncertainty principle" affects human as well as atomic relations: the mere act of observing a process (publicly) *can impede the process itself.*

So—it is certainly clear in my own mind that there are times when confidentiality is a necessary prerequisite to *public* decisions for the *public* benefit. But when one asks, or is asked, where this desirable good blends into the undesirable evil of secrecy—for secrecy's own sake, or for concealing mistakes—it is hard to set any very clear or definitive standards or rules of thumb.

One almost has to come back always to the character, the integrity, of the individuals concerned. If he or she is worthy of trust, his judgment must be trusted as to when, and under what circumstances, confidentiality is required.

Unquestionably, however, certain individuals are by nature so obsessed with secrecy and concealment one suspects that, as infants, they were given to hiding their feces from their parents. One thinks immediately of Nixon. His former speechwriter, William Safire, reveals in his book, "After the Fall," that Nixon was so secretive that, prior to his election, he mistrusted even the Secret Service men guarding him. His foreign policy adviser, Richard Allen, wanted to bring him together with Anna Chennault, widow of the Flying Tiger general, who was pulling strings to block a Lyndon Johnson bombing pause in North Vietnam. "Meeting would have to be absolute top secret," wrote Allen to "DC" (Nixon's "code" name). Secretive old "DC" scribbled opposite this reference to "top secret:" "Should be but I don't see how—with the S.S. Secret Service. If it can be secret RN would like to see—if not—could Allen see for RN?"

Note that, for extra secrecy, he even writes of himself in the third person.

We all know where this excessive passion for secrecy led. Kissinger not only had Safire's phone tapped, but even recorded—without their knowledge—conversations with such coequals as budget director George Shultz. Writes Safire: "This tolerance of eavesdropping was the first step down the Watergate road. It led to eavesdropping by plumbers, to attempted eavesdropping on the Democratic National Committee, and to the ultimately maniacal eavesdropping by the President, on the President, for the President, completing the circle and ensuring retribution. Eavesdropping to protect presidential confidentiality led to the greatest hemorrhage of confidentiality in American history, and to the ruination of many good men."

Indeed, I sometimes think it is such needless passion for secrecy in many of our institutions, corporate as well as governmental, that has set off the present demand to wash, as it were, all public information in Macy's window. It has set off, as well, the unprecedented epidemic of public litigiousness, where every leader of any institution now has to consult his lawyer about even the most trivial decisions (I am currently involved in so many lawsuits my mother now calls me "my son the defendant)."

So even while I defend the need for confidentiality, I argue for the utmost possible openness—for "leveling"—in every institutional hierarchy. In the 1960s, when I made some organizational studies for the State Department, I quickly learned that junior Foreign Service officers often decided not to tell their bosses what they knew from the field situation (because they believed the bosses would not accept it), only to learn later that the bosses felt the same way *but in turn kept silent* for fear *their* bosses would disapprove.

This went on, up and down the line, to the very top. Each privately knowing what was right, all enclosed themselves in a pluralistic ignorance, much like the husband who doesn't want to go to a movie but thinks his wife does, and whose wife doesn't want to go but thinks he does, so that both go though neither wants to.

It is reminiscent of Khrushchev's answer, at his New York press conference, to one of the written questions handed up to him: "You were close to Stalin. What were you doing during all his crimes you later exposed?" Khrushchev was livid with rage. "Who asked that question? Let him stand up." Nobody stood. "That's what I was doing," said Khrushchev.

People in power have to work very hard to get their own key people to tell them what they do know, and what they truly feel. But the whole Vietnam mess is a succession of the failure, by people who knew better, to say what they really knew—either while in power or after resigning because they could no longer stomach the ascending pyramid of lies and deceptions.

This leaves us with a paradox. The more we can establish *internal* truth—true openness, true candor, true leveling—within an organization and its hierarchy, the better able it will be to define, and defend, the proper areas of *external* confidentiality. Once a business executive is convinced that the enemy is not across the hall but across the street, the less inclined he will be, so to speak, to hide his feces.

Nevertheless, the national mania for "full information" is very much with us, and is now part of the turbulent social environment that every administrator must deal with. Dealing with it wisely will challenge all his tolerance for ambiguity. Freud's definition of maturity was the ability to accept and deal with ambiguity.

Among colleges, one result is already clear. The Buckley Amendment is laudable in its intent. But henceforth school and college administrators are going to be chary of putting any very substantive information into any student's record. What will wind up there will be so bland and general as to be useless (for example) to college entrance officials in making a considered judgment of an applicant's over-all merits. If, for example, he had threatened to cut a teacher's throat but had not done so, he could scarcely be described as "possibly unstable"; the student or his parents might sue.

In government, the Macy's window syndrome is going to make for greater inefficiency, because officials are going to spend more and more of their time processing requests for documents on *past* actions instead of applying the same energy to *future* actions.

In the case of meetings of public bodies—school boards, college regents, and the like—the disclosure mania will make for more and more cliques which meet privately beforehand to agree on concerted actions subsequently revealed only at the "public" meeting. What is likely to emerge are the "pre-meeting-meetings" novelist Shepherd Mead described in ad agency conferences in his "The Great Ball of Wax."

In every important decision likely to impinge on this new "right to know," there will likely be far fewer written recorded discussions, far more private, oral discussions, far mare tacit rather than "official" decisions. More winks than signatures ("Don't write. Send word.") If for no other reason than to avoid some new capricious lawsuit.

The public will be learning more and more about things of less and less importance. It will be poorer served by administrators trying to fight their way through irrelevant demands for "full information" about old business, to the neglect of attending to new business.

I am not saying that individuals who have been unjustly accused should not be able, as the Freedom of Information Act provides, to examine their own dossiers. Nor am I saying it is unwholesome for any government or public agency to be prodded out of its passion for hiding its mistakes under "classified" labels. That kind of file cleaning and purging is needed. Furthermore, scholars are finding the law a great boon in gaining quicker access to needed documents.

What I *am* saying is that in the long run we are likely to get better government, better decisions, by focusing our energies on finding leaders whose innate integrity, honesty and openness will make it unnecessary for us, later on to sue them or ransack their files. Attorney General Edward Levi, it seems to me, cuts to the heart of the dilemma:

"A right of complete confidentiality in government could not only produce a dangerous public ignorance but also destroy the basic representative function of government. But a duty of complete disclosure would render impossible the effective operation of government."

ORDER FOR TIME LIMITATION ON THE DEBATE ON THE SLAY NOMINATION

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that the 1-hour debate limitation on the Slay nomination begin at the hour of 1 p.m.

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

ORDER FOR CONSIDERATION OF CALENDAR NO. 409, S. 2498

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclu-

sion of morning business today the Senate then turn to the consideration of Calendar No. 409, S. 2498, a bill to amend the Small Business Act, and that it be laid before the Senate and made the pending business.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

MR. JUSTICE LEWIS POWELL

Mr. HARRY F. BYRD, JR. Mr. President, I must say frankly I am not objective where Mr. Justice Lewis Powell is concerned because he is a wonderful friend.

Whether one agrees or disagrees, one can always be certain Mr. Justice Powell has studied carefully the facts, he has weighed the facts impartially, he has reached a conclusion as to what seems to him to be the right decision under the law and the Constitution.

Don Hill, chief of the Washington bureau of the Norfolk, Va., Virginian-Pilot, has written an interesting profile of Lewis Powell captioned "The Inquisitive Virginian."

Mr. Justice Powell is making a great record as a member of the Supreme Court.

Mr. HUGH SCOTT. Mr. President, will the senior Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield to the distinguished Senator from Pennsylvania.

Mr. HUGH SCOTT. I wish to say simply apropos of the record of Mr. Justice Powell that it is one of the most glowing records being established upon that august bench. I have the greatest respect for him, and I have known of decisions he has made where emotionally he might have perhaps been moved in another direction, but the law has been supreme in his judgment. He has been a forceful, amiable, and effective member of that very great body.

I have to say, by way of disclosure now, that when Mr. Justice Powell, whose name I had advocated more than 2 years before he was named publicly, was named to the bench I urged his confirmation and I did not discover until after he had ascended the bench that his wife, Josephine Rucker Powell, is a cousin of mine, so I rejoice in the relationship as well as in the high regard which we all share for Mr. Justice Powell.

I thank the Senator.

Mr. HARRY F. BYRD, JR. I say to the senior Senator from Pennsylvania, the minority leader, he has a lovely and charming cousin.

Mr. HUGH SCOTT. There is no question about it.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the article by Don Hill be printed in the RECORD.

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

[From the Virginian Pilot, Oct. 12, 1975]

LEWIS POWELL: THE INQUISITIVE VIRGINIAN

(By Don Hill)

WASHINGTON. The arguments were impassioned but not unduly so for an issue that was later to be called the "domestic Vietnam of the '70s".

Justices of the Supreme Court sat behind their imposing bench in varying aspects: Chief Justice Warren Burger, handsome, typecast, erect as though engraved in place; Thurgood Marshall, almost reclining, dark in expression as well as skin; William Douglas, leaning forward combatively like a wizened bantamweight.

Justice Lewis F. Powell Jr. of Richmond, Va., catercornered in his chair, leaned an elbow on the bench. His right hand held to his chin, occasionally stroking it between thumb and index finger.

He spoke deliberately. The NAACP lawyer down front snapped to attention.

"Who levies the taxes on the real estate in these school districts?" Justice Powell asked.

The answer he received eventually caused the Supreme Court's "Detroit" opinion to block busing at the school district line.

When the Detroit inter-district school busing case was argued, in February 1974, Justice Powell had been a member of the nation's highest court slightly more than two years.

He had already made an impact, both with opinions he had written (35 for the majority, 22 separate concurring opinions, and 17 dissents) and votes he had cast as part of a new conservative majority.

But since Supreme Court deliberations are secret, it's rare for the public, to get a glimpse at the pre-decision development of thought in a case.

Detroit's was the second inter-district school busing case to come before the Supreme Court. The first involved Powell's home city of Richmond and adjacent counties. Powell had abstained. The resulting 4–4 vote had failed to overturn a decision of the 4th U.S. Circuit Court of Appeals in Richmond forbidding cross-line school busing to achieve integration.

Four months after the Detroit arguments, when the judgement came down, the vote was 5–4 to forbid cross-line busing. This time, a legal precedent binding across the land was set.

Not only had Powell's vote carried the day, but the opinion written by Chief Justice Warren Burger was etched with the point sharpened by Powell's question.

Justice Powell, whose nomination by President Nixon to the Supreme Court inspired almost universal acclaim from the legal community in 1971, now has been a member of the court for 3½ years.

He has emerged as a partner in a new majority that has halted—and even reversed—the trend in American criminal law of the previous two decades under Chief Justice Earl Warren.

In civil law, he has been an independent voice, often a moderating one. Many of his opinions seem clearly to reflect facets of his background as a Southerner, a school board official, a lawyer and a man of established institutions.

Perhaps it was his experience as nine-year chairman of the Richmond Public Schools Board and seven-year member of the Virginia Board of Education that forged the blade with which he cut through to the heart of the Detroit case.

In the Detroit area, 54 predominantly white school districts had been ordered to mingle their students with those of the Detroit central city, 65 per cent black.

Lawyers for Michigan officials argued that it was unconscionable to penalize the innocent white suburbs in order to correct Detroit's unconstitutional segregationist acts.

Lawyers for the NAACP claimed, though, that Michigan's state government actually runs the schools of the state. Thus, they contended, Michigan was responsible for the school situation in Detroit and should be ordered to correct it with its other school districts adjacent. The question was clear: Who was responsible for the operation of the schools—the state or the districts?

That's when Justice Powell asked the NAACP lawyer his deceptively simple question: "Who levies the taxes on the real estate in those school districts?"

Chief Justice Burger seized upon Powell's point and, in his own questions, expanded upon it. In the secret court conference that followed, a majority emerged including Nixon appointees Burger, Justice Harry Blackmun, Justice William Rehnquist, and Justice Powell, and Eisenhower-appointee Potter Stewart. Burger assigned himself the task of writing the majority opinion.

When Burger later read the opinion in his cultivated tones, it emphasized the U.S. tradition of autonomy for local school districts. The courts could only reluctantly interfere with district lines and only if they had been unlawfully devised, he wrote. After all, it was the local school districts that levied the taxes on local people to support the school.

Lewis Powell, 64 when nominated to the Supreme Court, was older than most nominees. A graduate of Washington and Lee University, he had law degrees from W & L and Harvard. Although never previously a judge, in speeches and public writings—some of them as president of the American Bar Association—he had built a reputation for judiciousness.

There was a noticeable exception, however.

In 1971, he wrote for the Richmond Times-Dispatch an article titled "Civil Liberties Repression: Fact or Fiction? Law-Abiding Citizens Have Nothing to Fear."

In it, among other pronouncements, he winked at the dangers the Warren Court had perceived in warrantless domestic wiretapping. "The outcry against wiretapping," Powell wrote, "is a tempest in a teapot."

That and other language, unusually narrow for Powell, must have heartened the Nixon White House in considering his nomination. The Nixon Administration was at the time engaged in widespread warrantless domestic wiretapping, which many considered a dangerous encroachment on Fourth Amendment guarantees against unreasonable searches and the First Amendment's free speech clause.

The article roused concern among civil libertarians. In the Powell confirmation hearings, Sen. Edward Kennedy asked about "a certain hardness creeping into some of your writings."

Both sides have since found Powell as unpredictable as new justices are purported to be.

Fourth Amendment search and seizure rights are among the most difficult in the Constitution to protect. Congress and legislatures have been reluctant to pass laws sanctioning improper police actions for fear of paralyzing officers at times when decisions must be often made rapidly.

A citizen outraged by an improper search has little recourse to civil law. First, damages are difficult to assess. And, second, the

doctrine of sovereign immunity generally holds governments immune from suit for the behavior of their agents.

Therefore, the usual enforcement scheme protects accused—often clearly guilty—people rather than innocent citizens. Courts will "exclude" from consideration evidence illegally gathered, in order to forbid the police from benefitting from "the fruits" of their own unlawful behavior.

In one of his early opinions for the court, Justice Powell applied this exclusionary rule to wiretap evidence gathered under what Nixon had claimed was an "inherent power" of the chief executive.

In Alderman versus United States, 1969, the Warren Court had forced the government to choose between dismissing a case or disclosing information secured by illegal wiretapping. The defendant could then examine the information and move to exclude any evidence tainted by the lawless wiretapping.

Powell's opinion for an 8–0 majority (Rhenquist, a former assistant attorney general, disqualified himself) came in the case of United States versus Unitec States District Court for the Eastern District of Michigan.

The District Court had granted defendants, political dissenters in that case, disclosure under the Alderman precedent and was considering excluding key evidence. The government took the unusual step of suing the court to quash the judge's order. The government lost in Appeals Court and turned to the Supreme Court with its base of four Nixon appointees.

It was a case the Nixonians put high store in. Former Harvard Law School Dean, Solicitor General Erwin Griswold, refused to argue the case and lost his job over it.

Nixon had said he wanted "strict constructionists" of the Constitution on the Supreme Court. In Powell, he was sure he'd found one. Defending the age of his nominee, the President had said, "Ten years of Powell is worth 30 years of anyone else."

After hearing the evidence, Justice Lewis Powell decided that the Teapot Tempest he had journalistically dismissed had boiled over.

He wrote, carrying six justices with him and persuading the chief justice to concur in the result: "The issue before us is an important one for the people of our country and their government. It involves the delicate question of the President's power, acting through the attorney general, to authorize electronic surveillance in internal security matters without prior judicial approval . . .

"History abundantly documents the tendency of government—however benevolent and benign its motives—to view with suspicion those who most fervently dispute its policies. Fourth Amendment protection becomes the more necessary when the targets of official surveillance may be those suspected of unorthodoxy in their political beliefs."

That "tendency of government" identified by the honorable justice from Virginia was grotesquely illustrated two days after Powell gravely read this opinion. District of Columbia police caught a crew of White House-related burglars in the National Democratic Party Headquarters where, among other objectives, they sought to install wiretaps. The Virginia Avenue office building, of course, was the Watergate.

Justice Powell's defense, in confirmation hearings, of his article in the Richmond Times Dispatch might be read to suggest some disrespect for journalistic values. The article, Powell told the Senate Judiciary Committee, had been "journalistic" in nature and therefore had failed to receive the level of scholarship and consideration Powell would have given to legal writings.

In his work on the court, however, Powell proved to be concerned for the role of the press in American life. From a January 1973 advertising case to a March 1975 privacy case, he marched cautiously through a thicket of press cases, stepping neither in an identifiably conservative or notably liberal trail.

He was an independent voice.

In a related pair of California prisoner rights cases, Powell's judicial caution was unmistakable.

He wrote the opinion for a unanimous court finding that California may not arbitrarily censor prisoner mail without procedural safeguards, not arbitrarily bar prisoner interviews by lawyers' assistants and by law students. Seven justices joined in the opinion and four participated in concurring opinions.

Justice Thurgood Marshall joined Powell but, concurring separately also would have recognized a First Amendment free speech right of prisoners to keep their mail virtually inviolate.

Soon afterwards, in June, the court—including all the Nixon justices but Powell—upheld the right of California officials to bar news reporters from interviewing specific prisoners. The five-man majority ruled that prisoners properly may be severely restricted in their free speech rights and that reporters lack any rights under the Constitution unavailable to the general public.

Dissenter William Douglas, joined by Justices William Brennan and Marshall, protested that even prisoners have unabridgeable First Amendment rights and that reporters have a right to access of prisoners as news sources.

Powell found a tight middle ground for a separate dissent. Prisoners, he agreed with majority, lack any "Personal constitutional right" to be interviewed. But an absolute ban on interviews "impermissably restrains the ability of the press to perform its constitutionally established function of informing the public of the conduct of their government," he wrote.

The right, he emphasized, was that of the public to the information newspeople could bring them. It was not any right of the newspeople themselves.

In a similar suit, brought against federal authorities, Powell was joined in his dissent by Justices Brennan and Marshall. Unlike the earlier case, this one was brought only by newspeople, without a prisoners' claim.

In other areas, Powell proved unafraid to restrict the press.

The Pittsburgh Commission on Human Relations sought to forbid the Pittsburgh Press Co. from continuing to publish classified help-wanted ads designating preference by sex. In January 1973, Powell upheld the Pittsburgh rule. In an opinion for a five-man majority, he judged the matter on the clear precedent that the First Amendment does not protect purely commercial utterances.

Chief Justice Warren Burger, in a rare separate dissent, argued that it was too fine a line readily to separate the commercial interests of newspapers from other interests protected by the Constitution.

Justice Potter Stewart was vehement. This was the first time, he railed, that the courts had entered a newspaper's composing room. "The camel's nose is in the tent," he warned.

In Mach 1973, Powell wrote an unsigned opinion for the lower court summarily reversing a lower court's finding that a University of Missouri student could be dismissed for distributing on campus newspapers containing obscene words and cartoons.

Justice Rehnquist, with two supporters, dissented, citing the student's poor general record. Her conduct fell short, perhaps, of being criminal but certainly supported dismissal, Rehnquist wrote. But Powell found that the First Amendment protects expressions of opinion even on campus.

In two libel cases, Powell came down sturdily in favor of limiting the press's license to print defamatory material.

A landmark libel case before Powell's time on the court bears the name of the New York Times. It established the principle that public officials are fair game for responsible newspaper comment, even defamatory comment.

In June 1974, Powell wrote the majority's opinion in Gertz versus Robert Welch, Inc. A lawyer in a murder case is libeled and may recover damages even if the defamation he complains of fails to meet the New York Times standard of "actual malice or reckless disregard of the truth," Powell wrote.

Similarly, Powell dissented vigorously when a six-man majority denied libel when a Richman union newspaper was sued for use of such words as "traitor" and "scab."

The chief justice and Justice Rehnquist joined Powell. He wrote, "because this decision appears to allow both unions and employees to defame individual workers with little or no risk of being held accountable for doing so, I dissent." The majority's verdict needlessly overrode legitimate state interest in protecting citizens from injury to their reputations, he said.

In March 1973, however, Justice Powell concurred with a majority opinion in favor of a broadcast newsman who published a rape victim's name despite state laws protecting her privacy. "The right of privacy fades when the information involved is already in the public record," the court held.

The biggest changes in American law since Justice Powell has been a member of the Supreme Court have been in criminal law. Powell has avoided the vanguard of this movement, but he has been a consistent member of the "Nixon court" that has whittled away rules forged in the '50s and '60s by the Warren Court to enforce the protections of the Bill of Rights.

He did abandon the Nixon majority in one Fourth Amendment "search and seizure" case, but only to write a dissent that broadened police powers in a way the majority ignored. That was the 1973 case of Almeida-Sanchez.

A roving U.S. border patrol seeking illegal immigrants stopped and searched a car driven by a Mexican citizen about 50 miles north of the border.

The driver proved to have a legal American work permit, but the searchers unexpectedly found a cache of marijuana in his car.

Four justices—three Nixon appointees and Justice Byron White—would have upheld his conviction. But Powell joined with the remaining four members of the court to exclude the evidence and free the defendant.

Chief Justice Burger and the other dissenters argued that searches by the roving patrol were "reasonable" under the constitution and the evidence they harevsted should be admitted in trials. Justice Brennan, writing for the prevailing view, ordered the evidence excluded because the searchers had lacked any "probable cause" to conduct the search.

Justice Powell, whose vote carried the day, disagreed with both sides. The evidence in this case should be excluded, he wrote, because the searchers lacked a warrant. But, he wrote, a judge would be justified in issuing a "general area" warrant that would authorize just such roving patrols as the one that conducted the Almeida-Sanchez search.

It was a pyrrhic gain for the libertarians, who could have cried, as did General Pyrrhus, "another such victory and we are undone."

Across the board—in search and seizure cases, in Fifth Amendment right against self-incrimination cases, in Sixth Amendment right to counsel, trial by jury, and fair

trial cases—the new Supreme Court majority has avoided overruling Warren Court recognition of individual rights but has read those precedents so narrowly as to be applying effectively the old Khrushchev salami-slicing proverb: "If you want to take a peasant's sausage, don't grab it; ask for a small slice, and then another . . ."

In an evaluation of the court term that ended in June 1972, Professor Philip Kurland of the University of Chicago noted that many of the attitudes of the Warren Court had ceased to prevail, he lamented that this "watershed in constitutional law" had been reached simply by changes in personnel rather than by a progression of legal thought.

Law scholar and Pulitzer Prize winning historian Leonard Levy wrote last year:

"The Nixon Court has raised the use of alternative routes to a high art by relying on more subtle means than overruling in order to alter the course of the law. It reinterprets precedents, distinguishes them away, blunts them, obliterates them, ignores them, and makes new law without the need of overruling or being bound by the past . . . while the Nixon Court goes about its quiet business of creating its own regressive "revolution" in the criminal law, striking a pose of doing no more than refusing to open new frontiers, it has systematically closed old frontiers and made daring incursions that cripple many rights of the criminally accused."

That's, of course, a subjective assessment not everyone will concur in. More objectively, Levy's study showed that whatever the new majority of the court is doing, especially in criminal law, Powell agrees with it.

In narrowly-decided criminal justice cases, Powell deserted Nixon appointees only 8.3 to 13.9 per cent of the time. Across the board, in all cases, however, Powell voted with the court's most liberal three in from 45.5 per cent to 57.3 per cent of the cases.

That Lewis Powell consistently has been with the majority in this exercise was to be expected considering his pre-nomination writing and speeches on the overreach of the Warren Court in criminal law.

Nor is it surprising that Powell, given his years on school boards, should show sympathy for school officials' problems in several important cases.

In two early 1975 cases, the court held, first, that students could not be suspended for rules infractions without due process and, second, a month later, that school board members could be held liable for damages if they "maliciously" violated students' constitutional rights.

Powell wrote dissents in both cases for the Nixon appointees. In the first, he argued that the court was blindly entering "a new thicket" in requiring due process in minor student cases.

In the second, he argued that school officials should enjoy immunity from damages for actions taken upon the "existence of reasonable ground for belief formed at the time" that the actions were appropriate.

Nearly every one of the dozens of members of the U.S. legal community consulted at the time of Justice Powell's nomination was convinced he was qualified virtually without peer to serve on the court.

The evidence is, however, that one dissenter was Lewis Powell himself. When Atty. Gen. John Mitchell called Powell to discuss the appointment, Powell demurred on grounds of his age and lack of judicial experience. President Nixon, himself, interceded before Powell agreed to the nomination.

A great judge once said that "judges need not forget what they know as men."

Justice Powell's decisions often show that he has not forgotten what he learned in a full life as lawyer, community leader, and scholar.

One pair of examples suffices.

His Southern gentility reigned in his vehement dissent to an October 1973 ruling of the court invalidating a local ordinance against "menacing, insulting, slanderous, or profane language." The majority held the city law unconstitutional "as overbroad as possibly punishing expressions protected by the free speech clause."

The case was that of a woman passenger in a taxicab who protested when the driver passed her destination. According to Powell's dissent, in which Rehnquist joined, the cabbie responded "with a series of absolutely vulgar suggestions and abhorrent, sexually-oriented statements." Powell would have upheld the city's right to punish the driver.

In a march 1974 ruling, however, Justice Powell evinced sympathy for the poorly educated person indulging innocently in what the court called "street vernacular."

A defendant in a court trial had uttered a vulgarism likening an assailant to the excrement of a chicken. The Supreme Court majority overturned the defendant's conviction for contempt of court.

In a separate concurrence, Powell wrote:

". . . The controlling fact, in my view, and one that should be emphasized, is that petitioner received no prior warning or caution from the trial judge with respect to court etiquette. It may well be, in view of contemporary standards as to the use of vulgar and even profane language, that this particular petitioner had no reason to believe that the expletive would be offensive . . ."

Now 68, Powell's alertness at the bench suggests that he will give the court at least the 10 years that President Nixon alluded to. In June 1973, he suggested another issue where the justice from Virginia may impact upon the current Supreme Court.

In a Denver, Colo., school desegregation case, the court ruled that illegal "de jure" segregation in any part of a school system established that an unconstitutional "dual system" existed throughout. "De jure" in this context refers to segregation established by law, as opposed to "de facto" segregation caused by other than statute.

Powell may have anticipated the future thrust of desegregation law when he wrote, in a separate opinion:

"If our national concern is for those who attend such (segregated) schools, rather than for perpetuating a legalism rooted in history rather than present reality, we must recognize that the evil of operating separate schools is no less in Denver than in Atlanta. In my view, we should abandon a distinction (between de facto and de jure) which long since has outlived its time, and formulate constitutional principles of national rather than merely regional application."

FDA SHELLFISH PROGRAM

Mr. HARRY F. BYRD, JR. Mr. President, as many of my colleagues may be aware, last January the Food and Drug Administration made available a preliminary draft of proposed regulations, entitled "The National Shellfish Safety Program."

These regulations were designed to bring under full Federal control the administration of the shellfish indstry—an industry which has been effectively and efficiently administered in my State by the cooperative efforts of the hard-working members of that private industry and the dedicated and expert officials of Virginia's government.

Deep concern was immediately expressed to me and to the Secretary of Health, Education, and Welfare and the Commissioner of the Food and Drug Administration over the profound adverse impact such heavy-handed regulation would have on this important Virginia industry.

The Virginia General Assembly passed a resolution requesting that no implementation of the proposed regulations be made until a complete and proper analysis of the need for such sweeping changes and their economic impact be made.

In response to my inquiries made on behalf of the many Virginians who had contacted me on the subject, FDA Commissioner Alexander M. Schmidt wrote me on May 12, 1975, that he was specifically soliciting economic data concerning FDA's proposal.

I have just received from the Council on Wage and Price Stability a copy of its comments on the proposed rulemaking. It has outlined with clarity and brevity the hard questions which FDA must answer before it unleashes upon the public an oppressive Federal program of significant private and consumer cost, but of questionable social value.

The Council's comments include three main recommendations:

First. That "the FDA not undertake a significant new regulatory program without first determining the actual costs of its implementation."

Second. That the FDA answer in quantifiable terms "whether the problem is of sufficient scope to warrant the measures proposed."

Third. That, in order to make "an informed decision" on the adoption of these regulations, the FDA should make "an exploration of the feasibility of less costly alterantive regulatory schemes."

I believe this submission by the Council on Wage and Price Stability is a most thoughtful one. It highlights an aspect of zealous Federal regulation which is all too often ignored: mandatory Federal regulations result in mandatory price increases.

While the costs are sometimes difficult to define, it is the responsibility of the agency proposing the regulations to make a fair and full assessment of the economic impact of its proposal before imoosing upon an unsuspecting public Government-mandated price increases.

I ask unanimous consent that the release and comment of the Council on Wage and Price Stability on FDA's proposed shellfish program be printed in the RECORD at this point.

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

COUNCIL EXPRESSES CONCERN ABOUT EFFECTS ON SMALL BUSINESSES OF FDA PROPOSED SHELLFISH PROGRAM

In comments before the Food and Drug Administration (FDA), the Council on Wage and Price Stability warned that the proposed regulations of the National Shellfish Safety Program could have a very disruptive impact on small businesses. The Council said that an economic analysis concentrating on costs and benefits should be done before FDA

decides to implement the proposed program. FDA also was urged to conduct cost/benefit analyses of less stringent regulatory alternatives before proceeding with its proposed program.

The objective of the proposed program is to insure that shellfish are harvested only from safe waters in addition to being processed under sanitary conditions. While the Council does not question this basic premise, it is concerned about the costs which the proposed program will impose on the shellfish industry and ultimately on consumers. Added costs result principally from those parts of the proposed regulations requiring major changes in harvesting and processing equipment. The Council believes that FDA's study of additional costs is based on untested assumptions rather than an analysis of the industry. The study assumes that the proposed regulations would increase fixed costs within the industry by no more than 50 percent and variable costs by no more than 25 percent. The sum of these costs is $24.4 million, according to FDA's analysis.

The Council said that FDA's analysis fails to examine the costs which would be absorbed by individual firms involved. There are several subindustries (oyster and clam harvesters and processors) which are composed of many small, highly competitive members. Any government-mandated increase in fixed costs is certain to put these smaller firms at a distinct disadvantage and may well put some out of business.

For example, there are 273 very small oyster plants on the East Coast and the Gulf of Mexico. This number represents 23 percent of the shucked oyster production. Each of these plants produces less than 10,000 gallons of shucked oysters annually which generates less than $118,000 revenue per plant. These small processors could have difficulty in bearing the estimated minimum additional costs of $12,000 per plant for government-mandated requirements. Also, an additional employee would have to be hired to maintain records and keep different classes of oysters separate in the growing and processing stages. If only one extra employee was hired for a 10,000 gallon production of shucked oysters, the variable costs per gallon would rise by $1.25 or about 11 percent.

The potential damage to the harvesters seems to be much more acute since they typically operate two-man boats. Their capacity is small since states like Maryland limit the daily catch to 25 bushels per man for oysters and 15 bushels per boat for clams. The average catch in Virginia is 15 bushels of oysters per man. These vessels are little more than decks, with a small hold for the catch and space for the motor. The changes required to comply with the proposed regulations would involve complete rebuilding of the boat.

In addition, the increased regulatory costs would be borne by the individual states, with the heaviest burdens falling upon the States of Virginia, Maryland, New Jersey, Washington, Louisiana and New York, among others. For example, the State of Virginia, one of the largest shellfish producers, tentatively estimates that it would incur additional costs of $2½ million per year.

The Council also stated that since relatively few cases of disease have been attributed to shellfish, FDA must answer as to whether the problem is of sufficient scope to warrant the measures proposed. In addition, a significantly less rigorous regulatory environment is proposed for imported shellfish which accounts for about 10 percent of U.S. consumption.

The Council noted that there is no legislation that requires implementation of the new National Shellfish Safety Program and hence FDA is not operating under a statutory deadline. While surveys conducted by FDA and GAO have concluded that there is a need for improvement in the existing shellfish control program, the deadline for these regulations to take effect is at FDA's discretion. The rulemaking process began on December 13, 1973, and the comment period ended October 17, 1975.

In summary, Council Director Michael H. Moskow said, "The FDA should determine the costs of implementation to the firms within the industry and should include within its study an analysis of whether the program is likely to force smaller harvesters and processors out of business. The ultimate impact on consumer prices of the direct cost increases and of any changes in industry structure should be analyzed. So also should the costs of implementation and enforcement to be borne by state and local governments. These costs should be balanced against quantifiable benefits. Technically feasible alternatives should be explored in an effort to obtain the most benefits at the lowest cost to consumers and taxpayers. Only after these economic analyses are prepared should the Commissioner proceed to the ultimate question of whether to adopt the National Shellfish Safety Program, either as proposed or in modified form."

Copies of the filing are available at the Council's Public Affairs Office.

[Before the Food and Drug Administation, Washington, D.C.]

COMMENTS OF THE COUNCIL ON WAGE AND PRICE STABILITY IN RESPONSE TO NOTICE OF PROPOSED RULEMAKING

(National Shellfish Safety Program—Docket 75N–0075)

The Council on Wage and Price Stability (the "Council") hereby submits its comments on the proposal of the Commissioner of Food and Drugs (hereafter the Food and Drug Administration or FDA) to adopt regulations establishing a National Shellfish Safety Program (40 F.R. 25916, June 19, 1975). The objective of the program is to insure that shellfish are harvested only from safe waters and handled and processed under sanitary conditions. The program would replace the existing, voluntary National Shellfish Sanitation Program with a comprehensive, mandatory regulatory scheme which would, *inter alia*, set micro-biological standards for water quality in shellfish harvesting areas, require segregation of shellfish by harvesting area at every stage of processing and sale, and require specified sanitary conditions in processing facilities.

The Council was created by the Council on Wage and Price Stability Act of 1974.[1] The Council's purpose under the Act is, generally summarized, to monitor the inflationary impact of activities in both the private and public sectors of the economy. With regard to the public sector, section 3(a) of the Act expressly directs the Council to:

"(7) review and appraise the various programs, policies and activities of the departments and agencies of the United States for the purpose of determining the extent to which those programs and activities are contributing to inflation; and

"(8) intervene and otherwise participate on its own behalf in rulemaking, ratemaking, licensing and other proceedings before any of the departments and agencies of the United States, in order to present its views as to the inflationary impact that might result from the possible outcomes of such proceedings."

In addition, Executive Order 11821 and OMB Circular No. A–107 contemplate that the Council will receive and evaluate inflation impact statements accompanying major proposals for rules and regulations of executive branch agencies.

We do not question the fundamental finding on which the proposed regulation rests, *viz.*, that the harvesting and processing of shellfish give rise to various health hazards which can be reduced by strengthened regulation. The Council staff claims no expertise that would enable it to comment on the specific design of the proposed regulation or to determine whether it will achieve its goals. We are concerned, however, about the substantial costs which the proposed regulation would impose on the industry and ultimately on the consumers of shellfish. And we are especially concerned with the costs of compliance for individual harvesters and processors of shellfish.

We do not contend that any governmental activity that imposes additional costs either upon the economy as a whole or upon some segment of it is by definition "inflationary" and ought, therefore, to be eliminated or delayed. Rather, we believe that economic costs are only one of many factors that agencies must consider in reaching decision.[2] Indeed, we will not quarrel with the FDA's conclusion that public health considerations are its "primary concern," so long as the FDA gives due weight to the costs of the proposed regulatory program—to the industry, consumers and the states—relative to the benefits to be achieved.

We recognize that benefits will result from improving the safety of shellfish sold for human consumption. Nonetheless, inappropriately stringent standards can disrupt the industry and add unnecessarily to consumer costs. Our interest in this proceeding, therefore, is to see that in arriving at its decision, the FDA gives full consideration to both benefits and costs, and that in the course of achieving whatever level of benefits is ultimately deemed desirable, current and future inflationary consequences are minimized. In short, we urge the FDA to choose the most cost-effective alternative for dealing with the problem at hand. We will suggest certain principles that, if followed, will increase the chances that this desirable result is obtained.

First, we urge the FDA not to undertake a significant new regulatory program without first determining the actual costs of its implementation. This has not been done in the instant case. The FDA made a preliminary study intended to determine the costs of implementing the regulations. However that study was only for the limited purpose of determining whether the proposal would increase industry costs by as much as $100 million annually, the threshold under relevant guidelines of the Department of Health, Education, and Welfare beyond which an inflation impact statement would be required. For that purpose, a relatively simple study capable of producing a ballpark estimate was satisfactory. This is so because the added costs imposed by the regulation would have to equal 57% of current industry costs in order to trigger the inflation impact statement process. Such a result is unlikely; indeed, the FDA study, which estimates an increase in costs of less than $25 million would have to be wrong by a factor of four in order to reach the guideline level.

As an aid to decisionmaking, however, the existing FDA cost study is of little value, for two reasons. First, it is based on untested

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[1] Public Law 93–387, as amended by Public Law 94–78, 12 USC. 1904 note.

[2] The FDA has recognized the relevance of economic considerations in the formulation of the final regulation, specifically soliciting data from industry, the states, and consumers in regard to the economic issues which it raises (40 Fed. Reg. at 25922).

assumptions rather than on an analysis of the industry. Thus, the study simply "assumed" that the proposed regulations would increase fixed costs within the industry by no more than 50% and variable costs by no more than 25%. The study then breaks up the expenses of the industry into component parts and tacks on percentages to each component. The sum of these additional costs is $24.4 million.

Second, even if the $24.4 million gross figure is correct, the FDA analysis is inadequate because of its failure to examine the costs which would be experienced by individual firms within the industry. The several sub-industries involved (the oyster and clam harvesters and processors) are composed of many small, highly competitive members, varying widely in size, as measured by quantity of output. Any government-mandated increase in fixed costs is certain to put the smaller firms at a distinct disadvantage since such costs can be spread over fewer units of output. (The FDA analysis assumed a maximum increase in fixed costs of 50%.) The smaller firms' prices must compete with the prices charged by the larger firms. Such smaller firms must either find the capital to expand their operations considerably or they will fold. In either case, the ultimate cost to the consumer is apt to increase.

Information obtained from the Shellfish Institute of North America indicates that there are 410 processors of oysters on the East Coast and the Gulf of Mexico. Two hundred and seventy-seven are very small plants accounting for 23% of the shucked oyster production. Each of these small plants produces less than 10,000 gallons of shucked oysters annually, which generates revenues per plant of less than $117,300 annually. These small processors would presumably have difficulty in bearing the estimated minimum additional fixed costs of $12,000 per plant as well as the added costs of hiring the additional employee required to maintain records and to keep lots of oysters from different growing areas separate throughout processing and packing. If only one extra employee were hired and 10,000 gallons of shucked oysters were produced, the variable costs of producing a gallon of shucked oysters would rise by $1.25 (roughly 11%).

Plants producing 20,000 gallons of shucked oysters per year would have somewhat higher (though far from proportionately higher) additional fixed costs. These plants would require at least 1½ additional employees and the variable costs of producing a gallon of shucked oysters from these large plants would increase by 93.75 cents or 8% at the wholesale level. The clam processing industry would be likely to suffer similar problems.

The potential damage to the harvesters seems to be much more acute since they typically operate rather small, simple two man boats with either hand tongs or patent (mechanical or motorized) tongs. Their capacity is small since States like Maryland limit the daily catch to 25 bushels per man for oysters and 15 bushels per boat for clams. The average catch in Virginia is 15 bushels of oysters per man.

Since these vessels are little more than decks, with a small hold for the catch and a space for the motor, the changes required to comply with the proposed regulations would involve complete rebuilding of the boat. These boats generally harvest from several growing areas in a day. In order to prevent commingling with oysters and clams from different growing areas, the deck would have to be redesigned and rebuilt as a platform with walled sections. Hard shell clams are also graded into seven sizes on board. Again record keeping would be required of the clammers and oystermen. No estimates are available for the added cost to the harvesters.

Finally, the increased regulatory costs which will be borne by the states upon implementation of the regulation should also be considered. The State of Virginia, one of the largest shellfish producers, tentatively estimates that it will incur additional costs of two and one-half million dollars. Other producing states would encounter the same sort of cost escalation.

Hopefully, the FDA's request for data relevant to the regulation's likely price effect on "markets, consumers, and businesses" and its "cost impact on State and local government" will elicit useful material. Whether or not such data is forthcoming, however, the FDA should undertake a cost study so that it can determine in advance the cost of the benefits it seeks. Only then will it have the facts essential to its ultimate decision.

II

Second, we urge the FDA to undertake some quantification of the benefits of the new regulation and to relate those benefits to the cost of compliance with the regulation. Obviously every human life which can be saved by improving conditions under which shellfish are harvested and processed is of benefit. So too is the relief of suffering and expense related to disease which would otherwise be contracted from contaminated seafood. But these matters can be quantified. How great is the health hazard posed by existing conditions in the shellfish industry? How many lives are now lost, how much sickness caused? To what extent would the proposal eliminate these problems?

At the Eighth National Shellfish Sanitation Workshop in January 1974 much was made of an outbreak of hepatitis associated with the oysters served at a particular restaurant in Houston, Texas. The source of the oysters was traced within a matter of hours. This incident was used as proof of the necessity of new regulations. While it does serve to highlight the health problems associated with shellfish consumption, the incident suggests that the proposed regulations are not necessarily the appropriate solution. The source (distributor, processor, harvestor and growing area) of the oysters was determined very shortly after the cases of hepatitis were reported even though no regulations required such information to be kept. More importantly, this information was of little or no value since the disease did not break out until a month or more after exposure, so no preventive measures could be taken. In addition, the actual cause of the disease could not be determined since the growing area was found to be certifiably sanitary as were the processing and distributing conditions. Most other consumers of shellfish from the same area were unaffected. Accordingly, the extra recordkeeping to be required by the FDA and the ban of commingling of growing lots would not have changed the situation at all.

In fact, relatively few cases of disease have been attributed to shellfish. The question which the FDA must answer, therefore, is whether the problem is of sufficient scope to warrant the measures proposed.

Finally, an informed decision on whether to adopt the proposed regulations cannot be made without an exploration of the feasibility of less costly alternative regulatory schemes. Although the possibility of alternative approaches is mentioned in the explanatory statement accompanying the proposal and although comments were specifically requested in respect to alternatives, it does not appear that the FDA has made careful analyses of alternative proposals. Again, it is hoped that the comments to be received from the industry, consumer groups, and state and local governments will shed additional light on this aspect of the problem.

On the basis of the information set forth by the FDA it is by no means clear that a partial implementation of the regulation would not represent the best balance of costs and benefits. For example, a significantly less rigorous regulatory environment is proposed for imported shellfish, which today account for about 10% of U.S. consumption. Shellfish will be permitted to come from countries that have submitted "scientific and public health studies that have been conducted to show that harvested and processed shellfish can be produced in a sanitary manner and meet the criteria and standards" of the regulations. The FDA reserves the right to make occasional inspection of the foreign country's shellfish control program and industry processing and handling practices. Submission of lists of growing areas is the only other requirement for imports. If the above regulations are sufficient for the maintenance of health when imported shellfish are involved, are they not also sufficient in the case of domestic shellfish?

Alternatively, it is possible that vigorous and frequent on-sight inspections of production facilities together with continuous monitoring of harvesting areas would be sufficient to achieve the public health aims of the program. Again, we do not claim the technical expertise to answer these questions. Rather, we urge the FDA to address them before embarking on a course which is likely to be expensive and which might cause severe dislocations within the industry.

* * * * *

In summary, we believe that substantially greater economic analysis is required before a decision is made on whether to modify or implement the proposed National Shellfish Safety Program. The FDA should determine the costs of implementation to the firms within the industry and should include within its study an analysis of whether the program is likely to force smaller harvesters and processors out of business. The ultimate impact on consumer prices of the direct cost increases and of any changes in industry structure should be analyzed. So also should the costs of implementation and enforcement to be borne by state and local governments. These costs should be balanced against quantifiable benefits. What will the program achieve? At what cost? Technically feasible alternatives should be explored in an effort to obtain the most benefits at the lowest cost to consumers and taxpayers. Only after these economic analyses are prepared should the Commissioner proceed to the ultimate question of whether to adopt the National Shellfish Safety Program, either as proposed or in modified form.

SENATOR TALMADGE ADDRESSES ECONOMIC CONFERENCE AT MADISON COLLEGE, HARRISONBURG, VA.

Mr. HARRY F. BYRD, JR. Mr. President, Senator HERMAN E. TALMADGE, chairman of the Committee on Agriculture and Forestry, addressed the Economic Conference at Madison College, Harrisonburg, Va., on Monday, October 20. I have heard much favorable comment about Senator TALMADGE'S speech. It was well received by that large audience.

I have been in that community since, and I find that many are still talking about Senator TALMADGE'S address. It is a thoughtful one, and I feel it should receive wide distribution. I ask unanimous consent that it be printed in the RECORD.

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

REMARKS OF SENATOR HERMAN E. TALMADGE

I am very glad to have an opportunity to participate in this economic seminar, and I appreciate the invitation of my friend and fellow Georgian, Dean Hanlon of the School of Business here.

Both the timing and the subject of your conference are well chosen. Every national poll that I have seen in recent years indicates beyond doubt that the economy is by far the Number One concern of the American people.

That should come as no surprise to anyone. For the past 10 years, the United States has suffered the worst sustained inflation in the history of our Republic. We have fallen into the deepest recession since the economic calamity of the 1930's.

And, most alarming of all is the fact that we are unable, at least at this time, to see any light at the end of the tunnel. What we do see is a projected federal deficit approaching $80 billion for the current fiscal year, which very likely can generate another round of severe inflation, which in turn can bring about another recession.

We don't know that these dire predictions will come to pass. We don't know that the current deficit will result in escalating inflation, at a higher rate than before, and push us into another recession, in 1976 or 1977, even deeper than we have experienced for the past year.

But, what troubles me and ought to trouble everyone, is the fact that we have no assurances, absolutely none, that the situation I have described will not come to pass.

I don't like to take that kind of gamble with the United States economy. I am not a pure economist. But, I can read history. I am sufficiently aware of sound fiscal policies and practices to know that the federal government cannot continue to repeat, and courting economic disaster in the future.

For the most part, these mistakes have consisted of a federal proclivity, for 30 years since the end of World War II, of spending too much money we don't have for too many programs we don't need, and an unrestrained determination to try to play policeman, banker, and Santa Claus for the whole world.

Even the most optimistic apologist for federal fiscal affairs would have to concede that there is not much to shout about in the American economy today.

And when you contemplate the dual problems of economy and energy, the picture seems bleak indeed.

But there is one bright spot. At the risk of over-dramatizing the situation, I contend that it offers more hope and promise, and the ability to deliver positive results, than anything else I see on the horizon at this time.

I am referring to American agriculture. The strongest economic force we have in the United States today is agriculture. This translates into agri-business. That means billions of dollars in income, and millions of jobs, for people on the farm and off the farm. To carry the concept one step further, it means agri-power.

It has economic punch. It has political clout throughout all the world. It can be, and is, an enormous lever in foreign relations.

Food policy can no longer be confined to the narrow stereotype which characterized agriculture a generation ago. Neither Congress nor the American public can afford to be so shortsighted that we fail to recognize the importance and the potential of American agriculture.

I know of no opportunity more compelling. We must seize the initiative. We must exploit it to the fullest extent possible.

I do not propose that we fashion agriculture as some kind of weapon for retribution or economic sanction . . . or for blackmail, as the OPEC nations are now using their vast oil reserves.

But we most certainly should employ agriculture as a diplomatic bargaining tool to strengthen the United States' economy and to help build a better and more secure world for all nations.

The United States has distinct advantages in agriculture that no other nation enjoys. We have the most and the best.

The Japanese and the West Germans can manufacture as well as we can. But they cannot farm as well. No other nation on the face of the Earth can match the efficiency and productivity of the American farmer.

He produces a commodity which in the final analysis is more precious than oil.

Farmers in the United States comprise only about 4 per cent of the total population. Yet, one American farmer can feed 51 people.

Compare that to the vast expanse of the Soviet Union, where one-third of its labor force is on the farm, and a farmer there can produce enough food to feed only six people.

The worldwide demand for United States' agriculture is greater today than ever before. In the future, both immediate and long range, it has nowhere to go but up.

The world population increases by 200,000 a day, or 74 million a year. Nations of the world which are dollar-rich but food-poor, will look more and more to the United States to fill their vitally needed agricultural needs.

We have in agriculture the best of all possible worlds. The American farmer produces enough to feed not only 214 million people in this country, but also to fill freighters to the brim with wheat, and corn, and feedgrains, and soybeans to help nourish untold millions throughout the rest of the world.

We are already midway through the decade of the 1970's. The picture is very clear. If the present trend continues—and it should not only continue but improve—the 1970's will go down as the Golden Years of American agriculture.

The impact of agriculture on the American economy surpasses by far even the wildest of expectations. For example, four or five years ago, learned economists like Eliot Janeway and writers for magazines like Forbes and Business Week painted a rosy future for agriculture. They were so bold as to forecast that United States' farm exports would hit $18 billion by 1980.

Well, here's what happened. We surpassed that figure by almost $4 billion in 1974.

The enormous surge forward in agriculture exports, which surprised even the experts, can best be demonstrated if we go back a few years.

In 1970, the United States exported agriculture commodities worth $7 billion. Exports have steadily increased since, and not by small steps, but by leaps and bounds.

U.S. agriculture exports reached $18 billion in 1973 . . . $22 billion in 1974 . . . and last year they topped $22 billion again.

In fiscal 1975, we enjoyed a record agricultural trade surplus of $12 billion. In the context of our present economic plight and the energy crisis, let me relate that surplus in more meaningful terms.

That surplus was equal to almost half of what we had to pay for imported oil. That surplus helped offset an overall trade deficit that would have been devastating without agricultural exports.

There is no way on Earth that we can earn enough foreign exchange to continue to pay the inflated, blackmail price for imported oil—which has been running about $25 billion a year, and which will be pushed even higher by the latest OPEC price increases.

But until the cartel can be broken, until the price of oil abates, our ace in the hole is now, and will continue to be, agricultural exports. The backbone of this effort will be the American farmer.

It is not just the farmer who has such a vital stake in foreign markets. The Department of Agriculture estimates that every billion dollars in farm exports produces about 53,000 non-farm jobs in the United States.

These are jobs in railroads, warehouses, for American dock workers, and in the steel, machinery and supply industries which provide farmers the means to produce.

Therefore, if we are going to ask the American farmer to increase production to earn more foreign exchange, then it is imperative that he be protected against the uncertainties of weather and the fluctuation of prices. He must be guaranteed a reasonable income for the production that we demand of him.

Farmers are caught in a cost-price squeeze that threatens to drive many of them off their land—unless they are willing to go on paying more to produce a crop than they get for them in the marketplace. For example, the cost of his machinery, fertilizer, insecticides, and labor have doubled, tripled, and even quadrupled in some instances.

In the past decade alone, his property taxes have quadrupled, and his debt burden quintupled.

So, just like everyone else, the farmers have to be guaranteed reasonable prices, if they hope to make a profit or even break even.

Merchants in towns and cities need to realize that a farmer going broke is not a very promising customer for new tractors, television sets, cars or trucks, or new clothing.

I know it's a difficult pill to swallow, but the American consumer may as well get used to paying more for food. This problem, along with agriculture in general, also needs to be put in its proper perspective.

Of every dollar spent for food, the farmer receives about 37 cents. The rest goes to people involved in processing, distributing and selling. An average market basket of food cost $105 more in the first half of 1975 than the year before. Of that increase, $1 went to the farmer. The other $104 went to the middlemen.

The average consumer here pays about 16 per cent of his disposable income on food—compared to 35 to 50 per cent in Europe and even much higher than that in some parts of the world.

Food costs will go up, despite all we can do. That's not because the farmer is getting richer. It's mostly because of the increasing cost of labor, transportation, processing, and all other things that happen to food before it reaches the supermarket.

But the fact remains, food in America is still the best buy in the world.

Apart from foreign trade, there is yet another aspect of agriculture that most people have a tendency to overlook. It is vital to city dwellers as well as the man in the field.

It is estimated that agriculturally-based industries contribute 25 per cent of the Gross National Product. These industries, which depend directly upon farm, field, and forest, provide employment for about 30 per cent of the total U.S. work force.

Agriculture no longer has the strong voice it once had in Congress. Fifty years ago one-third of the nation lived on farms, compared to only about 4 per cent today.

Also, because of the complexity of agriculture and farm legislation, it is a much misunderstood, and too often maligned industry.

But, though farmers are fewer in number, their influence is becoming more pronounced. More and more people, and more and more members of Congress, are becoming increasingly aware that agriculture is a potent force in the American economy.

For the good of our country and in order to fully utilize this potent force to strengthen the economy, I hope this trend will continue.

NEW YORK CITY'S FINANCIAL PROBLEMS

Mr. HARRY F. BYRD, JR. Mr. President, the dominant issues before Con-

gress at this time is whether or not the Federal Government will guarantee New York City's bonds.

The Committee on Banking, Housing and Urban Affairs has been attempting to force this legislation to the floor of the Senate. The committee is very closely divided on the issue. The votes have been 7 to 6 in favor of a New York City bailout, but one of those seven members—and perhaps two—is beginning to have second thoughts.

It is very important that the public have all the facts in this matter.

I am rather surprised that the committee either has not sought or certainly has not obtained—up to this morning—information as to just how much this New York City bailout legislation will benefit the various banks of New York City.

Mr. President, the 8 million citizens of New York will not receive one thin dime from the proposed legislation to have the Federal Government guarantee New York City's bonds.

The financial beneficiaries will be the bondholders. The major bondholders are the New York City banks.

I feel there is an obligation on the part of the committee to obtain from those banks the amount of bonds held by each of the banks. This is important, because otherwise the Senate, the Congress, and the American people have no way of knowing how many hundreds of millions of dollars those banks will be benefitted by a guarantee of the bonds.

What does a default mean?

If those bonds are in default, it means that the bondholders—and the major bondholders are the banks—will not receive the interest on those bonds. It means, also, that those bonds will not be paid off immediately, should they become due immediately.

To guarantee the payment and the interest on these tax-exempt bonds is not only a very far-reaching piece of legislation, but also, it is legislation that will have an enormous beneficial impact on the New York City banks. For that reason I think it is important that when the proposed legislation comes to the Senate, if it does, all the facts be made available to the public.

In regard to the sale of bonds and what effect the situation in New York City is having on the sale of bonds throughout the Nation, I cite two Virginia cases. On last Tuesday, October 21, the city of Newport News, Va., obtained a low bid of 6.13 percent annual interest, for an $11.75 million bond issue. That rate of interest drew quick approval from the Newport News City Council and from Mayor Harry Atkinson and from Councilwoman Mrs. Jessie M. Rattley.

The Newport News City Council feels—and I concur in that view—that the city has done an excellent job and deserves a fine rating and its case was successfully argued by Mayor Atkinson and Mrs. Rattley.

So I cite that case to show that well managed cities are not going to have difficulty in selling bonds that need to be sold.

I cite another case, that of Fairfax County, the largest political subdivision in the State of Virginia, with a population of 550,000. Fairfax had no trouble selling $10,650,000 worth of AAA rated bonds this past Wednesday, a week ago tomorrow. The net interest rate on that was 5.69 percent.

There, again, it shows that those communities which manage their affairs properly will not have difficulty in borrowing the money they need.

With regard to New York City, I have before me an article published in the Richmond Times Dispatch of yesterday, Monday, October 27. It contains a column by former Gov. Ronald Reagan of California. In this column, he makes a very important point. He says "The Federal growth"—that is, the growth of the Federal Government—"has cramped nearly every city's ability to raise money."

Certainly, the more the Federal Government goes into the money markets, the more difficult it is for everybody—not just municipal and State governments, but the individual citizen—to obtain financing.

Then, speaking specifically about the New York City situation, former Governor Reagan says of New York City—

> But instead of trimming expenses, New York let its city budget swell larger and larger. Today, it is up to $11 billion a year. With a population of 7 million, it has a public work force of 400,000 persons. The State of California, by contrast, has 21 million people and only 100,000 State employees.

Those are astonishing figures.

New York City, with a population of 8 million persons, has a public work force of 400,000, while the State of California, with 21 million persons, has a public work force of 100,000.

Instead of a bailout for New York City, what that city must do is put its own financial affairs in order. It has been mismanaged over the years. It must get back to a balanced budget and it must not expect the wage earners of our Nation to guarantee New York bankers a return on their bond investment. These bonds yield a high tax-exempt income and those who buy them must take the risk which comes with a high yield.

ORDER OF BUSINESS

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

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Alabama yield for a unanimous-consent request?

Mr. ALLEN. Yes, I am happy to yield.

ORDER TO CONSIDER H.R. 12 UPON CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at the conclusion of routine morning business today, the Senate proceed to consideration of Calendar Order No. 370, H.R. 12, a bill to increase the size of the Executive Protective Service.

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

ORDER FOR VOTE ON NOMINATION TO OCCUR AT 2:30 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the vote on the nomination, which was to occur at the hour of 2 p.m. today, occur at the hour of 2:30 p.m. instead.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. Without objection, it is so ordered.

ORDER FOR 1 HOUR OF DEBATE ON NOMINATION TO BEGIN AT 1:30 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I suppose the order has already been entered that the votes on the various treaties will immediately follow the vote on the nomination.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour of debate on the nomination of Maj. Gen. Alton D. Slay begin at the hour of 1:30 p.m. today, rather than at the hour of 1 p.m.

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

Mr. DOMENICI. Will the Senator yield for a question?

Mr. ALLEN. Yes, I yield.

Mr. DOMENICI. This is just a clarification. Previous to the last unanimous-consent request, Order No. 409 was agreed to be the next order of business. Do we understand now that that is to be removed and it will occur subsequent to the votes on the treaties?

Mr. ROBERT C. BYRD. Later on in the afternoon.

Mr. DOMENICI. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator from Alabama.

Mr. President, I ask unanimous consent that the time I have consumed not be charged against the Senator from Alabama.

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

NEW YORK CITY'S FISCAL CRISIS

Mr. ALLEN. Mr. President, I oppose legislation which would bail out the city of New York and the State of New York from their financial difficulties by the device of a Federal guarantee of $8 billion of bond issues of New York City. It is ironic, Mr. President, but it is true that in opposing these things, I am standing up for the people of the city of New York and the people of the State of New York. I am seeking to protect the best interests of the people of New York, as well as the people of the Nation.

The people of New York have been ripped off in recent decades by the politicians of New York City and New York State. They have been ripped off by the big city bankers. They have been ripped off by the municipal labor union leaders. The politicians are seeking to survive; the big city bankers are seeking to collect their hundreds of millions of dollars in New York City and New York State bonds; and the municipal labor union leaders are seeking to preserve the bloated

municipal payrolls and the unrealistic pension plans.

Well, Mr. President, what would the Federal guarantee of bonds of New York City accomplish? How would this action on the part of the Federal Government affect the average citizen of New York? Mr. President, it would freeze in this unrealistic level of wasteful expenditures in New York City. It would freeze in a level of support of wasteful practices that has brought New York City to this unhappy state.

Mr. President, my sympathies are with the people of New York. They have had incompetent government; they have had politically motivated government; they have had big spenders at the head of their government. The big city banks are not free from blame. They have continued to lend at exorbitant rates of interest, I might say, to a city that was not living within its income and that was headed for financial ruin.

The big labor leaders are not free from blame.

Mr. HARRY F. BYRD, JR. Will the Senator yield at that point?

Mr. ALLEN. Yes, I am glad to yield.

Mr. HARRY F. BYRD, JR. It might be well to read into the RECORD at this point, with the permission of the able Senator from Alabama, the comment by the State comptroller of New York, Arthur Levitt, as published in the New York Times last week. This is the comment by Mr. Levitt dealing with the New York banking situation: "I don't mind saying I am very disappointed in the bankers," said Mr. Levitt. "They have made it far too easy for the city to borrow more than was good for it, made enormous profits on the loans, and now are doing far less than they ought to do to straighten out the situation."

Mr. ALLEN I thank the distinguished Senator from Virginia. Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the New York Times, Oct. 20, 1975]

LEVITT ANALYZES CITY'S MISTAKES

(By Tom Buckley)

"I remember back in 1960 going to lunch with John Mitchell at the Bankers Club," State Controller Arthur Levitt said the other day. "It was set up by Nelson Rockefeller. Mitchell was going to persuade me that moral obligation bonds were a bold, new, imaginative financing tool."

The thin blade of irony scratched in his words. One state agency financed by such bonds, the Urban Development Corporation, had already collapsed. Others were shaky.

New York City, which had used even more imaginative forms of financing and accounting, seemed to be only 24 hours from default, and Mr. Levitt was prepared to see it go under rather than to compromise his principles by lending it state pension funds without what he regarded as adequate safeguards.

"Mitchell was a bond lawyer in those days," he went on, "but he was just the same as he was when he was with Nixon. Smoking a pipe, softspoken, but very tough."

The slender, white-haired Controller paused for effect.

"He wasn't tough enough to persuade me he was right," he said. "I promptly attacked the whole idea as a betrayal of the taxpayer, and I've been attacking it ever since."

"I've always believed in the wisdom of the people," he said. "Let them decide what capital projects their money should be used for, by referendum, as provided by the State Constitution. Then back the bonds with the full faith and credit of the state, not with some sort of meaningless moral obligation."

INFLATIONARY PSYCHOLOGY

Mr. Levitt sat in his office on the 23d floor of the state office building at 270 Broadway. From the gray eminence of his 75 years and his nearly 21 years of service as Controller, he looked down at the rooks and jackdaws, harbingers of economic collapse, roosting on the eaves of City Hall.

"As I see it," he said, trying to keep the "I told you so" tone out of his voice, "the city has been a victim of inflationary psychology. That is, the need to satisfy all its wants at the same time. Without planning. By borrowing, and then borrowing again to pay the first borrowing. By piling debt on debt."

"The Blue List," the daily compilation of the prices of government bonds, lay on his desk. It showed New York City and even state bonds selling at painful discounts, the moral obligation bonds weakest of all.

"After the law was passed," Mr. Levitt said, "I got the bankers together. 'You should be the first to decry these bonds,' I told them. You know what their answer was? They said, 'We absolutely agree with you, but the Legislature and the Governor have agreed in their wisdom to sell them, and we're in business to make money.' "

Mr. Levitt shook his head. It isn't often that a Democratic officeholder finds himself preaching prudence to the banks. It isn't often that someone is elected to statewide office six times by enormously increasing pluralities while having his advice on major public issues ignored by just about everyone.

In 1954, when he first took office with the W. Averell Harriman administration, his margin of victory was 20,000 votes. Last year he ran far ahead of the ticket, winning by 2.1 million votes, the largest plurality recorded in a state election in this country.

A PRIDE IN FIGURES

Mr. Levitt takes a good deal of pride in this figure, in the fact that he has served longer in statewide elective office than anyone else in New York's long history, and that he could have had the Republican and Conservative nominations as well as the Democratic and Liberal last year.

"Maybe I should have done it," he said, thinking about another entry in the state record books, "but the Democrats thought it would hurt them so I turned it down."

In fact, Mr. Levitt, although Brooklyn born and bred and Democratic besides, is probably more popular among the old-stock Republicans of upstate than he is in his native city.

One of the responsibilities of his office is to audit the books of the more than 7,000 political subdivisions of the state, and in the hamlets and villages north of the Bronx line his financial reports and speeches on fiscal responsibility are greeted with rapturous applause.

Since 1971, when the Legislature granted to his office the same broad powers in New York City, his staff has turned out countless reports detailing waste and mismanagement here. These have seldom been given the attention he thinks they deserve.

"Upstate my reports are news," he said. "The papers print them, especially the weeklies; in New York the media have always ignored them."

On the East and West Sides of Manhattan, particularly, among those who propose costly schemes for the betterment of mankind, Mr. Levitt, with his repeated warnings of the perils of uncontrolled spending, has been generally regarded as a bore—party-pooper during the go-go years.

The next day, Friday, when it appeared that the city would finally default by being unable to pay $477-million in notes and other obligations coming due, Mr. Levitt spent the morning in a series of private conferences at Governor Carey's offices here.

He and Louis J. Lefkowitz, the State Attorney General, were the first to leave for lunch. As they made their way to the elevator they were surrounded by television crews and radio reporters.

"Is there going to be a default?" he was asked.

"I have some degree of confidence there won't be," he replied. "Call it an instinctive hope."

Was there any chance that he might increase the purchase of Municipal Assistance Corporation bonds or state notes by the pension funds of which he is the sole trustee, to bail the city out at the last minute?

"No," he said. "No chance at all of that."

UNRUFFLED UNDER BARRAGE

Even after newsmen pushed him into a corner of the elevator and continued their questioning during the descent and across the lobby, Mr. Levitt, who was dapper in a double-breasted blue nailhead worsted suit, red-and-white striped shirt and red-and-blue figured tie, remained unruffled.

"See my lawyer," he said with a smile, turning to Mr. Lefkowitz, when someone raised a legal issue.

"My client is always right, the Attorney General said genially, turning the question aside.

Seeing these two shrewd old-time politicians together brings to mind the two retired vaudevillians of Neil Simon's "The Sunshine Boys," whose relationship was also compounded of mutual irritation conflicting vanities, differing personalities and, possibly, an underlying respect and affection.

When Mr. Levitt speaks of his record-breaking majorities and length of service, Mr. Lefkowitz is apt to remind him that he gets only token opposition while he, Mr. Lefkowitz, a Republican, won big in 1974 over the attractive and energetic Bronx Borough President, Robert Abrams, in a Democratic year.

Which Mr. Levitt's public image is dour and bankerish, Mr. Lefkowitz is ebullient and outgoing. While Mr. Levitt has become increasingly remote from party politics, running his office on a nonpartisan basis, Mr. Lefkowitz is enthusiastically and unashamedly political.

A WELL-ARMORED EXTERIOR

"He's a wonderful guy," Mr. Lefkowitz will confide to anyone who will listen, "but he drives me crazy. He wants opinions on everything. He won't take a step without getting an opinion. Providing Levitt with opinions keeps my office working overtime."

The two men walked across 55th Street to the Office Pub, a modest restaurant where an old friend of theirs, Harold L. Fisher, a member of the Metropolitan Transportation Authority, was waiting at a reserved booth in the corner.

"Well, it's up to the teachers," said Mr. Levit, after ordering a plain chopped steak and fried onion rings. "Carey is talking to Albert Shanker."

Mr. Fisher said he had heard that some banks were accepting maturing city notes for deposit "subject to collection" rather than immediately entering the amount in customers' passbooks as has always been the custom.

"I don't mind saying I'm very disappointed in the bankers," said Mr. Levitt. "They made it far too easy for the city to borrow more than was good for it, made enormous profits on the loans, and now are doing far less than they ought to do to straighten out the situation."

A guest at the table said that the same charge had been leveled against Mr. Levitt, since he had held firm against buying more

than a token amount, $25-million, of Municipal Assistance Corporation bonds for the multibillion-dollar pension funds of which he is the sole trustee.

Indeed, it was that issue that brought Mr. Levitt into the city financial crisis. At an emergency meeting of city and state officials on Labor Day, his refusal to make the purchases led to the convening of a special session of the Legislature to pass a law requiring him to do so.

A man who was present at the meeting said that he had been astounded by the eloquence of the Controller's arguments.

"I didn't know him well and had always been suspicious of his reputation," he said. "I figured he was at least a decade over the hill. As soon as he began his speech I knew he wasn't going to buy any Big MAC bonds. I thought, 'That S.O.B.' But by the time he finished he had convinced everyone that he was doing the right thing. There wasn't any argument.

"He even had what turned out to be an alternative," the source went on. "He said that as the sole trustee of the funds he was required by law to conside. only safety and yield in investing them. If the Legislature mandated that he should consider social purposes, too, such as aid to New York, they would save to mandate that view into law. If they did, which he doubted, he said he would go along with it."

The Legislature was called into session and passed the law. When it was declared unconstitutional, Mr. Levitt had another proposal. That was to have his pension funds buy $250-million in state notes that had been refused by the banks as unsalable, with the state in turn lending the money to the city.

These notes, unlike the ones Mr. Shanker had changed his mind about buying for the city teachers' pension fund, were backed by the full faith and credit of the state.

With default temporarily averted when Mr. Shanker yielded to intense pressure, Mr. Levitt that night sent a telegram to President Ford. In it he anticipated the next credit crunch at the end of November.

"Unless the Federal Government guarantees its borrowing, the city will surely default on its obligations," he said.

The next day, Saturday, Mr. Levitt rose early at his apartment on East 72d Street and breakfasted lightly with his wife, a retired public schools supervisor. Their son, Arthur Jr., heads the brokerage firm of Shearson, Hayden, Stone, Inc., and has his own family.

After that, he went down to the Vanderbilt Y.M.C.A. on East 47th Street for a workout. He rowed five miles pulled 500 strokes on the rowing machine and did a couple of dozen pulls-ups on a tilt board inclined at a 45-degree angle.

"I've been doing it all my life," he said. "I hate it but I couldn't get along without it. When I weighed myself today, you know, I weighed 160 pounds, only two pounds more than when I was wrestling at Columbia."

Mr. Levitt, the son of a dentist who has been brought to the United States from Russia as a child, grew up in the Williamsburg section of Brooklyn. He was graduated from Columbia College and the Columbia University Law School, which awarded him an honorary degree in 1970, and served as a colonel in the judge advocate general's department of the Army in World War II.

A good government, Ivy League ornament of the Brooklyn Democratic organization, he served as president of the Board of Education before being selected to run for Controller.

"I was worried yesterday," he said, while he was getting dressed. "Default would have been awful, just awful. For one thing, there might have been a run on the banks that were heavily invested in city bonds."

Asked if he had been pushed on Friday to make more state pension funds available for the rescue effort, he shrugged.

"They tried a little," he said, "but they knew where I stood. I've been saying the same thing too long for them to expect me to change now."

There was a copy of the current issue of Time magazine in the lounge, showing a caricature of Mayor Beame on the cover. Wasn't there, he was asked, a resemblance between him and the Mayor?

"Maybe you're right," he said, studying the drawing. "I've never thought about it. Well, it's better than looking like Lefkowitz."

Mr. ALLEN. Mr. President, the leaders of the big municipal labor unions are not free from fault, because they have caused the negotiation of pension plans in the city that were unrealistic, that have been a severe burden to the city, and that is one of the contributing causes for New York City's collapse.

Mr. President, this is a local matter affecting New York City and New York State. The Senator from Alabama would not comment on the inefficiency of the government of the city of New York, he would not comment on the action of the big city banks, he would not comment on the action of the leaders of the big municipal labor unions, had the issue been kept a local issue. But, Mr. President, the problem of New York City and New York State have been dumped in the lap of Congress, and it is appropriate that any Member of Congress express his opinion with respect to their problems and the solution that should be worked out.

Mr. President, I believe it is for the best interests of the people of New York City and New York State not to pass this legislation bailing out, so to speak, the government of the city of New York and the government of the State of New York.

Mr. President, I am saying it is a bailout of those governments and not a bailout of the people because it is against the best interests of the people of New York City and New York State, in my judgment.

I feel that voluntary bankruptcy is the proper course for New York City to follow. I do not claim to be a great economist but I know that under the protection of the bankruptcy law it would not be necessary for New York City and New York State to default on their obligations to the extent of not eventually paying them. There is nothing to prevent New York City and New York State paying their just obligations after they obtain the protection of the bankruptcy court. They would have a right though to see that these pension contracts are renegotiated; that reductions are made in the bloated bureaucracy that they have in New York City; that changes are made in the free hospitals and the free universities they have; that they put their affairs in order and come up with a plan which New York City can shoulder its own burdens and not seek to pass those burdens out among all the people of the Nation.

Mr. President, if the Senator from Alabama was the only person advocating the best course for New York City to follow is to go into bankruptcy that might be one thing. But the Wall Street Journal, Mr. President, which is, I assume, the oracle of Wall Street, the oracle, the spokesman, for the financial community, in their issue of October 23, 1975, in the lead editorial, stated:

> We continue to believe that the best step for the city is voluntary bankruptcy, and that if it is unwilling to take that step the Federal Government ought to step aside and let the courts handle the problem.

So, Mr. President, one of the dangers we face here is the Federal Government, if it invests this $6 billion—I might say the investment or the gift that the Federal Government is going to make—I might not oppose this bailout. But it is the precedent that is going to be set. It is going to be the dozens of other municipalities that come in and say, "If you help New York, you have got to help us." It is going to be the loss of the privilege of local self-government we still enjoy in this country to some extent.

It would be a reward to fiscal mismanagement, and it would be a disincentive to cities and States to operate on a fiscally sound basis. If the Government guarantees New York's securities, would that not be a better investment than the security of another municipality that does not have a Government guarantee?

So we see that bonds of less value, less intrinsic value, would have more value in the marketplace by reason of the Government guarantee. That is hardly fair to municipalities that are trying to live within their income.

Now, Mr. President, another editorial from the Wall Street Journal of Monday, October 20, 1975 has this to say:

> It is important to remember, for example, that the pains of the city come from balancing its budget, whether it is forced to do this by default or by Federal law. Temporary Federal help, pending a balanced budget, would be help not to the city but to the bondholders.

As has been stressed by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, Jr.)—

> And Saturday's testimony by New York bankers should be seen in that light.
> Of course, what the city really wants—

And this lets the cat out of the bag, Mr. President—

> is not temporary emergency help but a permanent subsidy from the rest of the nation so that it can avoid balancing its budget and continue in its own way.

Mr. President, I do not see the advantage of allowing that to happen. Also, Mr. President, the distinguished Chairman of the Federal Reserve Board, Mr. Arthur Burns, as reported in the Friday, October 24, issue of the Washington Post, the headline says: "Let New York City Default, Burns Advise.. the Hill."

So, Mr. President, I do not believe we need any legislation at this time. After default has taken place—and it seems reasonable to expect that it will—after the pension plans have been cut back to something in the neighborhood of reason, after the bloated bureaucracy has been cut back to some extent, after some of the many services furnished by the city to its citizens are reconsidered, then we are going to have a city that can live within its income, and we are going to

serve the best interests of the people of New York by denying this further bit of opiate that they would survive on until the money ran out, and then they would come back and ask Congress for more money to continue their wasteful practices.

Now, Mr. President, one comment on the Committee on Banking that is considering this legislation, and the fact that they have not been able to get a majority of the members of the Banking Committee to support any specific plan shows the complex nature of this legislation and the lack of universal support that the plan has.

I noted in the press that the committee is, some on the committee, at least, are seeking to avoid having this legislation go to the Finance Committee. It is suggested that these new bonds would be taxable and that would require the bill to go to the Finance Committee. To avoid letting it go to the Finance Committee, where it would be considered there, they are suggesting charging the city a premium of 3½ percent for issuing this guarantee.

Well, that would be, as the Senator from Alabama understands it, computes it, a cost to the city of $210 million to get this Federal guarantee. Well, how are you going to charge a pauper, as New York City claims to be? How are you going to charge them $210 million for a guarantee and justify it?

We ought to allow this bill to go to the Finance Committee and let it be considered there.

Mr. President, any commonsense requirements that Congress would place, where they would require that the amount of interest on these bonds be cut down, where they would require that New York State levy a tax to cover half of the budget deficit, would be held against Congress by New York City and New York State. They would not appreciate this helping hand.

What they would say is not that Congress helped them but that Congress imposed stringent requirements on the city of New York.

I do not see that we ought to impose any requirements. Leave New York City where we find them. Leave the State of New York where we find them. Let them get such relief as they can following the recommendations of the chairman of the Federal Reserve Board, Dr. Arthur Burns, following the recommendation of the Wall Street Journal, following the recommendation, I might say, of Secretary Simon, the Secretary of the Treasury, to go into voluntary bankruptcy, to get their affairs in order, and then pay back all of their debts.

I am not suggesting that New York City beat any of its debts, but I am suggesting that the Congress should require New York State and New York City to solve this matter. If we do not follow that course, we are certainly going to live to regret it.

Mr. President, I might say to those who are trying in the committee to have a real bill, a real requirement, imposing conditions, if they do agree on a bill in committee, all bets would be off about what was agreed to in the committee and no telling what would emerge here on the Senate floor.

I hope those members in the committee will stand firm.

Again I say requirements which are placed by the Congress on New York City are going to be greatly resented. New York City is not going to appreciate the hope that the Congress gives them because they are going to say these requirements are too rough, they are too strict, they are too demanding, and they do not want to be forced to do these things. Congress, instead of having its actions appreciated by New York City, the government of New York City and the government of New York, would be severely criticized.

Mr. President, I believe the proper course is to allow New York City and New York State to solve these matters themselves. I believe that the people of New York State and New York City would benefit from that action.

Mr. President, I ask unanimous consent that these three news editorials to which I have alluded may be printed in the RECORD at this point.

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

[From the Washington Post, Oct. 24, 1975]

BURNS: LET NEW YORK DEFAULT

(By Hobart Rowan)

Congress would be better advised to let New York City fall into bankruptcy, and then provide some aid measures, than to pass a federal bailout law now, Federal Reserve Board Chairman Arthur F. Burns told a House banking subcommittee yesterday.

In answer to questions by Economic Stabilization Subcommittee Chairman Thomas L. Ashley (D-Ohio), Burns said that although there is a "stigma" attached to bankruptcy, "and that troubles me," a receivership would make it possible to reorganize New York City's finances and still preserve its essential services.

There would be no "chaos" in such an eventuality, Burns said. "I'm inclined to think the paychecks (for city employees) would go forward."

Burns said that Congress should immediately amend the bankruptcy laws so that the courts could arrange a reorganization of New York's debts "in an orderly and expeditious manner."

Bankruptcy is a legal proceeding under which the party in default allows a court to parcel out available resources among creditors.

Once the city has actually defaulted, Burns told the subcommittee, "some assistance to New York might be desirable." He said that could take the farm of prepayment of some federal grants-in-aid.

He did not spell out the full implications of bankruptcy, except to say that interest payments on New York City securities would be "suspended for a time."

The City could then meet its cash needs "by some further cuts in spending, by stopping some projects, by suspending payments into the city's pension fund, or borrowing from it," Burns said. "And salaries could be cut. This is very unpleasant. None of the alternatives are very attractive. But it's do-able."

Burns said repeatedly that "as of today" he would advise Congress not to vote for financial assistance to New York, even if the legislation contained seven conditions he outlined that are designed to limit the scope of any aid program.

Six of those conditions, making it onerous for a municipality to seek federal aid, had been suggested by Burns before. Yesterday, he added a seventh, under which holders of Municipal Assistance Corporation (MAC) bonds and institutional holders of New York City securities would voluntarily agree to "scale down" the interest they collect.

He would also demand "voluntary revisions" in the New York City pension fund.

In answer to questions, Burns said that New York's problems are not seriously affecting the value of the dollar abroad, according to a survey he had conducted yesterday. The primary reason for dollar fluctuations, the central banker declared, is changes in interest rates here compared to those abroad.

Earlier, both Paul A. Volcker, president of the Federal Reserve Bank of New York, and George Ball, former Under Secretary of State and a partner in Lehman Bros., an investment banking firm, had told the committee that a New York default would have serious international repercussions.

Ball said that New York's problems have created a "brooding apprehension" in Europe that a New York default would abort the U.S. economic recovery, and therefore start "a slide toward world depression."

Volcker, for many recent years the Treasury's chief negotiator on international financial matters, said that the value of the dollar had already been threatened by the New York crisis, and that Europeans find it "incomprehensible" that the federal government would "permit an outright default of its major city."

Meanwhile, Sen. James L. Buckley (Cons-R-N.Y.) called for a Justice Department investigation into the possibility that New York City officials violated federal laws by misrepresenting the city's financial condition.

At a news conference, Buckley made public a report from Jeremiah B. McKenna, a lawyer for the New York State legislature's Select Committee on Crime.

McKenna said that reports by State Comptroller Arthur Levitt "leave little doubt that recent city borrowings have relied on massive fraud." Buckley would not say whether he thought there had been criminal violations.

In New York, Mayor Abraham D. Beame called Buckley's charges "a rehash and political interpretation" of a report issued last August by the state comptroller.

[From the Wall Street Journal, Oct. 20, 1975]

NEW YORK MYTHS

After New York City's close brush with default Friday, Mayor Beame headed straight to Washington to plead with Congress for federal help. Since he continues his campaign in testimony today, there are a few points that listeners might keep in mind.

It's important to remember, for example, that the pain to the city comes from balancing its budget, whether it is forced to do this by default or by a federal law. Temporary federal help pending a balanced budget would be help not to the city but to the bondholders, and Saturday's testimony by New York bankers should be seen in that light. Of course, what the city really wants is not temporary emergency help, but a permanent subsidy from the rest of the nation so that it can avoid balancing its budget and continue its old ways.

The argument for a permanent subsidy is quite explicit: The rest of the nation should subsidize New York because it bears the brunt of the national problems of race and poverty. The trouble with this contention is that it is built on a series of myths. New York is *not* an especially poor city. The racial migration has *not* made it poorer. It does *not* harbor a uniquely large proportion of the "welfare class." Its welfare payments are *not* the main cause of its budget deficits. Pro-

posals to federalize welfare may have considerable merit, but New York's welfare problem does *not* give it a unique moral claim for federal help.

Median family income in New York City was $9,682 in 1970, compared with $9,867 nationwide. The city's median income was 60% higher than a decade earlier; while this was less than the 75% gain nationwide, it nonetheless represented a healthy increase. Similarly, the proportion of poverty families fell to 11.5% in 1970 from 15.2% in 1960; it was below the national average in both years. During the 1950s, when the bulk of the black migration actually took place, the decline in low-income families was even sharper.

The migrations undeniably did change the city's racial composition. In 1950 it was 10% black; in 1970, 21%, which is not at all high by the standards of other big cities. The median income for black families was $8,107 in New York, compared to the national average of $6,279. Other studies confirm that blacks came to New York to earn money, not to go on welfare, and that a good number of them have succeeded.

As for welfare, without question it is a serious problem for its demoralized clients and a large burden for the budget. But New York is far from unique. According to the National Center for Social Statistics, 10.9% of New York's population receives Aid to Families with Dependent Children. This compares to 12.6% in Newark, 13.9% in Philadelphia, 14% in Washington, D.C., 14.5% in Baltimore and 15.8% in St. Louis.

In New York welfare payments pass through the city, where in most locations they are handled by counties or special welfare districts. More significantly, New York pays a share of the benefits out of its own tax funds while some other cities have been relieved of this responsibility by their states. But in 13 states a local jurisdiction still puts up its own tax money toward welfare. In one or two places, like Washington, D.C., this share is larger than it is in New York. Yet only New York is threatened with bankruptcy.

In any event, the importance of welfare in the city's budget is far less than first appears. Social services excluding Medicaid constitute $2.4 billion, or nearly 20% of the current $12 billion expense budget, but much of this is offset by receipt of state and federal reimbursement. According to City Hall, the direct cost to the city, including administration, is about $600 million.

The cost of the city's debt service last year was nearly three times as large. And the increase in debt service costs during the five-month-old attempt to avert default—added interest costs, administration of the Municipal Assistance Corporation and the like—has already cost New York taxpayers more than their share of the annual AFDC payout. New York's trouble is not welfare, but poor management.

In addition, New York's subsidies to the poor are dwarfed by its subsidies to the middle class. These include: high salaries and unbelievable pensions for municipal employees, free tuition at City University, the tax loss that results from rent control, the subsidies to the mostly defaulted Mitchell-Lama housing. The poor typically move too often to be helped much by rent control, and don't need free tuition because they could get state scholarships. The gravy goes to the middle class.

This is the style of life to which New York has grown accustomed. We hope that Congress recognizes that the pressing need is not to finance it, but to persuade the city to change it.

[From the Wall Street Journal, Oct. 23, 1975]

THE FIRST CONDITION

We think Senator Proxmire's Senate Banking Committee is making a mistake in envisioning a federal guarantee of New York City securities. But the committee will plunge beyond a mistake and into sheer folly if it guarantees the notes without securing the tax base that must pay them off. This means requiring the city to repeal its rent control laws.

We continue to believe that the best step for the city is voluntary bankruptcy, and that if it is unwilling to take that step the federal government ought to step aside and let the courts handle the problem. Mayor Beame talks of needing a billion dollars by March even if all debt service is suspended; this is chiefly the result of seasonal patterns in the payment of state and federal monies that could perhaps be corrected. In fact, the same projections show that through the remaining nine months of the fiscal year, a suspension of debt service and an 8% cut in other city spending would balance income and outgo.

These numbers are not significantly different from those the Proxmire legislation contemplates. The most important difference is that if the city goes through bankruptcy and is forced to live without credit, the cuts actually will be made. If it receives a federal guarantee, Mayor Beame will come limping back to Senator Proxmire next year for new and bigger guarantees.

We might remind the committee what a guarantee means. It means that if the city is unable to pay off the note, the federal government must do so. The legislation would in effect set up a new uncontrollable federal expenditure of $6 billion. Since the committee hopes that the expenditure will not be necessary, it recognizes that it must attach stringent conditions concerning the expenditure side of the city's budget. But so far it has not recognized that the same scrutiny must be applied to the revenue side.

The revenue side is at least as scary as the expense side. Earlier this year three disinterested civic associations—the Citizens Housing and Planning Council, the Citizens Budget Commission and the Citizens Union—issued an unprecedented joint statement warning of "the virtual collapse of the housing inventory of New York City and a massive erosion in the property tax base which would have a devastating impact on the city's revenue-raising abilities."

"Collapse . . . massive erosion . . . devastating," the words describe the recent effects of rent control, which has clung on in varying forms in New York though it was abolished soon after World War II in the parts of the nation now asked to guarantee the city's debt. There is no better example of the habit of preposterous cant at the root of New York's problems than the rhetoric about "greedy landlords," which obscures the huge importance of the real estate industry to the city's tax base and credit standing.

The real estate tax remains the most vital single revenue source in New York. Some 31% of the city's assessed valuation and a somewhat smaller part of revenues come from apartment properties. The value of these properties, and thus their contribution to assessed valuation and their tax-paying abilities, depends principally on their rental income. The rent control and rent stabilization laws reduce this income, and thus reduce the city's tax base, revenues and ability to redeem securities.

This chronic problem erupted into a full-fledged crisis with the increase in fuel costs and other inflationary pressures, and with the reimposition of rent stabilization on apartments previously exempted from the older rent control law. The apartment owners have not been allowed to pass along the full increases in fuel costs in higher rents. The typical apartment is now operating at a loss. If in order to make a basic point we may be allowed an exaggeration ignoring such complexities as tax losses: This means the value of the property is zero, and the assessed valuation of the city ought to be written down by something approaching 31%.

A de facto write-down is rapidly making itself felt. About 25% of the apartment buildings are already in arrears on their real estate taxes. About 90 of the city's 125 subsidized Mitchell-Lama projects for middle income residents are in various stages of default on their mortgages. A rent strike at the huge Coop City development, backed by many members of the city government, is the principal reason the State Housing Finance Agency is in financial jeopardy. The outright abandonment of apartments runs at about 40,000 housing units a year, or the equivalent of the entire housing stock in many smaller cities now asked to guarantee New York's debt.

Unless rent control is repealed, this hemorrhage will not only continue but accelerate. The city is devouring its own tax base just at the moment it is asking the rest of the nation to co-sign notes that base is supposed to pay off. Making the end of rent control the very first condition of any federal action is not a matter of ideology, but a matter of simple prudence.

The ACTING PRESIDENT pro tempore. The time of the Senator from Alabama has expired.

Under the previous order, the Senator from Colorado (Mr. GARY HART) is recognized for not to exceed 15 minutes.

LEAKS AND THE INTELLIGENCE COMMUNITY

Mr. GARY HART. Mr. President, almost 10 months ago, on January 27, 1975, the Senate Select Committee on Intelligence was established. At that time, few questioned the need for a full review of and inquiry into the U.S. intelligence community, although many doubted the ability of Congress to conduct such an inquiry in a responsible manner. Some predicted that the committee would become a sieve for State secrets. Others even charged that such an inquiry would hamper, if not destroy, the effectiveness of our intelligence agencies. Only a few weeks ago, the Secretary of Defense charged that leaks from congressional committees investigating the CIA had "dramatically reduced" the Agency's effectiveness. Although the Secretary did not specify what leaks he was referring to, his charge was directly related to the question of Congress ability to conduct such a sensitive investigation.

As a member of the select committee, I am particularly disturbed by these charges. In the past, Congress has failed to provide adequate oversight of the CIA and other intelligence agencies, and Congress must now demonstrate its ability to conduct a thorough and complete inquiry, and do so in a responsible manner. The record of the Senate select committee to date has demonstrated that Congress can do this job. The committee has not proved to be a sieve. No leaks of sensitive, national security information have come from the committee.

At the outset of the committee's inquiry, elaborate precautions were taken to prevent leaks. Tough committee rules, as well as security restrictions, were adopted. The committee understood from the outset that any disclosure of sensitive sources or methods would be injurious to our legitimate intelligence activities and our relations with foreign

governments. The committee has, however, constantly faced the tension between the right of the public to know and the protection of legitimate national security interests. And, the committee has dealt with this tension in a responsible manner.

Despite these precautions, there have been leaks. None, to my knowledge, injurious to our national security, but leaks nevertheless. When leaks have occurred, many have concluded that they came from the committee. The record does not justify this conclusion. Leaks can come from many sources, as well as for many motives. Many of the leaks during the course of this committee's investigation have come not from the committee but from the White House or various agencies within the intelligence community, including the CIA and the FBI. Yet, it is difficult, if not impossible, to determine the specific source of leaks or the motives for them. Despite this fact, I would like to mention exmples of leaks from sources which clearly are not committee-related.

ASSASSINATION

During the course of the committee's assassination inquiry, a number of key witnesses have gone straight to the press with their stories, either prior to or following their appearance before the committee. The first example of this was Richard Goodwin, a former Kennedy White House aide. Mr. Goodwin was a key witness in the committee's inquiry into the Trujillo assassination. Mr. Goodwin appeared before the committee on July 10 and 18. On July 19, the Washington Post reported essentially all Mr. Goodwin told the committee in executive session. Who was the source of the leak? None other than Mr. Goodwin himself.

The committee has also been looking into the assassination of former Congo leader Patrice Lumumba. A key witness in this case was Richard Bissell, former Deputy Director for plans of the CIA. I attended a closed session with Mr. Bissell to discuss his knowledge of this case and the next day I read a carefully selected revision of that testimony in the newspaper. The source? Richard Bissell.

CHILE

For several months now the committee has been looking into covert operations conducted by the CIA in Chile as well as into a specific case which involved the killing of a Chilean general, Rene Schneider. During the most intense period of investigation into the Schneider killing, two articles appeared in the New York Times discussing this case. The first article, on July 23, contained several references to material that had come to the committee's attention. One could not identify where the leak originated, for the article referred to "authoritative Government sources." A second article on Chile, which appeared in the New York Times 4 days later, helped to clear up this mystery. The article referred to a memorandum prepared by Richard Helms in the fall of 1970 on CIA activities in Chile. It referred to the Schneider incident. Although not pinpointing the person responsible for leaking this material, the article did establish one point beyond doubt—the select committee was not the source. The reason is simple—the select committee had, by then, neither received nor knew of the Helms memorandum.

The Chile leaks reveal another interesting story. On September 2, 1975, a third New York Times article on Chile appeared. If one reads the first two Chile articles carefully, as the select committee did, and then looks at the third article, it is curious that these articles take on differing interpretations of essentially the same facts. There is, quite simply, a dispute in the articles over what was and was not authorized back in the fall of 1970. The first two articles interpret the authorization question in a light most favorable to the Nixon White House, the third article favored the CIA. There is an old metaphor about ships passing in the night; I would like to revise that in light of these leaks to state that we may have a case here of "bureaucracies clashing in the night."

NATIONAL SECURITY AGENCY

Recently the committee has been looking into the super-secret National Security Agency. The committee has been attempting to decide how most prudently to disclose the information we have gathered.

Throughout its investigation of the NSA, the committee has been most sensitive to charges that the disclosure of any information on the NSA would be harmful to U.S. national security interests. In fact, the select committee has delayed hearings on NSA for just that reason.

Nevertheless, numerous articles have appeared in recent days dealing with the NSA and discussing many of the same topics that his committee wanted to explore fully in closed session before going to public hearings. For example, on October 12, 1975, an article appeared in the New York Times stating that two former Presidents had received private reports from NSA on what prominent Americans were doing and saying abroad. The article cited "present and former Government officials" as sources. Another, more recent, Washington Post article, this time citing "informed intelligence community sources," discussed the NSA's interception of conversations of Jane Fonda, Benjamin Spock, and other leading antiwar figures in 1969 and 1970. These same "informed intelligence community sources" disclosed that these conversations were intercepted by NSA from overseas cable traffic. The article went on to reveal the code designations used for the intercept of these communications. The article was replete with references to "intelligence community" sources and, unless the select committee has become a part of the intelligence community, one must point the finger elsewhere for these leaks.

It is also interesting to note that a few days after the committee's last executive session on NSA, at which it decided to postpone temporarily public hearings, an article appeared in the Washington Post which revealed, among other things, that NSA's advanced technology had made it possible to scan thousands of telephone conversations, cables, and other wire and radio commmunications, and select those with valuable national security data. The article went on to say that the NSA has a "Watch List" of names including numerous leaders of the American antiwar movement. The source for this article? None other than "highly placed administration sources."

One further example of an NSA leak is worth noting. In an October 11 Los Angeles Times article, a "former high-ranking member of the U.S. intelligence community" told the Times that NSA has "an amazing capability"—beyond that of most other nations. According to this official and "another source involved in the system," the NSA gave the FBI secret data, purportedly for domestic security reasons. Also, the article stated that "according to knowledgeable officials" the NSA monitored millions of overseas phone calls as well as those within foreign countries as part of its code-breaking and foreign intelligence-gathering operations. Ironically, this same article noted that the select committee had abruptly postponed its hearings on this topic to honor the administration's request that the matter be further explored before public disclosure.

MAIL OPENINGS

On August 5, 1975, there appeared an article in the New York Times which stated that agents of the FBI opened and photographed foreign and domestic mail at several U.S. cities beginning in 1958, and continuing possibly until 1970. The source for this article was attributed to someone "with direct knowledge of the secret operation." Since neither members of the committee nor staff have ever participated in opening and photographing mail, it is obvious that no one connected with the committee could have "direct knowledge of the secret operation." The article went on to state that the source's account and the FBI's unusual confirmation of part of his account represented the first disclosure that, like the CIA, the FBI also participated in the opening and photographing of parcels and letters it believed to be of some intelligence value.

FBI BLACK BAG JOBS

On July 28, 1975, Newsweek magazine contained an article entitled "The FBI's 'Black Bag Boys' " which referred to FBI Director Clarence Kelley's confirmation that the FBI had, in the past, made "surreptitious entries" into various places, foreign embassies included, to obtain what if felt to be important information. The Newsweek article went on to say that "most intriguingly, the Director's disclosure also set 'other tongues wagging.' " The "other tongues wagging" included former FBI agents, as well as Justice Department officials. One Justice Department official, according to Newsweek, even disclosed the number of black bag jobs conducted by the FBI as well as the targets of these operations.

SHELLFISH TOXIN

Back in September the select committee held hearings on the failure of CIA officers to destroy deadly toxins in spite of a Presidential order to do so. The committee had originally planned to hold public hearings on this matter on September 9. It decided, however, to postpone the hearings for a week in order

to be more fully prepared. In the meantime, however, an article appeared in the Washington Post, quoting "informed sources," which leaked many of the details of this case which were to be disclosed by the committee. On the same day, there was a similar article in the New York Times.

It is interesting to note that "administration sources," if not directly responsible for the leak itself, responded very quickly to it. The Washington Post article stated that "administration sources acknowledged that the bacteriological material should have been destroyed but added that the substances wound up at Fort Detrick without any clear understanding that they were deadly or even dangerous." Clearly these "administration sources" were attempting to shed the best light on a rather bad story. The purpose of this leak, of course, was to attempt to preempt the committee's hearings.

Mr. President, far be it for any Member of Congress to cast the first stone when it comes to talking with the press. Attempting to deny that one is a source of a newspaper leak is about as easy as responding to the question of "when did you stop beating your wife?"

However, the Senate Select Committee on Intelligence has done an excellent job in this respect. It has stayed behind closed doors—and out of the press—when necessary, and issued public statements when appropriate.

Despite this fact, leaks have occurred and there are at least two motives. First, "highly placed administration sources," "authoritative Government sources," and "intelligence community sources," are leaking to protect their own bureaucratic and political interests. These sources want to get their side of the story in print first, hopefully in the most favorable light. Second, these leaks are a conscious attempt to preempt the public disclosures of this committee.

If there is one disease endemic to official Washington, it is hypocrisy. Hypocrisy is saying one thing and doing another. It is fashionable in Washington today to suggest possible misconduct by others, then, under the cover of that smokescreen, carry out such misconduct oneself. The record strongly supports a conclusion that such activities are going on here.

This sort of hypocrisy threatens to destroy even further the public's confidence in Government. The obvious examples of leaking cited here further undermines the credibility of our institutions and actions. It is time that we reject the games Washington plays. "Highly placed administration sources," Cabinet officers, and agency officials should either exercise self-restraint or stop criticizing, hypocritically, the Senate committee.

To date, those under investigation by the committee have played by different rules than those conducting the investigation. Nevertheless, this committee is constantly criticized for undermining the intelligence community's effectiveness. The blunt truth is that any damage done to intelligence agencies to date has not been done by the committee but by the administration or agency sources themselves.

The committee has a very important job to do. It is performing its constitutional duty. The committee has attempted to demonstrate that it is not a sieve. It has attempted to be leak-proof. We would appreciate equally responsible action from witnesses who appear before the committee, "authoritative Government sources," "intelligence community sources," and all "informed sources"—whoever they may be.

Mr. President, I ask unanimous consent that newspaper articles documenting this statement be printed in the RECORD at this point.

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

[From The Washington Post, Aug. 3, 1975]

SCHLESINGER SAYS LEAKS CURB CIA

(By Stan Crock)

Secretary of Defense James R. Schlesinger said leaks from congressional committees investigating the Central Intelligence Agency have "dramatically reduced" the agency's sources of information.

Asked by Sen. James L. Buckley (Cons.-R.-N.Y.) during a taped television interview set up by Buckley's office whether there is reason to fear that the leaks will undercut the willingness of foreign governments to work with the United States, Schlesinger replied, "I think we have more than reason to fear.

"I think that we recognize that the sources of information coming into the CIA have been dramatically reduced in both liaison relationships and in relation to the willingness of foreigners to work with our intelligence people."

Schlesinger, a former CIA director, called the problems "the inevitable effect of these kinds of revelations."

In the interview made public yesterday, which is to be released to New York television stations this week, Schlesinger rejected the argument that information from intelligence sources is not needed because photographs that U.S. satellites take are sufficient.

Such an argument is "a dramatic oversimplification," he said.

"Photographs, of course, can provide you with indications with respect to the growth of certain types of capabilities, but one must recognize that nobody has ever been able to photograph intentions," he said.

Because of the limitations of photographs, "all the elements of the intelligence community must be effective if the U.S. is to have eyes and ears in what continues to be a relatively dangerous world," he said.

He told Buckley he believes the world is "more dangerous than it was a year ago," citing "growing problems" from one end of the Mediterranean to the other and the aftermath of the "American debacle in Southeast Asia."

Reducing defense spending and increasing money spent on public works would augment instead of solve the unemployment problem, Schlesinger said.

Schlesinger said those who favor such a reduction "tend to forget the most valuable of social welfare services that a society can provide for its citizens is to keep them alive and free."

Schlesinger also said NATO members in Europe face a greater morale problem than the United States, but denied that they are not shouldering their military burden.

With 2.5 million men under arms, the NATO allies far outnumber the 300,000 Americans in Europe, he said. These countries "cannot individually and at the present time collectively stand up against the Soviet Union without the backbone that is represented by another superpower," he said.

[From the Washington Star, Aug. 3, 1975]

HILL LEAKS HURT CIA—SCHLESINGER

Secretary of Defense James R. Schlesinger said yesterday the CIA's sources of information abroad "have been dramatically reduced" as a result of leaks from congressional investigating committees.

Schlesinger, who formerly headed the CIA, was asked by Sen. James Buckley, R-N.Y., in a recorded television interview whether "we have reason to fear that the willingness of foreign governments to work with us is being undercut" because of CIA secrets made public.

"I think we have more than reason to fear," Schlesinger replied.

"I think that we recognize that the sources of information coming into the CIA have been dramatically reduced in both liaison relationships and in relation to the willingness of foreigners to work with our intelligence people and that is an inevitable effect of these kinds of revelations."

Schlesinger dismissed as "a dramatic oversimplification" the notion that the only kind of intelligence the United States needs is that which is provided by spy satellites.

"Photographs, of course, can provide you with indications with respect to the growth of certain types of capabilities, but one must recognize that nobody has ever been able to photograph intentions," Schlesinger said.

"The only way we are ever able to get at intentions is through normal human intelligence and, in addition to that, there are various technical parameters that one can never learn though photographs.

The defense chief said that, in his opinion, the world is in a more dangerous state than it was a year ago.

"From one end of the Mediterranean to the other end of the Mediterranean there are growing problems," he said.

[From the Boston Globe, July 19, 1975]

JFK RULED OUT U.S. ROLE IN TRUJILLO DEATH, AIDE SAYS

(By George Lardner, Jr.)

WASHINGTON.—President Kennedy personally ruled out U.S. involvement in the assassination of Rafael Trujillo shortly before the Dominican dictator was killed in May 1961, according to a former Kennedy White House aide.

Richard Goodwin, who was Mr. Kennedy's principal advisor on Latin American affairs, said the President not only disapproved of U.S. participation in the scheme, but inserted a strong warning against such involvement in a May 1961 cable to the U.S. consul general in the Dominican Republic.

"He said, 'Look, if Trujillo goes, he goes, but why are we pushing that?'" Goodwin recalled of a conversation he had with Mr. Kennedy at the time.

The injunction the President laid down in the cable, Goodwin added, stated that the "U.S., as a matter of general policy, cannot condone assassination."

Then an assistant special counsel to the President, Goodwin said he was speaking up publicly now to refute suggestions that John F. Kennedy, who was sworn in as President on Jan. 21, 1961, may have known and even approved of CIA complicity in efforts to kill foreign leaders.

Evidence Goodwin cited suggested, instead, that high officials of the Eisenhower Administration had encouraged such undertakings.

In an interview, Goodwin said for example, that on Jan. 12, 1961, while Eisenhower was still President, the White House's so-called special group in charge of covert CIA operations authorized the CIA to turn over several guns to certain Dominican dissidents

who were later involved in the Trujillo assassination.

Three .38-caliber revolvers and three carbines with accompanying ammunition, it was confirmed by other sources, were handed over to the dissident group.

The special group had approved the transfer only on the condition that it take place outside the Dominican Republic—with the understanding that the underground rebels would have to smuggle the guns into the country themselves.

The CIA, however, sent them straight to Ciudad Trujillo (now Santo Domingo) in a diplomatic pouch, Goodwin declared. The guns were turned over to the dissidents with the help of Henry Dearborn, the U.S. consul general there.

Trujillo had a very tight grip on the country, another source said, and the rebels were unable to work out their own method of getting the guns in.

Alluding to the documents he saw as a White House aide, Goodwin said the revolvers and carbines were depicted by the CIA as intended for the personal defense of the dissidents "attendant to their projected efforts to neutralize Trujillo."

According to evidence now in the hands of the Senate Intelligence Committee, the CIA also sent four .45-caliber submachine guns and some grenades to the Dominican Republic, apparently in another diplomatic pouch. The CIA informed the White House on May 13, 1961, that these, too, could be provided to the anti-Trujillo group "for their use in personal defense" if authorization were granted.

Goodwin said he vetoed the suggestion, at Mr. Kennedy's instructions, in the same late May cablegram to Dearborn.

Dearborn, now retired, declined to comment. However, he worked closely with both pro-U.S. dissidents and the CIA at the time.

Dearborn, it was learned, doubled as the CIA's unofficial station chief in the Dominican Republic for several months in 1960, when the United States withdrew its diplomatic recognition of the country, and called back many of its employees, including CIA personnel.

There is no evidence that the carbines or the revolvers were used when Trujillo was gunned down on May 30, 1961, Goodwin said, but he maintained that the machine guns were sought for that purpose. "They weren't intended for personal defense," he declared.

Another source maintained that the CIA guns, were all sought simply as a token to satisfy the skeptics among them that the United States supported their efforts to overthrow Trujillo.

[From The Washington Post, July 10, 1975]

CIA-MAFIA LINKS CONFIRMED

(By Robert L. Jackson)

A former chief of clandestine services for the Central Intelligence Agency said yesterday he personally approved CIA cooperation with Mafia figures who wanted to assassinate Cuban Premier Fidel Castro in 1960.

Richard M. Bissell, the ex-CIA official, said in an interview that he also believed the late Allen W. Dulles, then director of the CIA, received regular reports on the Mafia connection.

Bissell's statements marked the first time a former member of the CIA hierarchy had acknowledged responsibility for the unusual cooperation in the early 1960s between the underworld and U.S. intelligence planners

Lawrence R. Houston, former CIA general counsel, told reporters last week that he first learned about the CIA-Mafia links in April, 1962, from the late Col. Sheffield Edwards, then the agency's director of security.

Houston said he never authorized these arrangements and insisted that he and Edwards immediately brief Attorney General Robert F. Kennedy about the contacts. Houston said he doubted Edwards had acted alone in arranging the contacts.

Bissell said arrangements with the Mafia were handled by Edwards' office through Robert A. Maheu.

Maheu, a former top aide to industrialist Howard Hughes, gave his first closed door testimony to Senate CIA investigators yesterday after being granted immunity from prosecution earlier this month. Maheu has said he will meet with reporters today if he completes his testimony.

Bissell said Edwards had arranged the highly secret cooperation with underworld figures Sam Gianeana and Johnny Rosselli, but that Bissell—outranking Edwards—also approved it.

Bissell said the Mafia work was not under his personal direction, however.

"In everything related to this matter, I believer Edwards reported directly to Dulles—with my knowledge and concurrence," Bissell said.

Bissell said these arrangements began in the waning months of the Eisenhower administration as plans were also being made for Cuban expatriates to invade their homeland. These plans ended in the disastrous Bay of Pigs invasion in April, 1961, in the early days of the Kennedy administration.

Rosselli has reportedly told Senate investigators that he helped plan or direct about six attempts on Castro's life in the early 1960s.

Bissell, when asked how cooperation with the Mafia arose, said: "I think the history is very uncertain as to whose original idea it was."

Gianeana or other Mafia members might have suggested it themselves, he said, because "they did have very large interests in Cuba that were totally eclipsed or destroyed by Castro."

"I believe the record shows that they worked without pay (for the CIA) for the most part," he said.

Other government sources have said the Mafia wanted to remove Castro from power to reopen lucrative gambling operations in Havana that Castro had closed down.

Bissell, a top planner of the Bay of Pigs invasion, left the CIA in February, 1961, during a Kennedy administration shakeup of the agency. He said he did not know how long the Mafia work continued, although others have said Rosselli's anti-Castro plans continued until 1963.

It was learned that Bissell has told Senate investigators he knew assassination plans would be made when he approved the Mafia cooperation, but doubted the Mafia could ever execute such plans.

He said he had "no clear recollection or hard evidence" that the White House or Attorney General Kennedy knew about any assassination plans.

[From the Washington Post, Sept. 12, 1975]

LUMUMBA DEATH PLAN TOLD

The Central Intelligence Agency in 1960 explored ways to poison Congolese leader Patrice Lumumba, a former head of the agency's clandestine operations said yesterday.

In an interview, Richard M. Bissel said, "There was an occasion when the feasibility of an action of that kind was investigated," but he added that he personally decided not to implement the plans "for various operational reasons."

Then-CIA director Allen Dulles was aware of the planning effort, Bissell said, but said he did not know whether anyone outside the agency was informed.

"To the best of my knowledge and belief" the CIA had nothing to do with Lumumba's death in early 1961, Bissell said.

"The particular operation that was looked into was aborted for reasons which did not have anything to do with events in the Congo," Bissell said. "There was a decision within the agency not to carry the operation beyond the feasibility stage."

Bissell, who left the agency in the wake of the Bay of Pigs fiasco, said he could not recall any of the operational details of the plan. He said he could not identify what kind of poison was to be used or even "whether it was lethal or incapacitating."

He specifically refused to make any connection between plans to poison Lumumba and the cache of deadly poisons recently discovered at a CIA laboratory.

According to Bissell, the planning effort would have consisted, among other things, of development of a suitable poison by the agency's Technical Services Division and investigation by agents in the field of whether it was possible to administer the poison to Lumumba.

[From the Los Angeles Times, May 31, 1975]

CASTRO REMOVAL PLAN—EX-GENERAL CITES KENNEDY ORDERS

WASHINGTON.—Retired Maj. Gen. Edward G. Lansdale said Friday that, acting on orders from President John F. Kennedy delivered through an intermediary, he developed plans for removing Cuban Premier Fidel Castro by any means including assassination.

"I just wanted to see if the United States had any such capabilities," the former Air Force officer and expert on counterinsurgency tactics said. In a telephone interview, Lansdale stressed that his planning effort included other means, such as a coup, for removing Castro from power.

Asked if any attempts against Castro's life were made as a result of his project. Lansdale said, "Certainly nothing I ever heard about. Nothing was ever initiated on it as far as I know."

However, a source familiar with the tentative findings of the Rockefeller commission on the Central Intelligence Agency said he had been told that some subsequent assassination efforts were undertaken.

Although Lansdale avoided using the word "assassination," he twice replied in the affirmative to the specific question of whether assassination was one of the means he considered.

"I was working for the highest authority in the land," Lansdale said of the report. Asked to be more specific, Lansdale replied, "It was the President."

Lansdale said he did not deal directly with President Kennedy on the project but worked through an intermediary. Asked if the intermediary was McGeorge Bundy, then President Kennedy's assistant for national security affairs, Lansdale replied, "No it was someone much more intimate."

He refused to provide the intermediary name for the record.

Lansdale said he was assigned to the project in 1962 when the U.S. first received intelligence that Castro was prepared to install Soviet-made nuclear missiles in Cuba. "It was something that was very closely held then and still is," Lansdale said.

Last week, the Associated Press identified Lansdale as the author of an August, 1962, memo, now in the possession of the Rockefeller commission, that authorative sources said provided the CIA with authority to develop contingency plans for the assassination of Castro. Lansdale maintained, as he had last week, that he did not remember the memo, but he acknowledged that it would not have been "incompatible" with his assigned task.

"I didn't know what all the potentials were," Lansdale said, "the feasibilities, the practicalities of doing something like that." In response to a question, Lansdale confirmed that the phrase "something like that" included the possibility of assassination.

In previous interviews, Lansdale had refused to discuss his role in the anti-Cuban

operations that informed sources have said were directed by a special Cabinet-level group headed by then Atty. Gen. Robert F. Kennedy and titled Operation Mongoose.

Other members of the group included Bundy, CIA director John A. McCone, Secretary of Defense Robert S. McNamara and Secretary of State Dean Rusk. The Rockefeller commission reportedly has obtained the minutes of an Aug. 10, 1962, meeting of this group, the official title of which was Special Group (Augmented), that indicate that the subject of assassination was discussed.

The minutes show that Robert Kennedy was not present, sources have said.

Although Lansdale is officially listed as an assistant to the secretary of defense in August, 1962, McNamara objected to the description of Lansdale as a McNamara assistant. "I had no personal knowledge of what he was doing," McNamara said.

[From The New York Times, July 23, 1975]

'70 NIXON ORDER TO C.I.A. TO BALK ALLENDE REPORTED—PRESIDENT'S AUTHORIZATION TERMED CAUSE OF AGENCY'S ROLE IN MILITARY PLOTS TO THWART MARXIST'S ELECTION

(By Nicholas M. Horrock)

WASHINGTON, July 23.—Preident Richard M. Nixon authorized the Central Intelligence Agency to make, a last-ditch, all-out effort in September, 1970, to keep Salvador Allende Gossens from becoming President of Chile, authoritative Government sources said today.

As a result of the assignment, the sources said, the C.I.A. became involved in the planning of two military coups d'état—planning that included proposals to kidnap Gen. René Schneider, Chief of Staff of the Chilean Army.

Theoretically, the kidnapping of General Schneider would have given the Chilean military a justification for declaring martial law and assuming the powers of government.

The sources said that the C.I.A. tried later to stop the carrying out of one plan, but that it went forward nevertheless and General Schneider was killed by Chilean military plotters in the kidnap attempt.

In the other plot, the agency was said to have supplied insurgents with three machine guns and with tear-gas grenades. When it was discerned that the plot could not get broad political support it was halted and the guns were later returned to the C.I.A. unused, the sources said.

Henry A. Kissinger, then President Nixon's assistant for national security affairs, was briefed about the first plot on Oct. 13, 1970, by Thomas J. Karamessines, then chief of overt operations for the intelligence agency, the sources said. Mr. Karamessines reportedly told Mr. Kissinger the plot had little chance of success and it was at that point the two agreed it should be halted.

Mr. Kissinger has told President Ford of this plot, Administration sources said, but has said he did not know that the C.I.A. was negotiating with yet another group. Intelligence sources said, however, that agency officials felt Mr. Nixon's orders to block Mr. Allende, each were strongly worded, constituted a blanket authorization for their activities.

CONTRADICTIONS INVESTIGATED

Reports in The New York Times last fall indicated that the C.I.A. was involved in efforts to stop Mr. Allende from assuming the Presidency. But in these accounts and in subsequent Congressional hearings the efforts appeared to be limited to the secret financing of opposition parties and labor unions. The latest disclosures are the first confirmation that President Nixon and the C.I.A. contemplated military coups or the violent take-over of the Chilean Government.

The new information, with copies of Congressional testimony in 1973 by Richard M. Helms, then Director of Central Intelligence, have been forwarded to the Department of Justice for study on whether the contradictions may constitute perjury, the sources confirmed.

Mr. Helms testified on Chile before a Senate committee as early as May, 1973, and later a connection with his confirmation as United States Ambassador to Iran. He also testified at a Senate Foreign Relations Committee hearing on Chile earlier this year. There are contradictions in his testimony over the depth and extent of C.I.A. activities against Mr. Allende.

KISSINGER'S TESTIMONY SOUGHT

Meanwhile, Senator Frank Church, chairman of the Senate Select Committee on Intelligence announced today that the committee would call Mr. Kissinger to testify on the "line of authority implementing the Nixon policy toward Chile." The Idaho Democrat said that Mr. Kissinger could offer insight into the extent of the knowledge and control" exercised by the policy-makers.

The announcement brought a sharp reaction from Roderick Hills, a counsel to President Ford. He said the request for Mr. Kissinger's testimony was "abrupt" and was not handled with the same courtesy he knew the committee had extended to other witnesses.

The committee, Mr. Hills said, had made no attempt to send out what Mr. Kissinger could really add on the question. He said, however, that his action should not "in any way" indicate that Mr. Kissinger would attempt to avoid fortifying.

Government sources and sources within the intelligence community gave this report on the fast-paced events of the fall of 1970:

On Sept. 15, 1970, 11 days after Mr. Allende a Marxist, had won the presidential elections by a plurality, President Nixon called a secret meeting at the White House. It was attended by Mr. Kissinger, Mr. Helms and John Mitchell, then Attorney General.

The meeting was unusual because it was out of the normal channels of transmitting instructions to the C.I.A. Under the law and in practice CIA covert operations are passed on by the 40 Committee, a top level White House security group, and transmitted through the national Security Council. It is unclear whether the matter ever reached the agenda of the committee.

Mr. Nixon was, one source said, "extremely anxious" about Mr. Allende's rise to power in Chile. Another source said the former President was "frantic." He told Mr. Helms in "strong language" that the CIA was not doing enough in the situation and it had better "come up with some ideas." He said that money was no object and authorized an initial expenditure of $10-million to unseat the Chilean Marxist.

CIA'S EFFORTS REDOUBLED

Notes on the meeting, however, do not indicate that Mr. Nixon ever specifically ordered the CIA to arrange a coup d'etat in Chile. But the "tone" of the meeting, one source said, was "do everything you can."

The agency redoubled its efforts. Mr. Karamessines, deputy director of plans at CIA and thus the chief covert operator went to Chile himself, one source said.

On Oct. 13, 1970, Mr. Karamessines briefed Mr. Kissinger on the CIA's progress. He told Mr. Kissinger that Brig. Gen. Roberto Viaux, who had recently retired from the Chilean Army, was plotting to kidnap General Schneider as the prelude to a military takeover. Mr. Karamessines said, however, that it was the opinion of the CIA that General Viaux's project could not succeed. Mr. Kissinger told the CIA to "keep the pressure up" and keep the CIA's "assets" in Chile up to par, but agreed that this plan should not go forward.

He told the agency to try to halt General Viauxs plot. These sources said that CIA cable traffic, copies of which are in the hands of the Senate Select Committee on Intelligence, indicate that the CIA did make an effort to halt the plan.

PLOT GOES FORWARD

Nevertheless, General Viaux's plot went forward. On October 22, 48 hours before the Chilean Congress was scheduled to vote on Mr. Allende's election—the fact that he had not won a majority threw the decision into Congress—an attempt was made to kidnap General Schneider. When it appeared the general was going to resist, these sources said he was killed by three .45 caliber bullets, according to Chilean press accounts.

However, between the Oct. 13 meeting and the killing of General Schneider on Oct. 22, these souces said, the C.I.A. was negotiating with a completely separate group of plotters. A group of military officers under Gen. Camilo Valenzuela, then commander of the Santiago army garrison, was also planning to kidnap General Schneider to pave the way for a military take-over.

The C.I.A., these sources said, at first had greater confidence in General Valenzuela's plot. Accordingly, officials at the agency headquarters at Langley, Va., authorized the C.I.A. station in Santiago to give the insurgents three machine guns and tear gas grenades for use in a kidnapping attempt. The authorization was issued on Sunday, Oct. 24.

But within hours the C.I.A. had ascertained that the Valenzuela coup did not get sufficient political support to succeed and that Jorge Alessandri Rodriguez of the right-wing National party, the runner-up in the election, would not accept the presidency. Nevertheless, apparently on the order of C.I.A. officials in Santiago, the guns and tear gas were reportedly given to the conspirators. They were later returned to the agency unused.

After Mr. Allende had been confirmed and had assumed office, the agency secretly sent money to the families of men arrested in General Viaux's abortive plot, the sources said. The money, one source said, was paid to "keep the families quiet about the contacts with C.I.A."

NIXON REPORTED TOLD

According to the sources, Mr. Kissinger told President Ford after Mr. Nixon had resigned, of the stepped-up effort to unseat Mr. Allende and about the Viaux plot. But Mr. Kissinger has maintained, in private conversations, that he never knew about the second plot, the sources said.

Mr. Kissinger has said, in these private conversations, that had the C.I.A. proposed a military coup in Chile the agency would presumably have come back to him and outlined the plot, and the President and the 40 Committee would either have authorized or prohibited it.

The 40 Committee is a special group under the National Security Council that passes on all covert operations.

One source said that the 40 Committee had approved all covert activities in Chile except the involvement in the Viaux and Valenzuela affairs. But another source said that "from the beginning it appeared the matter was being handled on its own special track."

Another source said that C.I.A. officials had felt that the President's strongly worded assignment on Sept. 15, 1970, was a "blanket authorization" to become involved in planning for a military take-over.

MISTAKE IS CONCEDED

Since the military coup in September, 1973, in which President Allende was killed, there has been a growing national inquiry into the role of Mr. Kissinger and the C.I.A. in efforts to undermine the Chilean Government. When Mr. Helms testified before the Senate Foreign Relations Committee during hearings in 1973 on his nomination as ambassador, he gave very scanty testimony on the Chilean matter.

Earlier this year, in private testimony later made public, Mr. Helms told the Senators he

had "made a mistake in his earlier testimony" in that he had not revealed that President Nixon wanted President Allende's Government overthrown.

In other testimony this year, Mr. Helms said there had been a "probe" to see if there were any forces in Chile to oppose Dr. Allende's advent as President.

"It was very quickly established there were not," he added, "and therefore no further effort was made along those lines to the best of my knowledge, at least I know of none."

Mr. Helms returned to Teheran, where he is Ambassador. He could not be reached by The New York Times today.

[From the New York Times, July 27, 1975]

HELMS LINKED TO C.I.A. MEMO FOR KISSINGER AND MITCHELL ON PLOT IN CHILE

(By Nicholas M. Horrock)

WASHINGTON, July 26.—Richard Helms, while director of the Central Intelligence Agency, prepared a memorandum in the fall of 1970 informing Henry Kissinger and John N. Mitchell that the agency had supplied machine guns and tear-gas grenades to men plotting to overthrow the Chilean Government, authoritative Government sources said today.

The memorandum may become crucial evidence as the Senate Select Committee on intelligence attempts to learn who authorized the C.I.A. to become involved in planning two military coups in Chile in October, 1970.

One of the plans resulted in the death of Gene Rene Schneider Chereau, Chief of Staff of the Chilean Army.

According to sources who have seen the memorandum, it was written by Mr. Helms after the plot involving the machine guns had been called off. It was in the sense, they said, of an "advisory" to the Administration of President Richard M. Nixon on C.I.A. activities.

The memorandum was written to Mr. Mitchell, then Attorney General, and was to have been passed on to Mr. Kissinger, then assistant to Nixon for National security affairs.

But, these sources said, there is no evidence that either Mr. Kissinger or Mr. Mitchell received the document.

Neither Mr. Kissinger nor Mr. Mitchell could be reached for comment. But Mr. Kissinger is reported to have told associates in private conversations that he was unaware the C.I.A. had smuggled machine guns and tear gas grenades to Chilean insurrectionists.

Mr. Kissinger has said however, that he was aware of an earlier plot to kidnap General Schneider and spark a military coup that both he and the C.I.A. agreed to stop.

The Helms memorandum was part of a collection of Mr. Helms' papers and files that were turned over to the Rockefeller commission by William E. Colby, Director of Central Intelligence. Although the eight-man commission, headed by Vice President Rockefeller, was concentrating on alleged domestic wrongdoing by the C.I.A. its staff did review the documents.

AGENCY LINKED TO PLOTS

The Rockefeller staff concluded from its review that the C.I.A. did not plot to assassinate anyone in Chile, but it found substantial evidence that the agency had become involved in planning a military take-over.

On Thursday, The New York Times quoted authoritative Government sources as having said that on Sept. 15, 1970, President Nixon ordered the C.I.A. to make an all-out, last minute effort to keep Salvador Allende Gossens from becoming President of Chile.

Mr. Allende won the Presidency by a plurality early in September and his election was to be certified by the Chilean Parliament late in October. The United States feared that he would create a hostile Marxist government.

In this six-week period, these sources said, the C.I.A. became involved in two separate plots to seize power in Chile by military means. Both plots involved the kidnapping of General Schneider, a highly respected military leader, and inducement of the army to take power.

On Oct. 13, 1970, Thomas J. Karamessines, then chief of the agency's covert operations, briefed Mr. Kissinger about its progress in Chile. He told Mr. Kissinger, these sources said, that a group of retired military officers planned to abduct General Schneider.

But Mr. Karamessines warned Mr. Kissinger that it was the C.I.A.'s opinion that the plot could not succeed. The two agreed to try to halt it, according to the sources. They said there were copies of cablegrams in which the C.I.A. tried to head off the plan.

The conspiracy went ahead, however, and General Schneider was killed on Oct. 22, 1970.

Meanwhile, the sources said, the C.I.A. was conspiring with the commander of the Santiago garrison in a similar plot. The agency felt at one point that this endeavor had more chance of success, and authorized C.I.A. employes in Chile to give the plotters three machine guns and tear-gas grenades.

At the last minute, this plot also appeared to be doomed to failure, and the tear gas and guns, unused, were returned to the C.I.A.

It was at this point, in the last days of October or early in November, the sources said, that Mr. Helms prepared the advisory memorandum to Mr. Mitchell and Mr. Kissinger.

Intelligence sources have said the C.I.A. became involved in planning the coups under the general authorization of President Nixon on Sept. 15, 1970. However, there are no documents showing that Mr. Nixon told the C.I.A. to plan a coup, they said.

Mr. Kissinger has made few public statements concerning the role of the C.I.A. in undermining the Allende Government. However, in his 1973 Senate confirmation hearings as Secretary of State, Mr. Kissinger testified in closed hearings:

"The intent of the United States Government was not to destabilize or to subvert him [Mr. Allende] but to keep in being those political parties that had traditionally contested the elections. Our concern was the election of 1976 and not at all with a coup in 1973, about which we had nothing to do with."

[From the New York Times, Sept. 3, 1975]

PENTAGON ROLE REPORTED IN '70 PLOT AGAINST ALLENDE

(By Nicholas M. Horrock)

WASHINGTON, Sept. 2.—The Defense Department ordered the United States military attaché in Chile to give strong covert support to an October, 1970, plan for a military coup aimed at keeping Salvador Allende Gossens out of the Chilean presidency, sources familiar with the operation reported today.

According to the sources, the Defense Department sent "at least two cables" between Oct. 2, 1970, urging Col. Paul Wimert, then military attaché in Chile to secretly assure Chilean military officers plotting a coup that the United States would give them total support "short of troops," as one source put it.

Dr. Allende led a left-wing coalition including the Chilean Communist party to an election victory in September, 1970. The election had to be confirmed by the Chilean congress because Dr. Allende lacked a majority. This was done in October. Dr. Allende did not take office until November.

The information on that period was gathered by the Senate Select Committeee on intelligence.

WIDER OPERATION SEEN

Evidence submitted on the role of the Defense Department in the plotting of military coups in Chile appears to indicate that involvement was not limited to the Central Intelligence Agency.

On July 24, 1975, The New York Times quoted intelligence sources who said that on Sept. 15, 1970, President Nixon ordered an all-out last-minute attempt to keep Dr. Allende from becoming president of Chile.

Acting on this general instruction, the sources said, the CIA learned of two plots for a military take-over in Chile, one involving retired personnel and one involving officers on active duty. One of the plots, put into effect on Oct. 22, resulted in the death of Gen. René Schneider, chief of the Chilean General Staff.

Secretary of State Kissinger, who has testified before the committee, has said publicly that he knew of no assassination plots. Privately he has reportedly acknowledged that he learned of one coup plan, but that he and CIA officials opposed it.

PLOT DISCUSSED

On Oct. 15, 1970, several sources said, Mr. Kissinger, then Presidential Assistant for National Security Affairs; Col. Alexander M. Haig Jr., his deputy, and Thomas J. Karamessines, then chief of the C.I.A.'s undercover operations, met to discuss Chile. At this meeting, the sources said, Mr. Kissinger agreed with Mr. Karamessines that one of the plots in Chile was unlikely to succeed and should not go forward.

But, Senate investigators have been told, Colonel Haig and Mr. Karamessines met the next day—Oct. 16, 1970—and support for another plot in Chile was discussed.

The C.I.A., these sources said, received "tacit" approval to go ahead and support this plot. Whether the approval came from Mr. Kissinger, President Nixon "or other channels" is in dispute in the testimony, several sources said.

It was after the Haig-Karamessines meeting, however, that the Defense Department cabled Colonel Wimert his instructions.

Colonel Wimert was brought before the committee last month as a "secret witness." He declined to comment today on the matter.

"That is behind me now," he said. "I'm retired. I can look myself in the mirror when I shave. I don't want to get back into hat business." He advised that facts be checked very carefully.

After hearing that such orders had been given Colonel Wimert, the Senate committee interviewed former officials of the Defense Intelligence Agency, which was a conduit for the cables sent to Colonel Wimert. "There apparently is some dispute over who signed the cables and who authorized them," a source said.

It was during the critical days between Oct. 15 and Oct. 22—the Chilean Congress was due to make its decision on Dec. 24—that the C.I.A. authorized three machine guns and a quantity of tear gas grenades be given to one group of military plotters. Before the plot could be put into effect, however, another group of plotters attempted to kidnap General Schneider. Theoretically this would have given the military justification for declaring martial law and assuming the powers of government. The General was shot during the attempt and died a few days later.

Chilean political leaders to the right of Mr. Allende then apparently declined to support any other plots. Mr. Allende assumed office the next month.

Complicating the matter is that in remarks about United States involvement in Chile in that period made at a news conference last fall, President Ford said the involvement was intended only to "assist the preservation of opposition newspapers and electronic media and to preserve opposition political parties."

NSA FED GOSSIP TO PRESIDENTS

(By Nicholas M. Horrock)

Presidents Richard M. Nixon and Lyndon B. Johnson received private reports from the National Security Agency on what prominent Americans were doing and saying abroad, apparently obtained from electronic eavesdropping, according to present and former government officials.

These sources said yesterday the reports were not matters of national security and did not come to the presidents through normal intelligence channels.

Instead, they said, they were sent directly from NSA to the presidents and marked for "White House distribution only" to prevent their being circulated to other intelligence agencies.

The existence of this type of reporting has been made known to both the Senate and House intelligence committees, and they are investigating.

Several sources raised the question of whether it was a proper use of NSA facilities to gather and make such reports. They said there are also questions of improper intrusion on the privacy of the Americans.

A spokesman for NSA said the agency had no comment. NSA officials as a matter of routine have never made comments on stories about the agency's operations.

In one case, a source reported, the NSA dispatch informed Johnson that a group of Texas businessmen involved in private negotiations in the Middle East had claimed a private relationship with him to improve their bargaining position.

Another source said Johnson received details about Sen. Robert F. Kennedy's personal activities and nightlife in Paris from intelligence sources. He could not confirm that the material came from NSA.

Nixon received similar reports, particularly on businessmen, a third source said.

There is no indication that the practice was exclusive to either Nixon or Johnson, but The New York Times was unable to confirm instances in any other administration.

A senior aide to President Ford said privately that he believed Ford "would not tolerate this practice," and that to his knowledge no such reports had been delivered.

The sources familiar with the private reports said they appeared to be "unsolicited" and were "gossipy" in nature.

One account of testimony by NSA officials at a closed session of the House intelligence committee several weeks ago indicated the agency picked up information of what Americans might privately say to foreign governments by eavesdropping on the communications of those governments and their embassies in Washington.

But other sources said NSA ability to gather information on the movement of prominent American business and professional leaders abroad can be far more direct. NSA monitors virtually all foreign cable traffic and many businesses send enormous amounts of top-level information by cable, these sources said.

[From the Washington Post, Oct. 13, 1975]

MESSAGES OF ACTIVISTS INTERCEPTED

(By Bob Woodward)

The National Security Agency intercepted conversations of Jane Fonda, Dr. Benjamin Spock and other leading antiwar figures in 1969 and 1970, according to informed intelligence community sources.

The communications were intercepted by the NSA from overseas cable traffic, some domestic telegrams and long-distance telephone calls, the sources said. Transcripts were then circulated to top government officials under one of the nation's most highly classified and closely held code designations, they said.

At least 150 messages of conversations and communications of antiwar leaders were routed to the chairman of the Joint Chiefs of Staff and other officials under a special intelligence designation in the "Gamma" series for sensitive communications intercepts, the sources said.

Special officers in the CIA, FBI and the counterintelligence unit of the Defense Intelligence Agency were designated to receive and handle these messages, according to the sources.

The sources revealed the exact code designation in the Gamma series used for the intercepts of the communications of antiwar figures, but an intelligence official suggested last week that it would be imprudent to make it public.

The National Security Agency used a similar designation in the Gamma series—the designation "Gamma Gupy"—for the communications it monitored from the limousine radio calls of Soviet Union officials in Moscow. This project was first reported in newspapers in 1971.

The Gamma designations were reserved exclusively for intercepts of Russian communications until the NSA received orders in 1969 to use the same sensitive methods and procedures to monitor the communications of U.S. antiwar leaders, the sources said. It could not be learned who issued the orders.

In addition to Fonda and Spock, the NSA monitored communications of "Chicago Seven" defendants Abbie Hoffman and David T. Dellinger and former Black Panther leader Eldridge Cleaver, the sources said.

All these persons traveled extensively abroad and throughout this country during 1969 and 1970. Cleaver, for example, visited Cuba, Algeria, Sweden and North Vietnam during this period. Virtually all the intercepted messages were short and involved travel plans or appointments, the sources said.

Under another, less sensitive code designation, the NSA, also obtained and circulated information on the personal life of Rev. Ralph Abernathy, Dr. Martin Luther King's successor as head of the Southern Christian Leadership Conference, the sources said. It could not be determined how the NSA came by this information.

Those familiar with the monitoring programs said the conversations involving top Soviet leaders would come in one moment and those of the antiwar personalities the next.

"What Brezhnev and Jane Fonda said got about the same treatment," one source said.

The National Security Agency is in charge of protecting communications security and U.S. message codes while attempting to intercept and break the messages and codes of foreign powers. NSA Director Lt. Gen. Lew Allen Jr. said through a spokesman that he would have no comment on this story.

A Pentagon spokesman also declined to comment, and retired Army Gen. Earle Wheeler, the chairman of the Joint Chiefs of Staff at the time, could not be reached for comment. Sources said Wheeler reviewed most of the messages from antiwar leaders and initialed them with a "W."

One source within the intelligence community said the communications intercepts were confined to international cables. Two other sources, however, said the NSA intercepted a limited number of domestic communications as well.

There is no indication that the method for intercepting communications involved conventional wiretapping. Instead, the sources said, the information came from various airwave interceptions such as from microwave stations that are used to transmit or relay telephone calls and telegrams.

[From the New York Times, Oct. 15, 1975]

FORD AIDES SEEK TO MODIFY LAWS ON SPYING METHOD—THE ATTORNEY GENERAL WOULD RULE ON LEGALITY OF N.S.A. ELECTRONIC SURVEILLANCE

(By Nicholas M. Horrock)

WASHINGTON, Oct. 14.—The Ford Administration has become convinced that a significant part of the National Security Agency's foreign intelligence gathering, though vital, may be of "questionable legality" and it has devised a plan by which it hopes to continue such operations while protecting the rights of Americans, according to highly placed Administration sources.

The sources said today that the bulk of the law limiting electronic eavesdropping was developed in connection with domestic criminal investigations and as one source put it, "National security needs were not given significant consideration." The result, the sources said, was that the N.S.A.'s massive electronic surveillance techniques may have been in "technical violation" of the law.

President Ford, they said, is considering an Executive order that would empower Attorney General Edward H. Levi to approve or disapprove specific electronic intrusions by the security agency. The plan is not complete and several sources were concerned that publication of its detail might endanger national security.

AN AUTHORIZED INTRUSION

But these details were pieced together from several interviews with Administration sources:

The security agency's advanced technology has made it possible for the agency to scan thousands of telephone calls, cables and other wire and radio communications and select those with valuable national security data.

The proposal Mr. Ford is considering would require that when the agency records a communication it believes contains important intelligence data, the agency would notify the Attorney General and he would authorize a national security intrusion. If the Attorney General did not give his approval, the recordings would be destroyed, under the proposal.

If such approval was received, the security agency would then be able to disseminate the information to other intelligence agencies, including the Central Intelligence Agency and the Federal Bureau of Investigation.

The operations of the security agency, which has 20,000 employees and an estimated budget of $1.2-billion a year, are regarded by the Administration as the "top priority" in intelligence-gathering techniques, the sources said. "If the public could know some of the things they've done over the past two years it would be justly proud," one source said.

But at the same time, these sources said, the agency's technology has "outstripped" current law in the United States, particularly domestic criminal law, which deals mainly with wiretapping and room bugging. However, several Administration lawyers contended, the domestic laws and court decisions are "vague" and "ambivalent."

Ultimately, Administration sources said, Mr. Ford may decide to ask Congress for new legislation to cover "space age" electronic surveillance techniques. The proposal to assign decision making responsibility to the Attorney General would provide a test period to discover just what new law is needed, they said.

What has made the agency's techniques particularly difficult to match with current law or practice is that the agency makes an intrusion on a communication before it knows the conversation or cable contains matters of national security.

At the same time recent court decisions have been slowly limiting the Government's

power to conduct warrantless national or domestic security electronic surveillance.

A recent decision in the United States Court of Appeals for the District of Columbia said that the Government should obtain a warrant before it eavesdrops on an American citizen in a national security case unless it can establish that he is an agent of a foreign government.

AGENCY OPERATES IN SECRECY

A large part of recent law and legislation was formed without any real knowledge of what the super-secret National Security Agency was doing.

But under the pressure of the Congressional investigations and the Rockefeller commission investigation of intelligence agencies, what some Administration aides called "bothersome indications" of unacceptable activity began to emerge.

The indications included the following:

In June, the Presidential commission on the C.I.A., headed by Vice President Rockefeller, reported that an unnamed agency of the Government had supplied 1,100 pages of materials on dissident Americans gleaned from communications between the United States and foreign countries. In August, Government sources confirmed that the agency was the N.S.A. and that a "watchlist" of names included numerous leaders of the American antiwar movement. There is no indication that any Attorney General approved these eavesdroppings or obtained a court order for them.

In early September, The New York Times reported that in addition to spying on antiwar leaders, the security agency had intruded on virtually every cable or printed matter transmission that entered or left the United States. The result, sources told The Times, was that the agency intruded on communications that might have nothing to do with national security.

Senator Frank Church, Democrat of Idaho, chairman of the Senate Select Committee, on Intelligence, warned in a television interview that the current bugging technology "could be turned around on the American people and no American would have any privacy left."

When Senator Church's committee sought to hold public hearings on the security agency last week, President Ford called Mr. Church personally and asked him to permit Attorney General Levi to argue the Administration's case against investigating the agency in public. The committee voted to put off hearings for the present and study the Administration's plea.

Mr. Levi, responsible sources said, presented the committee in this closed session with the legal complications of the agency's role. According to a report in The Los Angeles Times, the committee had independently learned that some of intelligence data gathered by the agency was routinely sent to the F.B.I. and may have been used in domestic cases.

Administration sources said that their role was to preserve the agency's foreign intelligence capability while avoiding illegal or unconstitutional intrusions on Americans. However, they resist the current legal view that suggests the courts should decide what justifies a national security electronic surveillance.

[From the Los Angeles Times, Oct. 11, 1975]

GLOBAL MONITORING SYSTEM PROVIDED FBI INFORMATION

(By Robert L. Jackson and Ronald J. Ostrow)

WASHINGTON.—A worldwide electronic monitoring network of the National Security Agency was about to be disclosed last week when Senate hearings were abruptly postponed, The Times has learned.

Investigators for the Senate Select Committee on Intelligence Activities had planned to disclose that the NSA for years had provided FBI officials with information g'eaned from overseas phone calls and cables.

The NSA's data are obtained from a highly sophisticated computer system that has monitored foreign telephone calls and cables on a vast scale, according to knowledgeable sources.

A former high-ranking member of the U.S. intelligence community told The Times that this system had "an amazing capability"—beyond that of most other nations.

According to this offi ial and another source involved in the system, the NSA gave the FBI secret data, purportedly for domestic security reasons.

But it was understood that the Justice Department, the parent organization of the FBI, had curbed this arrangement within the last two years because it had become difficult to separate domestic security intelligence from information that could have a bearing on criminal cases.

Department officials feared that criminal cases against U.S. citizens could be legally tainted if they were based, at least in part, on phone calls recorded without a warrant.

One source said that this practice had constituted "bad judgment" on the part of the FBI, although it was legal.

Another defended the NSA's overseas electronic surveillance in these words, insofar as it affected the FBI:

"It doesn't violate the law. It doesn't require burglary and doesn't require opening mail. It's a pretty healthy capability in terms of civil rights."

However, a Justice Department official questioned whether information gathered by electronic surveillance outside the United States would be admissible in a criminal proceeding.

"It is unclear to what extent the Fourth Amendment (guarantee against unreasonable search and seizure) would apply overseas," he said. Even a noncitizen overseas has some Fourth Amendment right if the stuff is going to be used in criminal proceedings here."

On the eve of the scheduled Senate hearings, Atty. Gen. Edward H. Levi, at the request of President Ford, paid a visit last Tuesday to Chairman Frank Church (D-Ida.) and the other committee members.

According to committee spokesman, Spencer Davis, Levi made a "generalized appeal" for postponement of the hearings on national security grounds. The panel voted to honor the Administration's request until the matter could be explored further.

"The committee was not trying to destroy the electronic surveillance capabilities of the NSA," a committee source said. "The abuse of these capabilities was the reason for our hearings. We were not about to reveal the techniques."

Those techniques are so sensitive they cannot be described publicly, The Times' sources said.

According to knowledgeable officials, the NSA monitors millions of overseas phone calls, as well as those within foreign countries, as part of its code-breaking and foreign intelligence-gathering operations. In addition, it intercepts certain radio and cable communications.

The agency does not monitor domestic phone calls, they said, although U.S. citizens may be overheard when they are parties to overseas calls. Because the quantity is so large, the NSA uses computers to screen out conversations that have no intelligence value, one source said.

These computers are programmed to scan conversations and record those in which key words are used, including the names of particular persons or organizations.

The Senate committee is also understood to be investigating evidence that the FBI furnished the NSA with a list of U.S. citizens whose overseas calls were of interest to the bureau.

Congressional sources said that the FBI, in turn, assisted the NSA by breaking into foreign embassies to obtain code-books and other material to help the agency decipher intercepted messages.

[From the New York Times, Aug. 6, 1975]

OPENING OF MAIL IS TRACED TO FBI—AGENCY CONCEDES OPERATION—DECLARES PURPOSE WAS "TO THWART ESPIONAGE"

(By John M. Crewdson)

WASHINGTON, Aug. 5.—Agents of the Federal Bureau of Investigation opened and photographed foreign and domestic mail at several sites in the United States beginning in 1958 and continuing until possibly 1970, according to a source with direct knowledge of the secret operation.

The source said that the openings were centered in New York and Washington, where they involved chiefly mail addressed to Soviet-bloc embassies and missions to the United Nations, but occurred also in other cities, including San Francisco.

STATEMENT BY F.B.I.

He said that the openings, known within the F.B.I. as "Z-covers," were accomplished without the authority of judicial search warrants, and were thus a violation of Federal statutes prohibiting obstruction of the mails. He added that the openings had been made with the assistance of "certain officials of the Post Office [who] knew what the F.B.I. was doing."

Asked about the source's assertions, an F.B.I. spokesman issued the following statement:

"In connection with its foreign counterintelligence responsibilities, the F.B.I. did engage in opening of mail until 1966, when former Director J. Edgar Hoover ordered the activity to be discontinued.

"The motive behind it was solely to carry out F.B.I. counterintelligence responsibilities in order to thwart espionage efforts directed against the United States by foreign powers.

"No activities of this nature were undertaken by the F.B.I. after 1966."

A spokesman for the Postal Service said that his agency would have no comment on the report "at this time."

The source's account and the bureau's unusual confirmation of part of his account represent the first disclosure that, like the Central Intelligence Agency, the F.B.I. also participated in the opening and photographing of parcels and letters it believed to be of some intelligence value.

The New York Times reported yesterday that Justice Department lawyers investigating alleged wrongdoing by the C.I.A. had concluded that the agency's "mail intercept" program, which lasted from 1953 until 1973, had violated Federal statutes protecting the sanctity of first-class mail.

The same standards would presumably be applied by the Justice Department to the F.B.I.'s "Z-covers," although, as with the C.I.A. investigation, a key question would be whether the openings took place within the last five years.

That is the period in which, according to the Federal statute of limitations violations of Section 1702 of Title 18 of the United State Code, which prohibits the detention or opening of the mails without a search warrant, must have taken place if they are to be prosecuted.

Asked whether any attempt had been made to obtain search warrants in the "Z-cover" program, the source said that the senders and recipients of the letters had not been the subjects of a criminal investigation by the bureau.

"How could you get a warrant?" the source asked rhetorically.

The year 1966, given as the cutoff date for the mail openings is the same year, according to Clarence M. Kelley, the F.B.I. director, that bureau agents stopped committing burglaries to gain foreign intelligence information.

STOLEN LETTER CITED

There have been reports, however, that although Mr. Hoover apparently trimmed back the bureau's counterespionage effort in 1966, such break-ins continued on a less formal basis, and there are also indications that the mail openings persisted as well.

The source cited, for example, a copy of a letter that was stolen from the F.B.I.'s office in Media, Pa., in 1971 and subsequently made available to several newspapers.

That letter, dated Nov. 30, 1970, was from Thomas E. Ingerson, a Boy Scout leader from Moscow, Idaho, to the Soviet Embassy in Washington and contained a request for information about a prospective visit to the U.S.S.R. by his troop of six Explorer Scouts.

Asked how, if the mail openings were halted in 1966, the 1970 letter found its way to the F.B.I.'s files, the bureau spokesman replied that this agency would stand on its statement.

One Justice Department source said, however, that after 1966 the F.B.I. continued to receive copies of correspondence produced by the C.I.A.'s mail intercept program, which at that time was also centered in New York and San Francisco.

JUNE REPORT RECALLED

One well-informed source said that he was virtually certain that the Idaho letter, which he said was "discussed quite a bit" within the bureau after it had become public, had been obtained by the F.B.I. as a result of a "Z-cover."

Another well-placed source said, however, that after 1966 the F.B.I. continued to receive copies of correspondence produced by the C.I.A.'s mail intercept program, which at that time was also centered in New York and San Francisco.

The source suggested that the Idaho letter might have been provided to the F.B.I., by the C.I.A., rather than obtained directly by the F.B.I., which, if true, would represent the first known instance in which the C.I.A. tampered with mail from one domestic address to another.

A commission appointed last January by President Ford to look into the C.I.A.'s domestic activities reported in June that the agency, over a 20-year period, had opened and examined mail between the United States and various Communist countries.

The commission, which was headed by Vice President Rockefeller, reported that in January, 1958, the F.B.I. approached the Post Office Department "for the purpose of instituting similar coverage of mail to and from the Soviet Union."

The bureau was told, the commission reported, that the C.I.A. was already conducting such an effort, and an agreement was subsequently reached in which "the C.I.A. would send to the F.B.I. mail project items which were of internal security interest."

The commission report said, however, that "the bureau agreed with the C.I.A.'s suggestion that the project should be handled by the C.I.A. alone."

[From Newsweek Magazine, July 28, 1975]

THE FBI'S "BLACK-BAG BOYS"

(NOTE.—Every foreign intelligence agent had suspected it and every major mafioso had known for sure, but last week director Clarence Kelley made it official: the FBI, he reported, has in the past made "surreptitious entries" into various places, foreign embassies included, to obtain what it felt was important information. Kelley said the break-ins began during World War II and were largely discontinued by J. Edgar Hoover in 1966, and he implied they were legal because the agents "acted in good faith." But the disclosure touched off a major furor: Attorney General Edward Levi promised a criminal investigation, several foreign ambassadors called the White House to learn whether they had been targets, and Presidential counsel Philip Buchen berated Levi for not keeping Kelley "on a shorter leash." Most intriguingly, the director's disclosure also set other tongues wagging. Newsweek's Anthony Marro pieced together this story of the FBI's after-hours adventures.)

The FBI agents usually went in clean: no badge, no guns, no credentials. Almost always they wore the standard uniform of suit and tie, but with labels and cleaners' markings removed. "It was your ass if you got caught," recalled a former agent who said he had taken part in many break-ins. "You were told, 'If you get caught, you're on your own'." They were known as "black-bag teams" or "black-bag boys" and they usually consisted—at a minimum—of a locksmith, a lookout and a couple of men to do the ransacking. Depending on the purpose of the break-in, one of them would know how to use a camera or install a bug. Sometimes a "slugger" was sent along to intercept unexpected visitors. "We had guys who, if they went bad, would be the best second-story men in the world," boasted one former agent.

Over the years, a Justice Department official told Newsweek's Stephan Lesher, the FBI conducted about 1,500 break-ins of foreign embassies and missions, mob hangouts and the headquarters of such extremist groups as the Ku Klux Klan and the American Communist Party. Embassy break-ins, averaging one a month by one estimate, were usually staged to get information that could help the National Security Agency break foreign codes.

Bugs: One top source said last week that he never knew of a case in which the FBI planted a bug in an embassy; if the code were cracked, no bug would be needed anyway and, besides, a diplomatic bug was almost sure to be found. But break-ins against organized-crime figures and U.S. Communists were almost always to plant bugs. "They had bugs in mob apartments all over New York," said one government investigator.

A break-in at a mob office in Brooklyn, for example, might employ only a lookout, a driver for a getaway car and a couple of agents. But a break-in at a major embassy or mission would require not only a skilled team, but dozens of agents to fan out across the city and watch all of the 50 to 60 persons known to have keys to the building. The agents who entered usually would take in sensitive cameras (capable of taking pictures without a flash) and small copying machines that could be folded into a suitcase. "They wouldn't read anything," said one FBI source. "They'd just copy everything in sight." The agents would photograph the coding machine from every possible angle, then copy messages and replace the originals. The idea was that the National Security Agency would have intercepted incoming coded messages and the FBI would have decoded copies. That, plus the photographs, might enable the NSA to break the code.

Two sources said that the FBI actually smuggled out an entire coding machine about fifteen years ago. Borrowing a truck and uniforms from a garbage collection company, agents drove into the yard of the Czech Embassy in Washington and waited near an open window, through which a Czech defector passed not only the machine but nearly a truckload of files. "They were so excited that they forgot to pick up the garbage," said one source. The next morning, the FBI filmed the results from a hide-out. "One of the funniest things you'd ever see," the source said, "was the film of the Czech deputy chief of security going to the Soviet Embassy with his hat in his hand. The Czechs couldn't even wire Prague to tell them what had happened. They had to go to the Soviet Embassy and use the Soviet machines."

Salute: This same source and another agreed that in the late 1950s and early 1960s the FBI also broke into the Polish and Yugoslav embassies in Washington. At least three separate bureau sources agreed that there was "no way" for agents to penetrate the Soviet Embassy, so instead they targeted Soviet satellite countries. Even allies, such as France or Japan, were occasional targets, as were the Arab states. "All the Arab embassies were easy," said one bureau source. "The only problem was tripping over the Israelis already inside." He said that in at least one case FBI agents breaking into an Arab mission found themselves face to face with Israeli agents. What happens in such cases? "You salute each other and walk away," the source said. "Nobody wants any trouble."

There were enough problems as it was. Once, in a mob headquarters in the Midwest, an agent planting a microphone slipped on a joist in the attic and thrust his foot through the ceiling of the room below. The agents had to wake up the owner of a hardware store and get plaster to repair the ceiling before dawn. During the late 1950s, two sources said, an agent had a heart attack and died while helping with a bag job in one of the Eastern European embassies. And sometimes local police stumbled onto an FBI break-in. When that happened, "You hit the cop and you ran," said one former agent. Said another: "There were some nasty confrontations in back alleys."

Two sources recalled a case ten years ago in which FBI agents had earlier planted a bug in the office of a mob attorney and had "gone back in to juice it up." One agent dropped something that he shouldn't have been carrying anyway—either his credentials or a report with his name on it—and when the lawyer came in next morning, it was clear the FBI had been there. As the sources recalled it, the agent was fired.

There were cases in which local police concealed the FBI's tracks. More than a decade ago, a former New York City policeman recalled, the FBI broke into the apartment of a Soviet diplomat assigned to the United Nations. As usual, there was an agent on watch in the lobby of the apartment, but the Russian—who had forgotten some theater tickets—somehow returned without being spotted. When he discovered the agents, their only recourse was to pretend that they really were burglars. They hit him, knocked him down and hurriedly ransacked the room. The Russians called the cops, who came to investigate, but later that night the FBI told the detectives not to probe too hard. The detectives were unhappy about it because they had to fill out monthly status reports on the "unsolved" case.

On one occasion, however, the FBI unwittingly helped the New York police. An FBI agent was breaking into the apartment of a mobster while a lookout and a getaway man waited in separate cars. The plan was for the "burglar" to come out and signal to the lookout, who would honk twice; the getaway car would drive up and speed the "burglar" away. "Off they went at 90 miles per hour," said a former agent. "About six blocks away, the driver looks at the passenger and says, 'Who the f——— are you?' The passenger looks at the driver and answers, 'Who the f——— are you?'" The passenger, it seemed, was a police "burglar" whose target was another apartment in the same building—and whose getaway signal was also two honks of a horn.

[From the Washington Post, Sept. 9, 1975]

CIA SAID TO KEEP POISONS

(By George Lardner, Jr.)

An official of the Central Intelligence Agency prevented the destruction of various

toxins in spite of a presidential order calling for the elimination of the U.S. stockpile of bacteriological weapons, according to informed sources.

The preservation of the so-called "odds and ends" of bacteriological warfare will be subjected to public hearings next week before the Senate intelligence committee, headed by Frank Church (D.-Idaho).

President Nixon, in November, 1969, took what was then described as "a decisive step" toward outlawing chemical and bacteriological warfare, by ordering destruction of the U.S. stockpile of bacteriological weapons.

Despite that edict, sources said, some 5 per cent of the proscribed poisons were "withheld" from destruction on the grounds that they might be useful for scientific or experimental purposes.

A middle-level official of the CIA was responsible for that order, sources said.

The poisons that should have been destroyed were discovered in a warehouse at Ft. Detrick, Md., by the White House earlier this year, officials said.

White House officials recently submitted a report on the issue to the Senate committee with the expressed hope that the committee could and would, confine the issue to a publicly printed report.

Instead, Church insisted on public hearings, perhaps, critics said, to bolster his claims that the CIA has been operating like "a rogue elephant" out of control.

Administration sources said they doubted Church could make much headway with his charges. They acknowledged that the bacteriological materials should have been destroyed but added that the substances wound up at Ft. Detrick without any clear understanding that they were deadly or even dangerous.

ADDITIONAL STATEMENT SUBMITTED BY SENATOR MATHIAS

A RESPONSIBLE INQUIRY

Mr. MATHIAS. Mr. President, I wish to thank the Senator from Colorado (Mr. GARY HART) for his remarks today on the important question of leaks and the intelligence community. When Senator MANSFIELD and I proposed the creation of a select committee to examine our Nation's intelligence needs, we fully realized the sensitive and important task the select committee would face. It was not our objective to jeopardize the intelligence community or to weaken the vital contribution it makes to our Nation's security, rather, we believed that America's intelligence arm should be strengthened by a careful examination of intelligence programs, budgets, management, and technology. And—most important—there was the need to determine the proper role of the intelligence agencies within the Constitution and the law.

The select committee is well on the way to completing its work. As Senator HART points out in his remarks today, the committee has conducted that work in a responsible manner. The select committee respects—and has carefully observed—the need to refrain from leaking information. The committee will continue to respect that need. I thank Senator HART for his discussion of the excellent record of this committee in conducting a thorough and responsible inquiry.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 10 minutes, with statements therein limited to 3 minutes each.

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

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 12 o'clock noon tomorrow.

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

ORDER FOR ADJOURNMENT FROM CLOSE OF BUSINESS TOMORROW UNTIL THURSDAY

Mr. ROBERT C. BYRD. I ask unanimous consent that at the conclusion of business tomorrow, the Senate stand in adjournment until the hour of 12 o'clock noon on the following day.

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

FORCED BUSING: A CONGRESSIONAL SOLUTION

Mr. HELMS. Mr. President, beginning on September 17 and continuing for a total of 9 days, the question of the position of the U.S. Senate on the forced busing of schoolchildren was ardently debated. Indeed, parliamentary exercises taxed the skill of every participant, but as my colleagues are aware, on the 9th day, it became clear that a consensus had, in fact, been reached. During that period, the Senate passed three antibusing amendments—an average of one every 3 days.

The distinguished assistant majority leader (Mr. ROBERT C. BYRD) offered a well thought-out and very desirable amendment to stop forced busing. It passed the Senate on September 24 by a vote of 51 to 45. Other Senators were active participants in that debate.

And, as I stated at that time, the many evils of forced busing have been discussed in the Senate Chamber at length. The record is there, and it is plain. But, I believe that it is well for Senators to ponder the widespread public dissatisfaction with the continuing Federal interference with our local school systems. Frankly, the American people are fed up—they are fed up with a meddling Federal Government, they are fed up with a Congress that will not face up to its constitutional responsibilities; and they are fed up with the ever-growing centralization of power in the hands of arrogant, unelected Federal officials. They are fed up with continuing inflation, vast budget deficits, and the politicalization of the Nation's energy policy. In short, the American people are fed up with the present occupants of the city of Washington, D.C., if the Senator from North Carolina is any judge.

A redirection of present policies is needed, and it is needed immediately. There is no better place to begin than by putting a stop to forced busing and returning control of the schools of this Nation to local units of government and thereby to the people. And, let us make no mistake about it, Congress can stop forced busing if it will. It has the authority to act, and the American people know it.

I am greatly encouraged that the conference committee contains enough antibusing Senators to approve the compromise amendment to be offered by the distinguished Senator from Louisiana (Mr. JOHNSTON). Just as they voted to approve the amendment offered by the distinguished assistant majority leader about a month ago, I trust they will vote to approve the Johnston amendment this afternoon. However, I am concerned about the fact that there appears to be some confusion in certain quarters about the constitutionality of antibusing legislation. And, since this confusion seems to be growing, rather than relenting, I am compelled to the conclusion that proponents of forced busing are deliberately attempting to inhibit congressional action by suggesting that busing is "constitutionally required." And, that being "constitutionally required," Congress cannot regulate it or so the argument goes. Nothing could be further from the truth. Indeed, such wild assertions of congressional impotency fly in the face of express constitutional language. One can only assume that such statements are made in an attempt to obscure the issue and frustrate the purpose of those legislators who wish to conform to the wishes of the overwhelming majority of the American people and all races in all parts of the country and stop forced busing.

In the leading case of *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971), the Supreme Court upheld the authority of a Federal District Court to order forced busing as a part of a desegregation plan. Speaking through Chief Justice Burger, the Court said that—

> The remedial techniques (forced busing) used in the District Court's order were within that court's power to provide equitable relief." The Chief Justice subsequently noted that "An objection to transportation of students may have validity 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.

Additionally, he observed that—

> Neither school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination through *official action* (emphasis added) is eliminated from the system.

Thus, what the Supreme Court really said is that a Federal District Court has the authority to require forced busing, not that forced busing is constitutionally required; that there are valid objections to the transportation of students, which valid objections include significantly impinging on the educational process; and that neither school authorities nor district courts are constitutionally required to make adjustments in the racial composition of student bodies once desegre-

gation has been accomplished and racial discrimination through official action is eliminated. That holding is a far cry from the so-called dogma of "constitutionally required busing." Forced busing is not constitutionally required. It is constitutionally permitted—which is simply to say that forced busing orders are not unconstitutional.

But, continuing with the reasoning of the Court, has forced busing significantly impinged on the educational process? Prof. James S. Coleman of Johns Hopkins University, the much lauded author of "Equality of Educational Opportunity" which came out in 1966, after observing the numerous and inevitable hardships that always result from busing decrees, has concluded that forced busing does not work. Indeed, he suggests that it encourages the so-called "white flight" out of the cities, and generally has a destructive effect upon the educational process. And, according to Professor Coleman, the destructive nature of busing is such that it should be discontinued.

Obviously, Professor Coleman, a strong advocate of desegregation and one has carefully studied the matter, feels that forced busing "significantly impinges on the educational process." This being true, in addition to not being constitutionally required, it is not appropriate. Under the Constitution, as interpreted by Chief Justice Burger, it is subject to a valid objection—an objection that Congress has both the authority and the duty to raise.

The 1954 Supreme Court decision in *Brown* v. *Board of Education*, 347 U.S. 483, struck down State-required dual school systems as being violative of the 14th amendment to the U.S. Constitution. This interpretation of that amendment and the equal protection clause contained therein, has been fundamental to desegregation cases ever since. And, just as the framers of the 14th amendment wished to maximize individual liberty and equality under the law, they wished for the Congress to be involved with the guarantees it provides. Therefore, they wisely provided in section five of the amendment that—

> The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Indeed, the distinguished legal scholar, Archibald Cox, has written with approval of the right of Congress to exercise this authority under the 14th amendment and enact legislation regulating school desegregation and busing. "Such a statute," he said, "would be constitutional as applied to school districts where violations of the 14th amendment occurred because it would be a measure adopted under section five to remedy past violations. It seems irrelevant whether the relief is greater or lesser than the courts would order. In either event, the relief is not part of the Constitution." Cox, 40 *University of Cincinnati Law Review*, 199 (1971). Of course, by his statement that "the relief is not part of the Constitution, Professor Cox is, in fact, stating that forced busing is not constitutionally required.

The time has now come for Congress to exercise its express authority under section five of the 14th amendment to insure that a true equal protection of the laws is afforded to the schoolchildren of this Nation. Just as the Chief Justice in 1971 wisely understood that forced busing could conceivably be such a detriment as to significantly impinge on the educational process, the framers of that amendment so many decades ago realized the need for Congress to have the constitutional authority to supplement Court decisions with necessary legislative directives. Congress can act on Professor Coleman's conclusions. Congress can find that forced busing not only wastes valuable energy and violates the wishes of the American people, but that it also significantly impinges on the educational process. Under the authority of the 14th amendment, Congress can act within the framework of the Supreme Court decision in *Swann* v. *Board of Education* and put an end to forced busing. In doing so, Congress would not be reversing that Court decision, it would be acting in strict adherence to its mandate of not interfering with the educational process as the Chief Justice indicated. Such legislation would not be a deprivation of constitutional rights, but rather a vindication of *Swann* v. *Board of Education*, of the Court, and of the 14th amendment itself.

And, while the clear provision I have cited establishes beyond doubt that there is a very proper role for Congress to play in the regulation of forced busing, another section of the Constitution makes it equally as clear that Congress has the authority to regulate judicial remedies. The power of Congress to regulate the jurisdiction of the inferior Federal courts is stated in article III. Section one of that article provides that—

> The Judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

Therefore, Congress has the power to create inferior Federal courts and did, in fact, create them by the Judiciary Act of 1789. Having created the inferior Federal courts, Congress has the power to abolish them in whole or in part, and to prescribe or limit their jurisdiction.

Indeed, in *Turner* v. *Bank of North America*, 4 U.S. 8 (1799), the Supreme Court observed that—

> The notion has frequently entertained that the Federal courts derive their judicial power immediately from the constitution; but the political truth is, that the disposal of the judicial power (except in a few specified instances (not relevant to forced busing)) belongs to Congress. If Congress has given the power to this court, we possess it; not otherwise. And, if Congress has not given the power to us, or to any other Court, it still remains at the legislative disposal. Besides, Congress is not bound, and it would, perhaps, be inexpedient to enlarge the jurisdiction of the Federal Courts to every subject, in every form, which the Constitution might warrant."

Therefore, it is clear not only from the Constitution itself, but from the language of the Supreme Court that Congress has substantial authority over the jurisdiction of the Federal judiciary.

This concept of legislative supremacy threads its way throughout our history. In *Cary* v. *Curtis*, 44 U.S. 236 (1845), the Supreme Court, speaking through the eminent Justice Story, declared that—

> The judicial power of the United States, although it has its origin in the Constitution, is (except in enumerated instances applicable exclusively to this court (and which do not involve forced busing)), dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possesses the sole power of creating tribunals (inferior to the Supreme Court), for the exercise of the judicial power, and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper and for the public good.

Other Supreme Court cases upholding the disposition of power in the legislative branch to regulate Federal Court jurisdiction are readily available: *Wiscart* v. *D'auchy*, 3 U.S. 320 (1796), *Duroussea v. United States*, 10 U.S. 307 (1840); *Ex Parte McCardle*, 74 U.S. 506 (1896).

And, indeed, Congress has not hesitated to exercise its authority over the jurisdiction of the Federal Courts. In *Lauf* v. *E. G. Skinner and Company*, 303 U.S. 323 (1938), the Supreme Court sustained the provisions of the Norris-LaGuardia Act (29 U.S.C. section 101–115), which withdrew from the courts the power to issue injunctions in labor disputes. Similarly, the Supreme Court upheld the provision of the 1942 Price Controls which, in effect, stripped the Federal District Courts and State Courts of jurisdiction to consider their validity, under the act or the Constitution, or enjoin the enforcement of regulations promulgated by the Administrator and, instead, granted an emergency Court of Appeals exclusive jurisdiction to set aside price regulations. *Lockerty* v. *Phillips*, 319 U.S. 182 (1943); *Yakus* v. *United States*, 321 U.S. 414 (1944).

This concept of the authority of the legislature to alter the tyrannical edicts issued by unjust courts is, therefore, not some new found idea. It pervades our history. The framers of the Constitution did not delegate unlimited power to Federal Judges who serve with life tenure. To suppose otherwise is contrary to reason. They provided that the authority of the Federal Courts should not be direct, but indirect. It was to be granted to the Congress so that the Congress could in turn grant to the Federal Courts such authority, or jurisdiction, as it thought proper. And, having granted such authority, Congress can take it away. This, of course, is the safeguard against the abuse of power by Federal Judges that the Founding Fathers built into the Constitution.

I, therefore, suggest that it is long past time for the Congress to adhere to its constitutional duties and enact some sensible legislation to end the forced busing of school children. The constitutional authority is clear. I hope that the conferees meeting today to resolve the differences between S. 622 and H.R. 7014 will reflect upon the wisdom of Congress exercising the necessary boldness to make the Constitution work in a way that will provide

a genuine guarantee of freedom and individual liberty. I hope that the conferees as they consider this complex energy legislation, will vote to accept the anti-busing compromise provision sponsored by the distinguished Senator from Louisiana (Mr. JOHNSTON). The schoolchildren of America deserve no less.

The point I wish to emphasize, Mr. President, is this:

This afternoon at 3:30—the time was originally at 3 p.m.—the conferees considering Senate bill, S. 622, and House bill, H.R. 7014 will meet to decide a question that is very important to parents and schoolchildren of America. They will decide whether to accept a version of the House-passed antibusing amendment.

I am advised that the distinguished Senator from Louisiana (Mr. JOHNSTON) will propose a compromise amendment that is substantially similar to the antibusing amendment that my distinguished friend from West Virginia (Mr. ROBERT C. BYRD) offered in the Chamber of this Senate a few weeks ago and which was aproved by the Senate on September 24.

At that time a number of Senators who are members of the conference committee—and I emphasize that this conference committee will meet this afternoon at 3:30 p.m.—a number of Senators voted in favor of the Byrd amendment in this Chamber and, in so doing, went on record clearly as opposing the forced busing of schoolchildren.

In looking at the RECORD on September 24, I find among those voting for the Byrd amendment and against the forced busing the names of the distinguished Senator from Tennessee (Mr. BAKER), the distinguished Senator from Oklahoma (Mr. BARTLETT), the distinguished Senator from Maryland (Mr. BEALL), the distinguished Senator from Arkansas (Mr. BUMPERS), the distinguished Senator from Arizona (Mr. FANNIN), the distinguished Senator from Wyoming (Mr. HANSEN), Senators HARTKE, HASKELL, HOLLINGS, JACKSON, JOHNSTON, MAGNUSON, MCCLURE, RANDOLPH, and STONE.

In all, I count 15 of the 25 Senate conferees working on the Senate bill 622 and House bill 7014, 15 of the 25 Senate conferees who voted for the Byrd amendment and against forced busing.

I say on this occasion, Mr. President, that I do hope that each of those Senators will stand by what was a commitment, in my judgment, at that time and in the conference deliberations this afternoon make sure that the effect of the amendment by the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) is preserved.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HELMS. I am delighted to yield.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator speaks of a conference at 3:30 p.m. today. Of what conference is he speaking?

Mr. HELMS. On the energy bill, I say to the Senator.

Mr. ROBERT C. BYRD. I was thinking he had in mind the conference on the HEW appropriations bill.

Mr. HELMS. Not at all.

The point I am making is that Senator JOHNSTON is proposing a compromise which is almost identical with the amendment by the distinguished Senator from West Virginia which I happen to cosponsor.

Mr. ROBERT C. BYRD. I thank the Senator.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. GOLDWATER. Mr. President, I ask unanimous consent that during the debate today on the General Slay matter that Mr. Robert Old of the Armed Services Committee be granted the privilege of the floor.

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

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

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

EXTENSION OF ROUTINE MORNING BUSINESS

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 3-minute extension of the time for routine morning business.

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

Mr. HELMS. I thank the Senator.

NEW YORK CITY'S FINANCIAL DISTRESS

Mr. HELMS. Mr. President, in this morning's New York Times is a very interesting story entitled "Four Luxury Towers To House the Poor Opening in Harlem." This news story is highly instructive in terms of financial distress of the city of New York; but, further than that, it points a finger at the U.S. Government—specifically, Congress.

I read the first paragraph of a story written by Robert E. Tomasson:

A federally subsidized housing project for the poor is scheduled to open in East Harlem in about two months with luxury features never before included in low-income housing in the United States. Depending on the point of view, the project is regarded as a monument to government compassion or an epitaph on bureaucratic folly.

Then the article goes on to say:

The project is Taino Towers, four 35-story buildings with a total of 656 apartments on the block between 122nd and 123rd Streets, and Second and Third Avenues. The centrally air-conditioned towers will have an indoor swimming pool, a gymnasium, an auditorium, a theater, a greenhouse, roof laundry rooms and play areas, and underground parking with attendants 24 hours a day.

There will also be six-bedroom tri-plex apartments with 11-foot-high ceilings and 20-foot-long balconies.

Tentative minimum rent for the six-bedroom apartments is $113.28, including utilities, under Federal subsidy plans committed for 40 years.

Then Mr. Thompson's story goes on to say:

The average construction cost per apartment is $68,597, by far the largest ever in this country for low-income housing.

Mr. President, the current New York City financial distress speaks for itself. We do not often discuss the distress of the U.S. Government, except when we bandy around figures such as the Federal debt as of today being $545 billion, with the interest thereon running between $35 billion and $38 billion a year.

In my judgment, this story in this morning's New York Times is one of these res ipsa loquitur matters. It speaks for itself.

The only difference between the city of New York and the U.S. Government is that the Federal Government can print money, and ignore the reality of the decreasing value of the dollar and the resulting inflation. Bankruptcy is bankruptcy, whether in New York City or in Washington, D.C.

Mr. President, I ask unanimous consent that the story in its entirety be printed in the RECORD.

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

FOUR LUXURY TOWERS TO HOUSE THE POOR OPENING IN HARLEM

(By Robert E. Tomasson)

A federally subsidized housing project for the poor is scheduled to open in East Harlem in about two months with luxury features never before included in low-income housing in the United States. Depending on the point of view, the project is regarded as a monument to government compassion or an epitaph on bureaucratic folly.

The project is Taino Towers, four 35-story buildings with a total of 656 apartments on the block between 122d and 123 Streets and Second and Third Avenues. The centrally air-conditioned towers will have an indoor swimming pool, a gymnasium, an auditorium, a theater, a greenhouse, roof laundry rooms and play areas, and underground parking with attendants 24 hours a day.

There also will be six-bedroom triplex apartments with 11-foot-high ceilings and 20-foot-long balconies.

Tentative minimum rent for the six-bedroom apartments is $113.28, including utilities, under Federal subsidy plans committed for 40 years.

The average construction cost per apartment is $68,597, by far the largest ever in this country for low-income housing. Federal officials say that the $45-million cost of the development represents the largest single allocation for a community project ever made by the Department of Housing and Urban Development.

The basic features of the project—which are not likely to be matched for many years, if at all, in low-income housing—have evoked strong criticism from city and state housing officials, including some with the H.U.D. itself.

NONRESIDENTIAL SPACE

The principal criticism is of the large amount of nonresidential space. In each building the first six floors—a total 265,000 square feet, or the equivalent of about five and one-half floors of the PanAm Building—were constructed for nonresidential use.

This space houses some of the amenities, but includes large areas intended for agencies that would provide educational and medical services to the community while paying rent that would be used to keep apartment rents low.

But commercial tenants have not turned up, placing the elaborate financing of Taino Towers in doubt.

"They got everything they wanted and now they don't know what to do with it," said an official in the local H.U.D. office, referring to the community sponsor, the East Harlem Tenants Council.

S. William Green, regional administrator of the Federal Agency, said that because of the unprecedented inclusion of nonresidential space in a federally subsidized housing project, final approval had been given in Washington.

The state's Urban Development Corporation and the city's Housing and Development Administration had considered financing the project, but pulled out when the sponsoring group insisted on including the nonresidential space.

THE MAN BEHIND IT

The guiding force behind the project is Robert Nicol, a 40-year old Presbyterian minister who left an East Harlem church to become the full-time $17,200-a-year project administrator. He offers no apologies for insisting on the nonresidential space.

"You don't predicate providing basic and humane services for people on a possible future collapse in the market," he said. "It's a question of whether we have a viable city or go on building slums for the poor.

"I know we have been accused of overdesigning for the poor, but we are concerned with changing people's lives, not just creating another future slum."

"Look there," Mr. Nicol said as he stood on the roof of one of the towers, gesturing southward. "From 112th to 115th Street, from First to Seventh Avenue, a whole corridor of public housing built in the nineteen-fifties and sixties. It wiped out hundreds of businesses and brought a tremendous concentration of the poor, which is a problem by definition."

TWO WHO PULLED OUT

Two major tenants that Mr. Nicol expected in the project have decided not to rent space there: the Health Insurance Plan and the Board of Education, which considered establishing a bilingual school.

Mr. Nicol, who has been described by officials who have worked with him as "dynamic," "persuasive" and "intractable," acknowledged that he was struggling to preserve his dream in the face of complex financing.

Most of the initial funds came from construction loans, totaling $39-million, from a consortium of nine banks headed by the Chemical Bank. All but a small part of the 40-year 7 per cent mortgages—one for each tower—are guaranteed by the Federal Housing Administration.

In addition, the project received about $6-million in city and Federal funds, including $3-million from H.U.D.'s Model Cities program, for such expenses as architect's fees and extensive administrative costs. In addition, New York City has agreed to give full property-tax abatement.

Included in the $39-million mortgages are funds to pay monthly interest until the project begins receiving income. These funds can carry the project until the last tower is completed next June, about six months after families start moving into the first tower.

Officials at the Chemical Bank conceded that the timing would be close. If the interest reserve runs out while any building is incomplete, the result could be a mortgage default. The F.H.A. would then pay for the balance and try to sell the buildings to a private developer.

The Department of Housing and Urban Development has agreed to pay an interest subsidy of $1,574,000 a year for the mortgages, enough to reduce the 7 per cent bank rate to about 2 per cent. In addition, it is to pay $497,000 a year in direct rent subsidies for 40 per cent of the tenants. Taken together, interest and rent subsidies are a 40-year Federal commitment of $82.84-million.

If, as now seems probable, Taino Towers do not earn the projected $1.2-million a year from the nonresidential space, residential will have to increase. Thus, even with subsidies, poor families may not be able to afford the rents. This, in turn, would jeopardize the subsidies, since these apply to families already receiving welfare payments.

Mr. Nicol said that tenants had already been chosen for Taino Towers—which are named for an ancient tribe of Caribbean Indians in honor of East Harlem's largely Hispanic population.

First preference is for families forced out of slum dwellings that were demolished to make way for the project. Mr. Nicol said that the East Harlem Tenants Council had maintained contact with about 225 such families that had expressed interest in Taino Towers. Other tenants are to come from the impoverished neighborhood.

All tenants will be required to attend five three-hour demonstrations on apartment and project upkeep.

Gerard Silverman of Silverman & Cika, the project architects, said that a major design goal was to reduce maintenance problems and upkeep costs. Lobbies and halls, for example, are covered with an Italian mosaic tiles that are supposed to be all but impervious to graffiti. Other esthetic features include brick sidewalks and terraced landscaping complete with a stream.

UNANIMOUS-CONSENT AGREEMENT—SLAY NOMINATION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the 1 hour for debate on the nomination today of Maj. Gen. Alton D. Slay begin at 1:15 p.m. and that the vote on the nomination occur at 2:15 p.m. today.

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

Is there further morning business?

Mr. THURMOND. Mr. President, will the distinguished Senator from West Virginia designate the handling of the time?

Mr. ROBERT C. BYRD. It is my understanding that Mr. BAYH and Mr. GOLDWATER will be in control of the time. Does the Senator have a suggestion to the contrary?

Mr. THURMOND. That is all right with me. I have no objection. I am the ranking member on the Committee on Armed Services. I would just as soon that I be handling the time.

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the time for debating the nomination of General Slay be under the control of Mr. BAYH and Mr. THURMOND and that the time be divided equally.

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGES FROM THE HOUSE

At 11:03 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (S. 1730) to improve the reliability, safety, and energy efficiency of transportation and to reduce unemployment by providing funds for work in repairing, rehabilitating, and improving essential railroad roadbeds and facilities, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 6184. An act to amend section 40 of the Bankruptcy Act to fix the salaries of referees in bankruptcy; and

H.R. 9472. An act to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority, and for other purposes.

At 12:51 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has passed without amendment the joint resolution (S.J. Res. 134) to extend the authority for the direct purchase of U.S. obligations by Federal Reserve banks.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. GLENN) laid before the Senate the following letters, which were referred as indicated:

AMENDMENTS TO BUDGET REQUEST FOR THE FEDERAL ENERGY ADMINISTRATION—(S. DOC. 94-113)

A communication from the President of the United States submitting proposed amendments to the request for appropriations for the fiscal year 1976 in the amount of $147,660,000 and for the transition quarter in the amount of $2,825,000 for the Federal Energy Administration (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture and Forestry, with amendments:

H.R. 9005. An act to authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes (Rept. No. 94-434).

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

H. Con. Res. 215. A concurrent resolution providing for the printing as a House document of a revised edition of "The Capitol" (Rept. No. 94-436).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 290. An original resolution authorizing the printing of the Seventy-seventh Annual Report of the National Society of the Daughters of the American Revolution as a Senate document (Rept. No. 94-435).

By Mr. HUMPHREY, from the Committee on Foreign Relations, without amendment:

S. Res. 288. A resolution relating to the United Nations and Zionism. Considered and agreed to.

EXECUTIVE REPORTS OF COMMITTEES

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

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

Herbert Salzman, of the District of Columbia to be a member of the Board of Directors of the Overseas Private Investment Corporation.

Hans N. Tuch, of Illinois, a Foreign Service Information officer of class 1, for promotion to the class of Career Minister for Information.

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

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

William B. Widnall, of New Jersey, to be Chairperson of the National Commission on Electronic Fund Transfers.

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

By Mr. MAGNUSON, from the Committee on Commerce: Hamilton Herman, of Connecticut, to be an Assistant Secretary of Transportation.

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

Mr. MAGNUSON. Mr. President, from the Committee on Commerce, I report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 29, 1975, at the end of the Senate proceedings.)

HOUSE BILL REFERRED

The bill (H.R. 9472) to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority, and for other purposes, was read twice by its title and referred to the Committee on Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PASTORE (for himself and Mr. BAKER) (by request):

S. 2568. A bill to amend the Atomic Energy Act of 1954, as amended, to revise the method of producing for public remuneration in the event of a nuclear incident, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. HATHAWAY:

S. 2569. A bill to provide assistance to museums to enable them to maintain and to improve their services to the public during the Bicentennial era, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HELMS:

S. 2570. A bill to provide that the United States Canal Zone shall be represented by a Delegate to the House of Representatives. Referred to the Committee on Armed Services.

By Mr. THURMOND (for himself and Mr. EASTLAND):

S. 2571. A bill to amend the Internal Security Act of 1950 to control and penalize terrorists, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. McCLELLAN (for himself, Mr. THURMOND, Mr. HRUSKA, and Mr. HANSEN):

S. 2572. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal death benefit to the survivors of public safety officers. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 2573. A bill for the relief of Gert Richard Haber. Referred to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 2574. A bill to amend the Securities Act of 1933 to provide for the registration of securities issued by State and local governments. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MONDALE:

S. 2575. A bill to permit foster grandparents in established programs to serve adults where the need for service to children has been met. Referred to the Committee on Labor and Public Welfare.

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

S. 2576. A bill to amend title 23 of the United States Code in order to provide a program for the completion of the National System of Interstate and Defense Highways. Referred to the Committee on Public Works.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 2577. A bill to authorize the Secretary of the Interior to designate a segment of the New River Gorge in West Virginia as a component of the National Wild and Scenic Rivers System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUMPHREY for Mr. PHILIP A. HART (for himself, Mr. EASTLAND, Mr. HUMPHREY, Mr. McGEE, Mr. LEAHY, and Mr. CLARK):

S. 2578. A bill to authorize the Secretary of Agriculture to make financial assistance available to agricultural producers who suffer losses as the result of having their agricultural commodities or livestock quarantined or condemned because such commodities or livestock have been found to contain toxic chemicals dangerous to the public health. Referred to the Committee on Agriculture and Forestry.

By Mr. BUCKLEY:

S. 2579. A bill to amend chapter IX of the Bankruptcy Act, relating to proceedings involving certain local governments. Referred to the Committee on the Judiciary.

By Mr. INOUYE:

S. 2580. A bill for the relief of Miss Theodora Roada Irvine. Referred to the Committee on the Judiciary.

By Mr. NELSON (for himself, Mr. JACKSON, Mr. ABOUREZK, Mr. FANNIN, and Mr. BARTLETT):

S. 2581. A bill to amend the Menominee Restoration Act. Referred to the Committee on Labor and Public Welfare.

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

S. 2582. A bill to amend the Endangered Species Act of 1973. Referred to the Committee on Commerce.

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

S. 2583. A bill to amend the Interstate Commerce Act to establish expeditious Interstate Commerce Commission procedures, and for other purposes. Referred to the Committee on Commerce.

By Mr. PASTORE (for himself and Mr. MAGNUSON):

S. 2584. A bill to amend certain provisions of the Communications Act of 1934, as amended, to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATHAWAY:

S. 2569. A bill to provide assistance to museums to enable them to maintain and to improve their services to the public during the Bicentennial era, and for other purposes. Referred to the Committee on Labor and Public Welfare.

BICENTENNIAL ERA MUSEUM SERVICES ACT

Mr. HATHAWAY. Mr. President, I am introducing today a bill, the Bicentennial Era Museum Services Act of 1975, to provide badly needed Federal assistance to the Nation's financially troubled museums during an integral part of the Bicentennial era.

This act would authorize $25 million

per year for the next 3 years for grants to museums. Among other things, the grants would be used by museums to create special exhibitions, extend the hours they are open, or in the case of particularly troubled museums, insure that current hours will be maintained, hire and retain staff, including security staff, preserve and maintain collections, and develop special training exhibitions and educational programs during this era.

The grants would not be available to construct new facilities or acquire new works for a museum's collection.

Museums would be required to match Federal dollars by putting up 25 percent of the cost of any new project or service funded under this act.

Mr. President, for several years, Congress has had before it legislation to provide Federal funding for museum services. The most recent such proposal is found in title II of S. 1800, the Arts Humanities and Cultural Affairs Act of 1975, introduced by my distinguished colleagues, Senators PELL and JAVITS. But while the titles of S. 1800 concerned with authorizing appropriations for the National Endowment on the Arts and Humanities and indemnifying foreign exhibitions against damage or loss have been accepted by the Labor and Public Welfare Committee, no consideration has been given as yet to title II.

For that reason, I am proposing a new approach to this subject, one which I hope all my colleagues on the Arts and Humanities Subcommittee will join me in cosponsoring. In designing this new proposal I have drawn heavily on the work they have already done. I believe the changes I have made should remove several apparent current impediments to its enactment.

For example, the proposal I am making today is intended to be one of limited duration, tied to what I consider the most integral 3-year period of the Bicentennial era, when the greatest number of Americans and foreign visitors can be expected to utilize our museums.

In addition, the bill does not set up any complicated new funding apparatus or institution. Funding will be administered through the Chairman of the National Endowment for the Arts, with the advice of the Federal Council on the Arts and the Humanities and the National Council on the Arts. The National Endowment was selected for this purpose because of the availability of advice from councils whose members already include representatives of the museum community, and because of its fine proven track record in administering Federal grants in the arts without exercising Federal control over subject matter or content.

Also, museums will be prohibited from spending any of this money on new construction or on new acquisitions for their collections.

I believe Congress must pass this simplified museum services legislation, or answer to future generations for not having done so. For an ever-increasing number of our Nation's museums have simply nowhere else to turn for support. Museum directors, administrators and trustees from all over the country have written to me to describe with eloquence and dignity their difficult situation.

Willis F. Woods, director of the Seattle Art Museum, says that:

Museums generally throughout the country are experiencing serious difficulties making income match expenses. They are caught in the crunch of rapidly rising operating costs and an economy that inhibits charitable gifts.

Woods concludes by saying:

Certainly it seems reasonable to want to enable full museum participation in Bicentennial celebrations. The prospect of having them closed or limping along, especially during this period of self-congratulations, is paradoxical to say the least.

Marvin Sadik, the Director of the National Portrait Gallery of the Smithsonian Institution, writes as a private citizen to say:

In my view, it is unlikely that any donors will be coming along to endow museums with the kind of money they need to keep up their buildings, preserve their collections, and maintain their security. It is far easier to get such money for objects, exhibitions, and bricks and mortar.

Douglas Dillon, president of the Metropolitan Museum of Art, writes that:

The traditional sources of support have been strained to the limit. As an example, the Metropolitan Museum, faced with reductions in support from New York City and New York State, due to their difficult financial situation, is being forced to close its door for two days each week and to substantially reduce its educational and community programs as well as its exhibition schedule. And all this at a time of unprecedented public interest in the Museum with two million visitors during the first six months of 1975.

Dr. Herbert Gottfried, of the Center for the Fine Arts of the University of Wyoming, says:

For the Bicentennial we have planned an exhibition of art inspired by Wyoming. Total cost for this exhibition may run as high as $20,000. Though we have a grant we find ourselves still searching for the additional funds to realize this significant event.

And Samuel Sachs II, director of the Minneapolis Institute of Arts, sums the matter up nicely by noting that:

The costs of security, heat, light and maintenance have risen dramatically but as someone once quipped "No one ever gave a ton of coal in memory of his mother."

Mr. President, it is a sad fact that somehow, non-Federal museums seem to fall through cracks when we take up Federal support for educational institutions. We find plenty of money for institutions like schools, colleges, and libraries. Our Nation's museums are no less important to us than any of those, especially at a time when so many Americans will be traveling throughout the country to explore the roots and manifestations of their unique culture.

The American people should take tremendous national pride in their museums. When those museums stand in desperate need of assistance, it would be a tragic national scandal if we failed to provide that assistance.

I ask unanimous consent that the text of the bill and the letters excerpted in my statement be printed in the RECORD.

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

S. 2569

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 "Bicentennial Era Museum Services Act of 1975".

STATEMENT OF CONGRESSIONAL PURPOSE

SECTION 1. The Congress hereby finds and declares—

(a) that the Bicentennial era, of which the next three years are the most integral part, should be a time for all Americans to be educated and enlightened about their Nation's rich cultural and historic heritage;

(b) that because of the recession and for other reasons, many American museums are faced with financial hardships even in maintaining current levels of service to the public and are unable to contemplate any increase in service for the Bicentennial era, when they expect greatly increasing use by the public; and

(c) that it is therefore the duty of the Federal Government, in a manner as administratively simple as possible, to provide encouragement and assistance to American museums so that they may be able better to sustain their current level of vital services during the Bicentennial era, to increase and expand their educational role during this era, in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups, and to modernize their methods and facilities so that they may better be able to conserve our valuable heritage for the future.

BICENTENNIAL ERA MUSEUM SERVICES GRANTS

SEC. 2. (a) Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 is amended by adding after subsection (g) the following new subsection:

"(h)(1) The Chairman, with the advice of the Federal Council on the Arts and the Humanities and the National Council on the Arts, is authorized to make grants to museums to increase and improve museum services during the Bicentennial era, through such activities as—

(A) projects to enable museums to construct or install displays, interpretations, and exhibitions in order to improve their services to the public;

(B) assisting them in developing and maintaining professionally trained or otherwise experienced staff to meet their needs;

(C) assisting them to meet their administrative costs in preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public through the use of their collections;

(D) assisting museums in cooperation with each other in the development of traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

(E) assisting them in conservation of artifacts and art objects; and

(F) developing and carrying out specialized programs for specific segments of the public such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions.

Grants shall not be made to museums under this subsection for the construction of new facilities or the addition of any works of art or other tangible objects to their collections.

(2) In making grants under this subsection, the Chairman shall to the maximum extent feasible insure that the available funds are disbursed equitably throughout the country on the basis of relative population.

(3) Grants under this subsection may not exceed 75 per centum of the cost of the program or services for which the grant is made.

(4) For purposes of this subsection, the term "museum" means a public or private

nonprofit agency or institution organized on a permanent basis for essentially educational or esthetic purposes, which, utilizing a professional staff, owns and utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis.

(b) Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 is amended by redesignating subsections (h) through (k) as subsections (i) through (l) respectively.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. Section 11(a)(1)(A) of the National Foundation on the Arts and the Humanities Act of 1965 is amended by inserting at the end thereof the following:

"For the purpose of making grants under section 5(h), there are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1976, $6,250,000 for the period July 1, 1976 through September 30, 1976, and $25,000,000 for each of the succeeding fiscal years ending prior to October 1, 1978."

CENTER FOR THE FINE ARTS,
UNIVERSITY OF WYOMING,
September 3, 1975.

WILLIAM D. HATHAWAY,
U.S. Senator from Maine, Senate Office Building, Washington, D.C.

DEAR SENATOR HATHAWAY: Thank you for your kind response to our support of senate Bill 1800. In response to your request for input concerning the Museum Service Act portion of senate Bill 1800, the Art Museum at the University of Wyoming most emphatically supports your effort to obtain funding for this cause.

Perhaps some background on our situation would make clearer our need for such federal support. Our museum is the only Educational Museum in the state of Wyoming. We have no operating budget or acquisitions budget. The University pays for only the director's, curator's, and assistant's salaries. We operate the entire Museum Program out of gifts and grants. We attempt to run a full Museum Program; exhibits brought in from outside, exhibits of local work, lectures, film programs. Our indefinite funding makes all this difficult.

For the Bicentennial we have planned an exhibit of art inspired by Wyoming. Total cost for this exhibition may run as high as $20,000. Though we have a grant we find ourselves still searching for the additional funds to realize this significant event. Any support from the congress in achieving these kinds of public education situations will be greatly appreciated.

Thanking you for your interest in our programs I remain,

Sincerely yours,

HERBERT GOTTFRIED, Ph. D.,
Acting Head, Department of Art.

P.S.—As a former Washington County Democrat, I am pleased to note your continued interest in cultural affairs.

THE MINNEAPOLIS INSTITUTE OF ARTS,
August 6, 1975.

Hon. WILLIAM D. HATHAWAY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATHAWAY: Thank you for your highly informative letter of July 25th.

I was particularly struck by your singularly perceptive suggestion concerning a special three-year museum services bill. In my judgment this is one of the most urgently needed pieces of legislation that the Congress could consider, and I believe this view is shared by most all of my profession.

The Museum Services Act has been followed with great interest, particularly by art museums. As you know, museums do not qualify as "educational institutions" and thereby are unable to avail themselves of considerable Federal support, support which goes freely, however, to our colleagues in universities, libraries, etc.

Aimed as it is, toward operational subsidy, the Museum Services Act would indeed, as you suggest, allow American museums to focus their potential in terms of collections and expertise on the celebration of the Bicentennial as well as the celebration of these remarkable treasures themselves. It is the operational dollar that is the hardest to come by and it is in this area that museums are suffering the most. The costs of security, heat, light, and maintenance have risen dramatically but as someone once quipped "No one ever gave a ton of coal in memory of his mother"! It is clear, however, that all of these essential services must be funded before the museum can even open its doors, let alone give thought to innovative exhibitions or educational programs.

With dwindling endowments and limited donations, museums thus find themselves in the unhappy situation of putting that part of their effort which justifies their existence (collections and education) effectively at the bottom of the priority list.

All of this is preamble to my feeling that a three-year "shot in the arm" would be of the greatest possible interest and would truly focus attention on one of the nation's greatest assets. I am sure that you are as embarrassed as I am to note that at the present time the per capita support of the arts in the United States is among the lowest in the world for developed nations. Surely the Bicentennial would be a good time to rectify this situation.

With my deep gratitude for your support and interest, I am

Sincerely,

SAMUEL SACHS II,
Director.

Hon. WILLIAM D. HATHAWAY,
U.S. Senate,
Washington, D.C.

THE METROPOLITAN MUSEUM OF ART,
August 8, 1975.

DEAR SENATOR HATHAWAY: As a summer resident of Maine for over fifty years, I was delighted to receive your letter of July 25th in reply to my plea for support of S. 1800 on behalf of the Metropolitan Museum of Art. I was also very pleased to learn that the Senate had passed the Arts and Artifacts Indemnity Act. All of us connected with museums are grateful to you for your support of this important piece of legislation.

I am glad to answer your question regarding the Museum Services Act. In my last annual report, as President of the Metropolitan Museum of Art, I pointed out that the single greatest need of Museums today was federal support for the operating costs of existing institutions, which is just what the Museum Services Act would give, Museums across the country have been hit even harder than most institutions by a combination of inflationary pressures that cannot be offset by mechanization, as in industry, and greater public demand for their services. The traditional sources of support have been strained to the limit. As an example, the Metropolitan Museum, faced with reductions in support from New York City and New York State, due to their difficult financial situation, is being forced to close its door for two days each week and to substantially reduce its educational and community programs as well as its exhibition schedule. And all this at a time of unprecedented public interest in the Museum, with two million visitors during the first six months of 1975.

Therefore, support of the type that would be provided by the Museum Services Act is the most important single thing that could be done for the Metropolitan and other Museums, all of whom are facing similar problems. The only reason that Museums have not been more vociferous in support of the Museum Services Act is that they have hoped that such support might be forthcoming at some point from the National Endowment for the Arts. This has not yet been the case, however. Until now the National Endowment has not been willing to make grants in the greatest area of need, operating support for existing institutions. This attitude is based on the size of their appropriation which, although generous compared to three or four years ago, remains totally inadequate for the needs of cultural institutions of all kinds for operating support. Therefore, in the absence of a substantial increase in the appropriation for the National Endowments earmarked specifically for operating support of existing institutions, I would wholeheartedly support your innovative and thoughtful suggestion of giving the Museum Services Act a three year trial run as a Bicentennial effort. In doing this it must be recognized that there would be strong pressures and good reasons to continue the effort after the end of the three year period as the effect of a sudden cut-off would be extraordinarily severe.

In view of Senator Pell's long-standing interest in this legislation, I am taking the liberty of sending him a copy of this letter.

With all good wishes,

Sincerely,

DOUGLAS DILLON.

WASHINGTON, D.C., *August 4, 1975.*

Hon. WILLIAM D. HATHAWAY,
U.S. Senate,
Washington, D.C.

DEAR BILL: I am writing you as a private citizen about the Museum Services Act portion of S. 1800 in response to your inquiry.

Because a very significant proportion of the museums in this country no longer can operate on the income from major bequests they received in the past, it is inevitable that if these institutions are to survive they will have to be the recipients of Federal assistance.

In my view, it is unlikely that any donors will be coming along to endow museums with the kind of money they need to keep up their buildings, preserve their collections, and maintain their security. It is far easier to get such money for objects, exhibitions, and bricks and mortar. I therefore believe that the Federal Government must provide funds for the former three categories. In addition to serving a vital need, such moneys would have the virtue of being "non-political" in that they would not be attached to what might be "controversial" acquisitions or exhibitions. In addition, it would be relatively easy to establish objective standards concerning the need for these funds. In fact, such grants both might be best "monitored" and the burden on the Federal Government reduced if they were matched on a 50–50 basis with local grants. By lifting this great burden from American museums, they could survive, depending on private donations for pictures, exhibitions, and bricks and mortar.

How much would be involved in all of this, I don't know, but relatively little research could come up with a figure which I am convinced would not even amount to the fuse on a missile. After eighteen years in the museum profession, I am convinced that this would be a viable and common sense solution to a very pressing national cultural problem. And in this day and age, I cannot believe that the American people would oppose the expenditure of such a small portion of the taxes they pay for such an important national resource.

Your idea of seeing if the Museum Services Act will fly for a three-year trial period during the Bicentennial era is a good one. If there is any way I can help, I hope you will let me know.

Yours sincerely,

MARVIN SADIK.

SEATTLE ART MUSEUM,
Seattle, Wash., July 28, 1975.

Hon. WILLIAM D. HATHAWAY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATHAWAY: In your letter of July 25 you requested my input regarding the Museum Services Act portion of S1800. Your concept of a three year museum services bill has great attraction for me.

Museums generally throughout the country are experiencing serious difficulties making income match expenses. They are caught in the crunch of rapidly rising operating costs and an economy that inhibits charitable gifts. Most city governments, struggling to keep their communities viable, are extremely limited in the support they can provide museums. Middle-sized museums such as this have come close to the limit in both private and local public support of their programs. In the absence of significant increase in government operational assistance there will have to be curtailment of programs, lay-offs of personnel and all the destructive actions that drastic retrenchment requires.

In spite of two years of deficit financing, our Trustees are committed to continuing efforts to build support of this Museum. They realize the necessity to continue full programming in order to attain this support. However, another year or so without developing new sources of funding will force them to reverse their laudable position. The "shot in the arm" you suggest could be the sustenance that museums such as ours need to stay alive until the economy has swung back into better shape.

Certainly it seems reasonable to want to enable full museum participation in Bicentennial celebrations. The prospect of having them closed or limping along, especially during this period of self-congratulation, is paradoxical to say the least.

Sincerely,

WILLIS F. WOODS,
Director.

WILLIAM ROCKHILL NELSON
GALLERY OF ART,
Kansas City, Mo., August 18, 1975.

Hon. WILLIAM D. HATHAWAY,
U.S. Senate, Committee on Finance,
Washington, D.C.

DEAR SENATOR HATHAWAY: Your letter of July 25th addressed to the Trustees of the Nelson Gallery of Art has been referred to me.

You may be sure we are all profoundly gratified that the Arts and Artifacts Indemnity section of S-1800 received favorable consideration by the Labor and Public Welfare Committee, of which you are a member. All of us in the museum field believe that the enactment of this legislation will contribute immeasurably to the cultural life of our country through making exhibitions of national importance from foreign countries financially feasible. It is good to learn that you are also concerned with the Museum Services Act portion of S-1800. This is somewhat more complicated legislation than the Indemnity Act, and those of us in the museum field have been studying it with deep interest. The Bill has been frequently discussed at the meetings of the Association of Art Museum Directors. Because of the press of the Chinese Archaeological Exhibition here I have missed the last two meetings, and am not familiar with the thinking of the Association. Once I am up to date, I will take the liberty of writing you again on this important matter.

Incidentally, we have received welcome financial assistance from the National Endowment for the Arts for making certain parts of our collections not hitherto exhibited, available to our public. You may be sure I thoroughly concur in your view that museums will welcome a "shot in the arm" during the Bicentennial year and later.

With thanks for your helpful letter, I am,

Sincerely yours,

LAURENCE SICKMAN,
Director.

THE SOLOMON R. GUGGENHEIM FOUNDATION,
New York, N.Y., August 7, 1975.

MR. WILLIAM D. HATHAWAY,
U.S. Senate, Committee on Finance,
Washington, D.C.

DEAR SENATOR HATHAWAY: Very many thanks for your letter of July 25th.

Let me first of all express my gratitude for your interest and active support of the Arts and Artifacts Indemnity Act, which would be of such very great usefulness not only to the Guggenheim Museum but to Museums from coast to coast who find it increasingly difficult to cope with steadily-mounting insurance costs. Enactment of this legislation would substantially ease financial pressures now upon us, and we are therefore looking with much hope toward the development of that matter.

The funding of the Museum Services Act would also please us very much, since despite the increased effect of help for cultural institutions both from the Federal and the State level, we still find it extremely difficult to live within our means and to make ends meet. Our position therefore is that any government agency able to support our needs, particularly those who would cover areas not presently aided, would perform a valuable duty for which we would be grateful.

It is only fair that I should indicate to you my awareness of a somewhat contrary position taken by the National Endowment for the Arts—an agency to whom we owe much and for whose help and support we are grateful. We, therefore, would hesitate to support unequivocally what NEA considers detrimental. If, however, such an apparent obstacle could be removed, the Guggenheim, and I am sure the Museum profession as a whole, would welcome the additional aid that a well-funded Museum Services Act could undoubtedly provide.

I hope that I have expressed the issue with sufficient clarity but would be happy to make myself further available if you so desire.

Sincerely yours,

PETER LAWSON-JOHNSON,
President.

By Mr. HELMS:

S. 2570. A bill to provide that the U.S. Canal Zone shall be represented by a Delegate to the House of Representatives. Referred to the Committee on Armed Services.

Mr. HELMS. Mr. President, over a period of years various leaders in the Congress have stressed the two major interoceanic canal questions as retention of our undiluted sovereign rights, power, and authority over the Canal Zone and the major modernization of the existing Panama Canal. There is, however, a third important issue on which I shall elaborate.

The Canal Zone with its various installations and the canal are territory and property of the United States. The zone has a land area of 362 square miles. Its population is 44,198 of whom 39,200 are U.S. citizens.

The executive branch of its government is headed by the Governors of the Canal Zone, appointed by the President for terms of 4 years. Its judicial branch is headed by a U.S. district judge for the Canal Zone. Its legislative branch is the Congress. This government is called upon to perform many duties of State, city, and county governments but has no permanent representative in the Congress.

In contrast, the District of Columbia with an area of 61 square miles and population of 756,510, the Virgin Islands with an area of 132 square miles and population of 62,468, and Guam with an area of 209 square miles and population of 84,996 all have nonvoting delegates in the House of Representatives.

The Canal Zone has a strategic importance far greater than either the Virgin Islands or Guam, Alaska, or Hawaii, which latter two for many years before becoming States had delegates in the Congress. Citizens living in the zone pay U.S. income taxes thus creating a situation of taxation without representation.

The Congress as the legislature for the Canal Zone faces many problems, some of them intricate. Arriving at wisely reasoned decisions requires the continuous presence of an elected delegate from the zone territory, familiar with problems of its citizens.

A bill to create such an office, H.R. 7425, was introduced in the House of Representatives on May 22, 1975, by Congressman DANIEL J. FLOOD of Pennsylvania, one of the Nation's leading authorities on Isthmian Canal policy questions, and it was referred to the House Committee on Merchant Marine and Fisheries, the cognizant committee.

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

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

S. 2570

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

DELEGATE FROM THE CANAL ZONE

SECTION 1. The first section of the Act entitled "An Act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives", approved April 10, 1972 (48 U.S.C. 1711), hereinafter in this Act referred to as the "Act", is amended by striking out "and the territory of the Virgin Islands" and inserting in lieu thereof the following: ", the territory of the Virgin Islands and the Canal Zone".

ELECTION

SEC. 2. Section 2(a) of the Act (48 U.S.C. 1712(a)) is amended—

(1) in the first sentence thereof, by inserting "from Guam and the Delegate from the Virgin Islands" immediately after "The Delegate";

(2) by inserting immediately after the first sentence thereof the following new sentence: "The Delegate from the Canal Zone shall be elected by the citizens of the United States residing in the Canal Zone at a general election held in November 1976, pursuant to regulations established under section 4(b), and at a general election every second year thereafter."; and

(3) in the second sentence thereof, by striking out "The Delegate" and inserting in lieu thereof "Each Delegate".

ELIGIBILITY

SEC. 3. Section 3(c) of the Act (48 U.S.C. 1713(c)) is amended by inserting "or possession" immediately after "territory".

ELECTION PROCEDURE

SEC. 4. Section 4 of the Act (48 U.S.C. 1714) is amended—

(1) by inserting "(a)" immediately after "Sec. 4."; and

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

"(b) The Governor of the Canal Zone shall prescribe regulations for conducting general elections for the office of Delegate from the Canal Zone, and shall submit a copy of such regulations to each House of the Congress not later than January 1, 1976. Such regulations shall take effect on March 1, 1976, unless either House of the Congress passes a resolution before such date which specifically disapproves of all or part of such regulations.".

PRIVILEGES OF DELEGATE

SEC 5. Section 5 of the Act (48 U.S.C. 1715) is amended—

(1) by striking out "and the Delegate from the Virgin Islands" and inserting in lieu thereof the following: ", the Delegate from the Virgin Islands, and the Delegate from the Canal Zone"; and

(2) by striking out "the Delegate from each territory" and inserting in lieu thereof the following: "each Delegate".

SPECIAL ELECTION

SEC. 6. The Governor of the Canal Zone shall conduct a special election for the office of Delegate from the Canal Zone not later than thirty days after the date of the enactment of this Act. Such Delegate shall be elected by the citizens of the United States residing in the Canal Zone on the date of such special election. The term of such delegate shall commence not later than ten days after the date of such special election, and shall end upon the commencement of the term of the person elected Delegate in the general election in 1976.

By Mr. THURMOND (for himself and Mr. EASTLAND):

S. 2571. A bill to amend the Internal Security Act of 1950 to control and penalize terrorists, and for other purposes. Referred to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, on behalf of the Senator from Mississippi (Mr. EASTLAND) and myself, I am introducing legislation to prohibit anyone convicted of terrorism in or out of the United States from being admitted to the United States or granted citizenship in this country. The same prohibition would apply to one who has advocated terrorism while outside the United States or against whom there is convincing evidence that he has engaged in or supported terrorist activities.

This legislation also provides for a maximum $10,000 fine or imprisonment for a maximum of 10 years or both for anyone who sends instruments of terrorism outside the United States or receives such instruments from outside the United States. This penalty is also applicable to anyone who knowingly transports, possesses, receives, or disposes of funds or anything of value caused or induced by any crime of terrorism.

Mr. President, last week the Senate Internal Security Subcommittee held a hearing on terrorist bombing activity, which has recently increased. There is ample evidence that materials and people travel in and out of this country for the purpose of conducting terrorist activities, particularly bombing, against Government and private property. Only yesterday, the State Department here in Washington was the target of a bomb. The time has come to try to halt these activities, and I hope this bill will be a significant step in that direction.

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

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

S. 2571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Internal Security Act of 1950 is amended by inserting immediately after title I the following new title:

"TITLE II—TERRORISM

"CONGRESSIONAL FINDINGS

"SEC. 201. The Congress finds that—

"(1) There exist in the United States and elsewhere in the world, terrorist groups. Many are a part of international terrorist networks. These networks and groups engage in kidnappings, extortion, and other acts of violence. Terrorists from one country are being used in actions by terrorist groups from another country.

"(2) Terrorist groups in the United States and elsewhere in the world are receiving training and logistical support from various Marxist-Leninist governments.

"(3) There exists in the United States organizations and individuals providing financial and logistical support to foreign terrorist groups.

"(4) There exists in the United States domestic terrorist groups which have contacts with foreign terrorist organizations and other groups which have received material support and training from foreign Marxist-Leninist governments.

"(5) Terrorist groups both in the United States and other countries finance their activities through kidnappings, extortion, and armed robberies.

"(6) Foreign terrorists are visiting the United States under various pretexts in order to obtain support from American individuals and organizations.

"(7) The individuals, groups, and organizations above have phased revolutionary objectives. Currently, these persons seek to and in fact do subvert the authority of domestic and foreign governments and subvert individual liberties by acts of terrorism with an ultimate objective of overthrow of democratic government and the establishment of a dictatorship of the proletariat under Marxist-Leninist doctrine. Such objectives and such acts of terrorism constitute a clear and present danger to the lives and liberties of United States citizens and others and to the Government of the United States and to State and local governments.

"DEFINITION

"SEC. 202. As used in this title, the term 'crime of terrorism' includes espionage, sabotage, kidnaping, extortion, skyjacking, robbery, bombing, holding a person prisoner or hostage, or any threat or attempt to kidnap, extort, skyjack, bomb, or hold prisoners or hostage, or any threat to do any injury to a human being, animal, or personal or real property or any conspiracy to do any of the above, in order to compel an act or omission by any person, or any governmental entity.

"PROSCRIPTIONS

"SEC. 203. (a) Any person who has been convicted in the United States or elsewhere of any crime of terrorism, or any person against whom there is produced convincing evidence that he has engaged in terroristic activities, including logistic support thereof or giving aid, comfort, or concealment to terrorists or has been a member of a terroristic organization, shall not be issued a visa to the United States, and shall not be admitted to the United States, or granted citizenship in the United States. Any such person who gains admittance to the United States by fraudulently concealing such prior activity shall be deported forthwith upon the production of convincing evidence that such person has been so convicted or has engaged in terroristic activities or been a member of a terrorist group.

"(b) Any person not subject to the jurisdiction of the United States who, while outside of the United States, advocates orally or in writing any crime of terrorism, shall not be issued a visa to enter the United States or admitted to the United States except to appear as a witness for the prosecution of a criminal case or to appear as a defendant in a criminal case.

"(c) It shall be unlawful for any person subject to the jurisdiction of the United States to send, directly or indirectly, funds, arms, explosives, or any other thing of value outside of the United States to any person or group of persons for the purpose of committing any crime of terrorism.

"(d) It shall be unlawful for any person subject to the jurisdiction of the United States to receive funds, arms, explosives, or any other thing of value from outside of the United States for the purpose of committing any crime of terrorism.

"(e) It shall be unlawful for any person subject to the jurisdiction of the United States to knowingly possess, transport, receive, or dispose of directly or indirectly, funds or anything of value coerced or induced by any crime of terrorism.

"PENALTIES

"SEC. 204. (a) Whoever violates any of the provisions of section 203 (c), (d), or (e), shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

"(b) Notwithstanding any other provision of United States law, any person convicted in the United States of a crime of terrorism which resulted in the death of a hostage shall be imprisoned for life, and no such person shall be eligible for any parole, time off for good behavior, or any pardon or mitigation of sentence whatsoever.

"CONSTRUCTIVE TRUST ON PROCEEDS OF FEDERAL LAW VIOLATION

"SEC. 205. (a) CIVIL RIGHT OF ACTION TO IMPOSE CONSTRUCTIVE TRUST.—The United States shall have a civil right of action, to be brought by the Department of Justice in the manner hereinafter provided, to impose a constructive trust, or trust ex maleficio, in favor of the United States, upon all property, including funds which has been acquired by violation of any Federal criminal statute, and upon the fruit or product thereof in the hands of whomsoever the same may be found, except where such has been acquired by a purchaser in good faith for value without notice. Such action shall be instituted by the Department of Justice against the person or persons directly acquiring such property by law violation as aforesaid, against the property or res itself, whether in its original form or in an altered state, and against persons in possession thereof other than bona fide purchasers for value. The tracing and recovery of such property shall be in accordance with established equitable principles and practices followed in these tracing and recovery of property the legal title to which has been wrongfully acquired and is subject to a constructive trust.

"(b) CIRCUMSTANCES IN WHICH TRUST MAY BE IMPOSED.—In determining the rights of the parties in such a civil action, the court shall declare a constructive trust only upon clear and convincing evidence that the property was acquired by law

violation as provided in subsection (a). Prior criminal conviction, of any individual, however, shall not be necessary to establish the illegality of such acquisition. If the court finds that a portion of the property involved in such an action was acquired by legal means, it may separate such portion from that upon which a trust is imposed always apply the principle that it is the duty of the Government to prove wrongful acquisition by clear and convincing evidence but, where property was originally acquired by law violation, as provided in subsection (a), the fact that the same, or its fruit or product has since been devoted to legal purposes and has thereby increased in value shall not prevent the impression of a trust upon the whole thereof.

"(c) SPECIAL MASTER OR JURY MAY ASSIST.—The district court, upon the motion of either party or upon its own initiative, may appoint a special master to hear evidence and make findings and recommendations as to factual issue or the court may try an issue of fact with the assistance of an advisory jury.

"(d) PROPERTY TO BE SUBJECT TO SEIZURE AND FORFEITURE.—All property upon which a constructive trust has been impressed under this chapter shall be seized and forfeited to the United States. All provisions of law relating to the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; the compromise of claims and the award or compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this chapter, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the Collector of Customs or any other person in respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property or funds under this chapter by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

"(e) DISPOSITION OF PROPERTY.—If the court shall find in any case that any person, firm, or corporation has an equitable right to property upon which a constructive trust has been impressed pursuant to this chapter, or upon any portion of such property, which equitable right is superior to that of the United States, it shall incorporate such findings in its decree and render judgment accordingly. All other property recovered under this Act shall inure to the use of the Law Enforcement Assistance Administration. If in any case the court finds that the property was derived from activity which was also in violation of State law, the Director of the Law Enforcement Assistance Administration shall give preference in the expenditure of funds so derived to the State where such violations of State law also occurred.

"SEC. 206. If any separability provision of this title or the application thereof to any person or circumstances is held invalid, the remainder of the title and the application of such provisions to other persons or circumstances, shall not be affected thereby."

By Mr. MCCLELLAN (for himself, Mr. THURMOND, Mr. HRUSKA, and Mr. HANSEN):

S. 2572. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal death benefit to the survivors of public safety officers. Referred to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, I rise in support of Senator MCCLELLAN's bill to provide benefits to the survivors of public safety officers who are killed in the line of duty.

This legislation would provide a $50,000 benefit payable to the survivors of a public safety officer who is killed in the line of duty by a criminal act or an apparent criminal act. As defined in this bill, "public safety officer" includes policemen, firemen, correction officers, probation officers, parole officers, and judicial officers.

Mr. President, in recent years many of our public safety officers have been killed by felonious assaults, and it is increasingly apparent that violent crime is spreading. Crime knows no jurisdictional boundary, nor respects the color of a law enforcement officer's uniform. Each officer, whether sheriff, deputy, highway patrolman, or policeman, must be fully cognizant that death may come to him in the performance of his sworn duties.

Public safety officers, dedicated to their law enforcement careers, are not nearly so concerned with their low salaries as they are of maintaining and preserving the security of their families. The Law Enforcement Officer's Group Life Insurance program, passed in the 91st Congress, was but the first step in providing this group of persons some security.

In the case of the average law enforcement officer, group insurance protection is only nominal because the amount of private insurance he can purchase with his law salary is normally insufficient to provide for the needs of his dependents. The approach of this bill should adequately meet the security needs of these officers.

Similar legislation passed the Senate on September 5, 1972. On October 17, 1972, a Senate-House conference committee filed its reports with the House of Representatives, but because the House failed to act, this important legislation died. The Senate passed S. 15, a similar measure, on March 29, 1973.

This bill introduced today contains many of the compromises agreed to in the 92d Congress. I am hopeful both Houses can speedily enact this important legislation.

The alarming trend of crime can only be reversed by professional police officers, who are assured that they and their families will be compensated in a manner commensurate with the risks inherent in law enforcement. Law enforcement careers must be made more acceptable to our qualified citizens. We cannot ask decent, hardworking men to face the constant risk of death in the line of duty and then ignore their rightful request that their families be protected from financial calamity.

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

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

S. 2572

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 "Public Safety Officers' Benefits Act of 1975".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new part:

"PART J.—PUBLIC SAFETY OFFICERS' BENEFITS

"AWARDS

"SEC. 701 (a). In any case in which the Administration determines, under regulations issued pursuant to this title, that a public safety officer has died in the line of duty from injuries directly and proximately caused by a criminal act or an apparent criminal act, the Administration shall pay a benefit of $50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of any interim payment under paragraph (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code;

"(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4–531(1)).

"(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

"SEC. 702. No benefit shall be paid under this part—

"(a) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(b) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(c) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public officer.

"SEC. 703. As used in this part—

"(a) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(1) eighteen years of age or under;

"(2) over eighteen years of age and a student as defined by section 8101 of title 5, United States Code; or

"(3) over eighteen years of age and inca-

pable of self-support because of physical or mental disability;

"(b) 'criminal act' means any conduct which is declared by law to be a crime in the jurisdiction where the injury to the public safety officer occurred. Such conduct is a crime for the purpose of this part notwithstanding that by reason of age, insanity, intoxication, or otherwise, the person engaging in such conduct was legally incapable of committing the crime;

"(c) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

"(d) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

"(e) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

"(f) 'law enforcement officer' means a person involved in crime control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

"(g) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States or units, or any department, agency or instrumentality of any of the foregoing; and

"(h) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

"ADMINISTRATIVE PROVISIONS

"SEC. 704. Rules, regulations, and procedures issued under this title may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

"SEC. 705. In making determinations under section 701, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration."

MISCELLANEOUS PROVISIONS

SEC. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "520" and by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of Part J."

SEC. 4. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payment of obligations arising under this Act.

SEC. 5. If the provisions of any part of this Act are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 6. This Act shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment.

Mr. HRUSKA. Mr. President, I rise in support of the measure introduced today entitled the "Public Safety Officers Benefits Act of 1975." As my colleague, the Senator from South Carolina, has stated, this legislation has been before the Senate on previous occasions.

A similar bill, S. 2087, passed the Senate in the 92d Congress by a vote of 80 to 0. It was reintroduced in the 93d Congress as S. 15, but was not acted upon before the adjournment of the Congress. The House, however, passed another version of the bill, but no agreement could be reached during a conference meeting on the two measures.

The bill is intended to provide assistance to the dependent survivors of public safety officers who are killed in the performance of their duties and where the cause of death was a criminal act or an apparent criminal act. As a result of a death under these circumstances, the Law Enforcement Assistance Administration would provide a gratuity of $50,000 to one or more dependent survivors.

Public safety officers are defined in the bill as public servants whose occupation places the officer in danger of physical injury by a criminal act. Included under this definition are policemen, sheriffs, correction guards, and firefighters. All of these groups are forced to deal with the violent elements of our society, and in so doing, face great risks in the performance of their duties. This legislation would provide direct financial benefits to the families of slain public safety officers, increase the morale of these employees, and hopefully, improve their efficiency, which will lead to better law enforcement service to American citizens.

As the bill is presently drafted, it would exempt the lump sum gratuity from Federal income taxation and would become effective upon enactment of the legislation.

Mr. President, this is a good bill which is needed to respond to the almost steady rise in police killings. As the Uniform Crime Reports for 1970 stated: "No arrest situation can be considered routine." The report also noted that in 1970, 19 percent of police killings occurred as the result of ambush.

The risks to our public safety officers are high. The legislation introduced today will serve to compensate the dependents and survivors of slain officers who take these risks in order to protect the lives of those in our society.

Mr. President, I hope this legislation will be carefully considered in committee, balanced with the interests of certain Members in the other body, and brought to the floor for approval by the Senate.

By Mr. EAGLETON:

S. 2574. A bill to amend the Securities Act of 1933 to provide for the registration of securities issued by State and local governments. Referred to the Committee on Banking, Housing and Urban Affairs.

SEC AND MUNICIPAL BONDS

Mr. EAGLETON. Mr. President, I am today introducing a bill to require the registration of tax-exempt bonds with the Securities and Exchange Commission. I believe that this is a constructive way of avoiding future situations such as we are facing today with New York City. While the deliberations over New York's current problems should continue, this is something we can do now to curtail the artful accounting and management practices which either have destroyed or soon will destroy the creditworthiness of many of our large cities.

The Securities Act of 1933 generally requires stock and bond offerings to be registered with the Securities and Exchange Commission. This act was originally set up during the Depression to cope with the fiscal morass caused by the collapse of many corporate securities of dubious merit. Today we face a not dissimilar problem; this time our State and local governments are in trouble.

Issuers of tax-exempt bonds—States, counties, cities, various public authorities—were exempted from the registration provisions of the 1933 act. I think it is past time for them to be included. My bill would amend the Securities Act of 1933 by simply removing the exemption for securities issued by State and local governments.

Mr. President, a corporation seeking to issue new stock or bonds must meet a rigid set of requirements for accuracy and consistency in its reporting of financial data. The company's books must be submitted to an independent auditor, and the information supplied in a formal registration filed with the Securities and Exchange Commission.

State and local governments are subject to less stringent requirements when they seek to place a bond offering. If municipal bonds were registered with the SEC, the many well-run States and communities would be better able to justify their high credit ratings. At the same time, any bond-issuer who was manipulating figures to show a balanced budget would be exposed. Good issues could be more easily differentiated from bad issues, and fiscally responsible State and local governments might then see their prudence rewarded by lower interest rates.

Mr. President, I attended a hearing held by the Senate Banking Committee last Saturday. As I listened to the mayor of New York City and the heads of the major banks there, I felt a growing sense of alarm over the casual indifference with which billions of dollars in securities were bought and sold. Consider the following exchange between the Senator from Massachusetts (Mr. BROOKE) and the president of First National City Bank, Mr. Walter Wriston:

Senator BROOKE. Obviously my question to you is, why did you wait so long to come in—you must have known this crisis was building—and try to protect not only your own benefit, but for the City and the State of New York?

Mr. WRISTON. . . . I think it is true that some of the gimmicks were known about . . . but the clear facts are that the accounting system of the City of New York defies you finding out precisely what all the numbers are.

You are quite correct, I think, that we should have known earlier. We did not, but part of that is that the whole system was designed to prevent anybody from finding out. That is true of the rating services. It is true of the State and it was true of ourselves.

Senator BROOKE. You don't lend money to private borrowers under those same conditions, do you?

Mr. WRISTON. I think if an elected mayor certified to you that the budget is balanced and you have the controller, who is also elected, certifying numbers, a person has a certain right to rely on that in the same manner you would rely on an independent auditor in a private firm.

Senator BROOKE. You did act on reliance of that certification?

Mr. WRISTON. Yes, sir.

I think that exchange clearly demonstrates the weakness of the existing system. The unregulated atmosphere of give and take has broken down, and even if the Federal Government does not come to New York City's rescue we are all the poorer because of the lack of even basic controls over the accuracy of facts and figures.

Mr. President, here we have the president of one of the world's largest banks, buying billions of dollars of bonds from a city it knew was in trouble, on the basis of figures it knew were not entirely accurate. Requiring registration of municipal bonds with the SEC would at least mean that standard and acceptable accounting practices were being followed. These borrowers would then be subject to as much scrutiny as the individual seeking a car loan. I think that is not only fair, it is good public policy. It would not prevent future defaults, but at least investors would know what they are getting when they buy a tax-exempt bond.

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. 2574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(a)(2) of the Securities Act of 1933 is amended—

(1) by striking out "or any territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or territory or by any public instrumentality of one or more States or territories,"; and

(2) by striking out "or any security which is an industrial development bond" and all that follows through the semicolon following "does not apply to such security".

(b) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"(d) The Commission may from time to time by its rules and regulations and subject to such terms and conditions as may be prescribed therein add to the securities exempted as provided in this section any class of securities issued by a State of the United States or by any political subdivision of a State or by any territory of the United States or political subdivision of a territory or by any public instrumentality of one or more States or territories if it finds, having regard to the purposes of this title, that the enforcement of this title with respect to such securities is not necessary in the public interest and for the protection of investors."

(c) Section 15B(d)(1) of the Securities Exchange Act of 1934 is amended by striking out "Neither the Commission nor the Board is" and inserting in lieu thereof "The Board is not".

By Mr. MONDALE:

S. 2575. A bill to permit Foster Grandparents in established programs to serve adults where the need for service to children has been met. Referred to the Committee on Labor and Public Welfare.

Mr. MONDALE. Mr. President, I am introducing a bill designed to make it possible for Foster Grandparents to work with adults in institutions where the needs of children are being met through other means. The Foster Grandparents program has been one of the most successful human programs ever developed by the Federal Government. It has met both the needs of youngsters and of the elderly. Institutionalized children who need the love and companionship of an older person have been able to develop meaningful relationships with the Foster Grandparents. And the Foster Grandparents have benefited both psychologically and economically from participating in the program.

In recent months there has been a growing concern in my State of Minnesota over a policy which prohibited Foster Grandparents from working with persons over the age of 18, and then working with persons over the age of 21. At the Brainerd State Hospital in Minnesota, a 24-year old retarded man no longer has the companionship of a Foster Grandparent because of this policy. The Foster Grandparent was reassigned because under regulations promulgated by the Federal ACTION Agency, he could not be considered a "child" and, therefore, could not receive the services of a Foster Grandparent.

With the trend toward deinstitutionalization of retarded and other handicapped children, some established Foster Grandparent programs are faced primarily with the needs of institutionalized adults. The needs of these people are as great as those of the youngsters. In Minnesota, most of these State institutions are located outside the biggest population areas. It would not be practical or economical to encourage the Foster Grandparents to relocate in other communities.

In an October 14 memorandum to regional and State ACTION directors, a Washington ACTION official stated that in requiring programs to comply with the age limitations for service by Foster Grandparents, assignments should be made "In such a manner as to avoid any volunteer being terminated."

The bill I am introducing today would make it possible for Foster Grandparents to provide services to these adults in need, if the needs of children in those institutions were being met through other programs or agencies.

This bill would apply only to established Foster Grandparent programs. It would not address the question of a long-range policy affecting future new Foster Grandparent programs.

It has been suggested that this problem could be solved by expanding the senior companion program, in which the elderly may assist persons in need of all ages. Although a proposed increase in the senior companion program is pending in an appropriations conference committee, I do not think that this is the answer to the immediate problem faced in my State and others like it. However, I am hopeful that through the efforts of the Labor and Public Welfare Committee we can arrive at a permanent solution which will provide the greatest service to Americans who need it; and the much deserved rewards to the elderly who are willing to provide that service. But we should act now to resolve the question of how we may best use our current Foster Grandparents to meet the human needs of citizens in our States.

I ask unanimous consent that two articles dealing with this situation in Minnesota, and the text of the bill be printed in the RECORD.

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

[From the Minneapolis Tribune, Oct. 22, 1975]

FOSTER GRANDPARENTS AT STATE HOSPITALS

A program in which senior citizens work on a one-to-one basis with retarded people at Minnesota state hospitals has had a double benefit—to the retarded as well as to the older people who receive small payments for their help along with the satisfaction of doing something useful for others. But the program, according to a report Sunday by the Tribune's Jack Coffman, has been severely limited by what many people consider too-restrictive federal regulations.

The federal foster-grandparents program pays senior citizens to help troubled children by establishing personal relationships with them. The program has been implemented in some Minnesota state hospitals. There also is a state appropriation providing funds that enable senior citizens to work with retarded adults in the hospitals. But the federal government has announced that it will not provide funds for programs in which senior citizens are working with adults. As one federal official commented, by way of explanation, "There are 5 million children in this country who could use the services of foster grandparents." Consequently, in Minnesota, senior citizens have been "reassigned" to hospital residents under 18, and many adult residents have lost their foster grandparents.

This is an example of how a sweeping federal regulation, oblivious to special circumstances, can wipe out a perfectly good endeavor. There is no consideration of the fact that chronological age is a meaningless measurement for retarded people. A 30-year-old could have the mental age of 2. Further, there is no recognition that the program isn't fulfilling its purpose if there are senior citizens available who have no children to help. James Lieder, who directs the state program in conjunction with the Minnesota Association for Retarded Citizens, said, "They say there are millions of children who aren't being served. But that doesn't help the grandparents at Cambridge. We have to scrounge up children for the grandparents." At the hospital, 510 of the 646 residents are over 18.

A spokesman for the Association for Retarded Citizens commented that the foster-grandparents program is "one of the greatest things we've been involved in. Everybody is pleased with it." Bunny Anderson, who directs the program at Cambridge, said residents under 18 tend to be more profoundly retarded and less susceptible to the kind of help that foster grandparents can provide, by developing a relationship with residents. She said it is a "tragedy" that such relationships can't continue, and wondered, "Why is such a sensible thing so difficult?"

We wonder, too. It would seem that, at least, the previous arrangement at the hospitals could be retained. It might also be reasonable to reconsider the definition of "adult" in the context of this program. The matter has been brought to the attention of Minnesota congressmen. We hope they will urge more flexibility in the regulations.

[From the Brainerd (Minn.) Daily Dispatch, Oct. 2, 1975]

YOUNG RETARDED MAN LOSES "GRANDMOTHER" TO REGULATIONS

(By Les Selinow)

Mark Bourgeault, 24, is an unhappy young man today.

He can't say he is unhappy because he speaks only rarely, but his parents, Mr. and Mrs. Marcel Bourgeault, Brainerd, say they know he is feeling the loss of his "grandmother."

Mark is a patient at Brainerd State Hospital. He has cerebral palsy and is retarded. He is confined to a wheelchair.

He just lost his foster grandmother to a federal regulation.

The regulation says that foster grandparents can't work with retarded folks who are more than 17 years of age.

That regulation had been skirted in the past at Brainerd State Hospital, according to Nancy Erckenbrack, who heads the foster grandparent program, because funding here had been primarily by the state which does not have the restriction.

However, now the foster grandparent program is funded through the Action Agency at the federal level. Federal officials found out that the foster grandparents here were working with patients who were over 17. They promptly declared that this must cease or Brainerd's foster grandparent program would not be funded.

(Foster grandparents are retired senior citizens who spend time with patients at the hospital each day in an effort to give them the personal love and affection that staff members would not have time for.)

Mark's most recent foster grandmother was Mrs. Jack Sather, who lives on Mill Avenue. She is now working with another patient in Mark's time slot.

Mark's parents are upset apout the federal regulation and are trying to do something about it. Bourgeault called Senator Walter Mondale and has been assured by the senator that he will try to do something about it. Bourgeault also met with a representative of Senator Hubert Humphrey in Brainerd Tuesday. The representative said he would discuss the problem with Humphrey.

In the meantime, Mark is missing the daily outings with Mrs. Sather. He spends some time in therapy and some time in a classroom, but gone is the hour or more a day that Mrs. Sather spent wheeling him outside for fresh air, combing his hair, changing his shirt and showering affection on him.

That love and affection, Mark's parents say, were very important to the young man.

"He can't talk," Bourgeault says, "but he can let you know how he feels. We bring him home every weekend. He used to just sit there at the hospital like a bump on a log until we picked him up. He was kind of in a shell."

The energetic Mrs. Sather changed that. Though 74, she would wheel Mark outdoors everyday and also take him to special programs at the hospital. When there was nothing special to do, she would play the piano for him because he seemed to enjoy the music.

"My wife and I sang 'Happy Birthday' to Mark on his birthday," Bourgeault said, and it made him smile. After that whenever Mrs. Sather wanted him to smile, she'd sing 'Happy Birthday.' "

Mrs. Sather also added some extra touches. If she thought Mark might be lonely, she'd get his mother on the phone and hold the receiver to his ear so that he could hear her voice.

One day Mark startled both his mother and Mrs. Sather by speaking into the phone: "How are you?"

Mrs. Sather doesn't want to get involved in a controversy, but she knows what she thinks of Mark. "I'd like to take care of him," she said.

The older patients, she feels, need foster grandparents as much or more than the younger ones. The younger children, she said, have a great deal of time spent with them by the nurses because of their needs, but "the older ones just sit there."

Miss Erckenbrack would like to see the regulation changed. "I know," she says, "that no matter what the age of a resident, whether it be toddler or adult, he or she can benefit from the foster grandparent program. We would welcome a change in the regulation."

Bourgeault is determined to obtain such a change—not just for Mark, who has been at the hospital since he was 12, but for other older patients as well.

"Without a foster grandparent," he said, "Mark just looks at four walls—no fresh air."

S. 2575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Notwithstanding any other provision of law or Federal regulation, the Director of ACTION agency shall assure that individuals serving in established Foster Grandparents programs assisted under part B, Title II of the Domestic Volunteer Service Act of 1973 (P.L. 93–113) shall be permitted to serve adults in all cases in which the needs of children previously served by such programs have diminished, or have been reasonably met, including cases in which deinstitutionalization has altered the need for Foster Grandparent services.

By Mr. STONE for himself, Mr. RANDOLPH, and Mr. CHILES):

S. 2576. A bill to amend title 23 of the United States Code in order to provide a program for the completion of the national system of interstate and defense highways. Referred to the Committee on Public Works.

Mr. STONE. Mr. President, today I am introducing legislation with the distinguished chairman of the Public Works Committee (Mr. RANDOLPH) and Mr. CHILES, my senior colleague which would provide States with the opportunity to bond the costs for the remaining segments in the Interstate System and establish a final date terminating the Federal funding commitment for the Interstate Highway System.

Mr. President, the Federal Highway Administration has estimated that as of January 1, 1974 about $34.7 billion—which is 38.8 percent of the total estimated cost to complete the Interstate Highway System of $89.2 billion—remained to be obligated by the State and Federal Governments. This estimate was made without any reference to the impact of future inflation which historically has been about 10 percent annually. Given the present level of funding and the present rate of inflation the General Accounting Office has recently estimated that the construction of the Interstate Highway System will not be finished until the year 2009. Even if the level of funding is increased from the current level of $3.25 billion per year to $3.7 billion per year, the system will not be completed until 1996. The resultant effect of the extended period of time necessary to complete the Interstate System are greatly increased construction costs, increased highway accidents, fatalities and the increased inconvenience to our citizens.

Mr. President, the Federal Highway Administration's estimate of the cost of the Interstate Highway System has increased by $51.6 billion between the 1958 estimate of $37.6 billion and the present estimates of $89.2 billion. Construction price increases incurred after the 1975 cost estimate have further raised the cost of completion to roughly $99.8 billion. Unfortunately, there are no indications that the inflation rate of construction costs, which are heavily dependent upon petroleum costs, will level off in the near future. The General Accounting Office has reported that between the calendar years 1973 and 1974 the Highway Administration's composite construction price index rose by 32.4 percent.

These escalating prices have been primarily responsible for increasing the cost of completing the interstate system.

The GAO has recently completed a study which illustrates the effect various rates of inflation will have upon the total cost of completing the Interstate System, and I ask unanimous consent that the table be printed in the RECORD.

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

TABLE I

The following table shows the effect of the two assumed inflation rates and of zero inflation on the cost to complete work remaining at June 30, 1975 with an annual Federal interstate authorization of $3.25 billion and $3.7 billion.

Assumed annual Federal authorization level	Assumed annual inflation rate		
	0 percent	5 percent	10 percent
$3,250,000,000:			
Total Federal-State cost to complete (billions)	$38.9	$52.4	$123.4
Last year of funding	1986	1990	2009
$3,700,000,000:			
Total Federal-State cost to complete (billions)	$38.9	$50.2	$83.4
Last year of funding	1985	1987	1996

Mr. STONE. Mr. President, this table indicates that even an unrealistically low inflation rate of 5 percent will increase the costs to complete the system by between $11 and $14 billion. The table further indicates that at the present level of funding, the current 10 percent rate of inflation would increase the estimated completion cost to a total of $123.4 billion—an increase of $83.4 billion.

Mr. President, I also ask unanimous consent that a table compiled by the GAO which illustrates the effect these increased costs will have upon the revised estimate of total interstate costs be printed in the RECORD.

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

TABLE II

	5 percent inflation annual Federal funding		10 percent inflation annual Federal funding	
	$3.25 billion	$3.7 billion	$3.25 billion	$3.7 billion
Costs incurred at June 30, 1975	$60.9	$60.9	$60.9	$60.9
Estimated completion costs	52.4	50.2	123.4	83.4
Total	113.3	111.1	184.3	144.3

Mr. STONE. Mr. President, the problems caused by the increased costs of construction have been particularly severe in my State of Florida. The present cost for completing the system in Florida has been estimated to be $1.4 billion by the Florida State Department of Transportation. Under the present level of funding the completion of the system will be delayed until after the year 2000. During this period of time millions of citizens are subjected to the hazards of overcrowded and unsafe highways.

A recent study compiled by the GAO shows that at the end of 1973 the interstate mileage opened to traffic represented less than 1 percent of the total road and street mileage in the United States; but the system carried one-sixth of the total vehicle miles of travel in the country that year. More importantly, the rates of traffic fatalities and injuries per vehicle miles traveled on the Interstate System were about one-half or less than similar rates on all other roads and streets combined. On the west coast of Florida from Naples to Tampa, one of the more densely populated areas in the State, the delays in completing the construction of I–75 have required traffic to use overcrowded two-lane highways. This same situation confronts users of certain segments of I–95 on the east coast of Florida. These conditions are not limited to Florida. Similar conditions exist in West Virginia, Texas, and every other State that has not completed its Interstate System.

Mr. President, the legislation we are introducing today will provide States with the opportunity to bond costs for the remaining segments of the Interstate Highway System. These bonds, which would be based upon a binding contractual obligation of the United States to pay the principal and interest over a 20-year period, would permit States to complete immediately the State's Interstate Highway system without waiting for their annual apportionments. By allowing the States to issue bonds and expedite the construction of remaining interstate segments, this bill will insure that the entire system will be completed at today's construction costs, thereby eliminating inflationary cost effects.

This bill requires that any State wishing to participate in this bond program submit their projects to the Secretary of Transportation and issue their bonds by September 30, 1984. Furthermore, all projects funded under this bond program must be let for construction by December 31, 1984. These provisions will compel participating States to accelerate the development of their program. Any State that does not participate in this program or complete the construction of its interstate segments prior to December 31, 1984 will be required to fund the remaining construction of its interstate segments out of general highway funds. In essence, this program will insure that all States wanting to take advantage of the 90–10 matching funds under the Interstate System will either complete or bond the costs of completing their segments of the system by December 31, 1984. Should this bill be enacted, the longstanding and seemingly endless Federal commitment to the Interstate Highway System will therefore be ended by 1985.

The economic benefits of completing the interstate system under this program are reflected in the substantial reductions of the total cost of the system. According to the GAO study, the entire system, based upon the current 10 percent inflation rate and the current fund levels of $3.25 billion, will be completed in 2009 at a cost of $123.4 billion. By permitting the States to bond the $38.9 billion current day cost of completing the interstate highway system—at an interest rate of 5.9 percent, the current market price—the total cost of completing our system would be $61.4 billion; a savings for the Federal and State governments of about $62 billion.

At my request the Library of Congress compiled the annual apportionments necessary to amortize the principal and interest of the bonds issued by the States pursuant to this program. Also included in this report is the total aggregate cost of this bond issue.

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

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

This chart illustrates total annual cost to the Federal Government to cover principal bond interest on a $38 billion bond issue—sold over an eight year period. Note the present level of funding is $3.25 billion.

Current market price

(Total cost at 5.9)

(000)

	517,750
	1,021,488
	1,511,183
	1,986,925
	2,448,625
	2,896,372
	3,329,988
	3,748,677
	3,637,550
	3,525,450
	3,413,350
	3,301,250
	3,189,150
	2,976,750
	2,964,950
	2,852,850
	2,740,750
	2,628,650
	2,516,550
	2,404,450
	2,054,850
	1,719,263
	1,397,688
	1,090,125
	796,575
	517,038
	251,513
Total cost	61,439,760

Mr. STONE. Mr. President, this chart illustrates that the average annual level of funding will be substantially less than the current $3.25 billion.

The need to enact this program is further emphasized by examining the escalating cost of Florida's interstate segments. If the present levels of funding and the current rate of inflation remain static, Florida's annual apportionment, according to the Florida Department of Transportation, would never be sufficient to complete the system. Presently, the total annual apportionment—including both Federal and State matching funds—for the State of Florida is $125 million. The total cost of completing the system in Florida is $1.4 billion. If the present construction inflation rate continued at 10 percent, $140 million annually would be needed to finish the system. This would result in a continuing annual deficit of $15 million based solely upon the inflation rate.

In a recent study the Florida State DOT has computed the total cost of the system based upon an inflation rate of 8 percent through the year 1980 and an inflation rate of 5 percent through the year 2003. Even at these greatly reduced inflation rates, the total cost of completing the Florida segments would be $4.5 billion—an increased cost of $3.4 billion in Florida alone.

Mr. President, in addition to accelerating the construction of the Interstate System and greatly reducing the total cost of the system, the enactment of this bill would significantly reduce present unemployment rates. At a time when our unemployment rate is in excess of 9 percent, I believe the Congress should seriously consider the creation of manpower-intensive powers. Historically, highway construction has been extremely successful in providing much-needed jobs for our workers. Under the bond program proposed in this legislation, Congress would create a program which would provide an immediate stimulus for employment with an annual Federal expenditure which is less than that envisioned under the current congressional authorization for our interstate program.

Mr. President, the Federal Government has been in the process of constructing the Interstate Highway System for more than 20 years. Recent studies indicate that this Federal commitment will continue until the turn of the century. Each year construction costs have escalated, thereby pushing the completion date for the system further into the future and raising the total cost of the system. Predicted increases in petroleum products, both in the short term and long time, will undoubtedly further increase construction costs. In addition to rapidly increasing costs, the failure to complete the Interstate System has required American drivers to use hazardous and inadequate highways. Safety factors alone dictate the urgent need to accelerate the completion of the Interstate Highway System.

This bill would require States to complete their construction plans for the system and let the contracts for construction of the remaining interstate segments by 1985. By providing the States with an alternative bonding program, this legislation will finally establish a termination date for the Federal commitment to the Interstate Highway System.

Mr. President, the expeditious completion of the Interstate System will not only save the Federal and State Governments $62 billion in construction costs, but also create much needed jobs and provide our citizens with safe and efficient highways.

Mr. RANDOLPH. Mr. President, I am gratified to join with my diligent colleague from Florida (Mr. STONE) in cosponsorship of this bill intended to accelerate completion of the Interstate Highway System. Since 1956, the development of this 42,500-mile network has been the principal activity carried out by the Federal Highway Act program. It was originally intended that the system would be completed simultaneously throughout the country. Subsequent events, however, soon made this goal incapable of achievement. On a national basis, 87 percent of the system is now open to traffic. Some States have virtually completed their allocations of interstate mileage while others have substantial amounts of work to be done.

The cost of the Interstate System has increased considerably since 1956 when $24.8 billion were authorized to build the network over a 13-year period. The most recent cost estimate submitted by the Secretary of Transportation now places the ultimate price of the Interstate System at $89.2 billion. A recent study by the Comptroller General updated the Secretary's figures to approximately $100 billion.

Mr. President, the actual cost is likely to be substantially higher since the Comptroller General's estimate is based on an assumption of no inflation in the years ahead. Rapid rises in the cost of highway construction in recent years are responsible for the situation today. Between 1973 and 1975 the cost-price index for roadbuilding increased by approximately 50 percent.

This means that authorizations for the Interstate System, which have remained relatively unchanged in recent years, purchase decreasing amounts of roadway. As recently as 1970, we were confident that the Interstate System could be completed by 1985. We know now that this is impossible. At present funding levels and with only an unexpectedly modest inflation rate, completion could not be achieved before 1990. More likely, it would be the next century before the final mile of interstate highway is built.

Mr. President, while completion of the Interstate System is delayed, other road needs continue to mount. These needs for improved transportation cannot be adequately met, however, so long as the Interstate System remains unfinished. At the same time, continuing inflation pushes the date of interstate completion far into the future.

There are several States—Florida and West Virginia among them—with both the desire and the ability to expedite completion of their portions of the Interstate System. The measure introduced by Senator STONE and me would permit any such State to move ahead as rapidly as it desires. The issuance of bonds would provide the necessary funds without imposing an immediate heavy burden on the Federal budget. Interstate roads could then be built and I am confident that the price would be less than if construction were extended over the next 25 years. That period would be used to retire the bonds at an interest rate almost certainly below the annual rate of inflation. Money would be saved and the benefits of the highways would be available to the motoring public and to our national economy. This plan has an added advantage of permitting the Congress to forecast accurately the annual expenditures for highways. No State would be compelled to participate in this program but for those with substantial amounts of costly interstates remaining the advantages are obvious.

Mr. President, I have advocated that we must find a method of bringing the interstate program to a successful conclusion. The bill we introduce today provides a mechanism by which this goal can be achieved in a relatively brief period and without subjecting ourselves to the continuing cost increases of another quarter century. I urge Members of the Senate to carefully review its provisions and I hope that it can be brought before this body for early consideration.

By Mr. JACKSON (for himself and FANNIN) (by request):

S. 2577. A bill to authorize the Secretary of the Interior to designate a segment of the New River Gorge in West Virginia as a component of the National Wild and Scenic Rivers System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I am introducing today, for myself and Mr. FANNIN—by request—a bill to authorize the Secretary of the Interior to designate a segment of the New River Gorge in West Virginia as a component of the National Wild and Scenic Rivers System, and for other purposes.

I ask unanimous consent that the bill and the accompanying letter of transmittal be printed in the RECORD.

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

S. 2577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to take appropriate action, as herein provided, to include in the National Wild and Scenic Rivers System the following river and land adjacent thereto:

New River Gorge, West Virginia.—The segment from Bluestone Lake near the town of Hinton in Summers County downstream 66 miles to the town of Gauley Bridge in Fayette County, as identified in the Department of the Interior's New River Gorge Study Report dated May 1, 1975.

(b) For not more than three years after the date of enactment of this Act, the Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended, on or directly affecting the New River Gorge area described in subsection (a), and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that the Secretary determines would have a direct and adverse effect on values for which he might designate such area for inclusion in the National Wild and Scenic Rivers System.

(c) After the Secretary determines that the appropriate officials of the State of West Virginia and political subdivisions thereof have taken adequate measures to protect such area, including, but not limited to, measures to regulate surface and deep mining operations and regulate and coordinate the use and development of all public and privately owned lands through local zoning or other land use regulation methods, the Secretary is authorized to designate such area as a component of the National Wild and Scenic Rivers System by publication of notice thereof in the Federal Register, and to administer the New River Gorge component. Upon the date of such publication of notice, all of the provisions of the Wild and Scenic Rivers Act (82 Stat. 906) applicable to the rivers designated in section 3 of that Act shall become applicable to the New River Gorge component: *Provided*, That, with respect to such component, the Secretary shall (i) take the action specified in section 3(b) of the Wild and Scenic Rivers Act within two years after such date, and (ii) not acquire a fee title to, or lesser interest in, a total of more than 1000 acres of land unless the acquisition is by donation, or by transfer from any Federal agency.

SEC. 2. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $2,500,000 for the acquisition and development of lands to be administered by the Secretary. No funds otherwise authorized to be appropriated by this section for land acquisition and development shall be expended by the Secretary until the date of publication of notice in the Federal Register of the designation of the New River Gorge component.

U.S. DEPARTMENT
OF THE INTERIOR,
Washington, D.C., September 30, 1975.

Hon. NELSON A. ROCKEFELLER,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. ROCKEFELLER: Enclosed is a draft bill, "To authorize the Secretary of the Interior to designate a segment of the New River Gorge in West Virginia as a component of the National Wild and Scenic Rivers System, and for other purposes."

We recommend that the bill be referred to the appropriate Committee for consideration and that it be enacted.

The enclosed draft bill would authorize the Secretary of the Interior to include in the National Wild and Scenic Rivers System that segment of the New River in West Virginia from Bluestone Lake near the town of Hinton in Summers County downstream 66 miles to the town of Gauley Bridge in Fayette County.

Administration of the river would be by the Secretary of the Interior following his publication of a notice in the *Federal Register that* the appropriate officials of the State of West Virginia and political subdivisions thereof have taken adequate measures to protect such area, including, but not limited to, measures to regulate surface and deep mining operations and regulate and coordinate the use and development of all public and private owned lands through local zoning or other land use control methods.

The draft bill provides that immediately upon its enactment a 3-year moratorium is placed on the Federal Power Commission licensing of new water resource projects on or directly affecting the New River Gorge area, provided that the presently existing, licensed projects in and just below the area—Glen Ferris and Hawks Nest—as currently operated, or any reasonable modifications thereto, shall not be affected by the designation of the area as a wild and scenic river. Further, the 3-year moratorium would extend to Federal assistance in the construction of any water resource project which the Secretary determines would have a direct and adverse effect on the wild and scenic river values of the area.

It is proposed that, upon the date of publication of the above notice, all the provisions of the Wild and Scenic Rivers Act (82 Stat. 906) applicable to the "instant rivers" of the national system would become applicable to the New River Gorge component, except that the action specified in section 3(b)

of the Act would be accomplished within two years after such date. Also, the Secretary would be limited to the acquisition for this component of land or interests in land totaling no more than 1,000 acres unless the acquisition is by donation, or by transfer from any Federal agency.

The proposed bill would authorize the appropriation of the funds necessary to carry out its provisions, but not to exceed $2,500,000 for the acquisition and development of lands to be administered by the Secretary. A provision delaying the expenditure of these acquisition and development funds is included in order to assure that State and local officials have taken adequate measures to protect the New River Gorge area before such funds are expended.

This legislative proposal derives from an assessment of the recreation and environmental values of the New River Gorge in West Virginia conducted by the Bureau of Outdoor Recreation. The study was responsive to a request contained in the Senate Committee report on the Department of the Interior Appropriation Act for Fiscal Year 1975. The draft bill implements the recommendations presented in the enclosed copy of the Bureau's study report.

The study report assesses the physical capabilities of the New River Gorge area, compares the area to national criteria, and recommends a course of action that recognizes the recreational, environmental, historical, cultural, and economic values of the New River Gorge.

It is our judgment that the New River Gorge in West Virginia is best suited for National Wild and Scenic River designation. This conclusion is based on an objective evaluation of National Park, National Recreation Area, and National Wild and Scenic River criteria. Costs, local public opinion, and degree of environmental protection were other important considerations.

In considering the proposal, it should be noted that the Department of the Army operates Bluestone Lake Project immediately upstream from the proposed river area. As authorized by Congress in the Flood Control Acts of June 22, 1936 (74 Stat. 1586) and June 28, 1938 (75 Stat. 1217), Bluestone Lake Project provided for the future development of hydroelectric power facilities and associated structures. Establishment of the wild and scenic river as provided in the draft bill would preclude that development of hydroelectric power at Bluestone Lake utilizing downstream regulating structures.

The flow standards which might be required to assure preservation or enhancement of the wild and scenic rivers project would be developed in full cooperation with the Department of the Army.

We would note that an onsite mineral evaluation was not part of the study, and no analysis of the mineral values has been conducted under the corridor around the proposed segment.

The proposal attempts to balance Federal cost, environmental protection, and the desires of those most affected—the people who live and work in the New River Gorge area.

The study report recommends that the New River in West Virginia, from the town of Hinton to Gauley Bridge, should be included in the National Wild and Scenic Rivers System. The river segments from Hinton to Brooks Island (8 miles), and from the Appalachian Corridor "L" Bridge to Gauley Bridge (14 miles) should be classified as recreational river areas. The middle segment, from Brooks Island to the "L" Bridge (44 miles), should be designated as a scenic river area.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely yours,

NATHANIEL P. REED,
Assistant Secretary of the Interior.

By Mr. HUMPHREY for Mr. PHILIP A. HART (for himself, Mr. EASTLAND, Mr. HUMPHREY, Mr. MCGEE, Mr. LEAHY, and Mr. CLARK):

S. 2578. A bill to authorize the Secretary of Agriculture to make financial assistance available to agricultural producers who suffer losses as the result of having their agricultural commodities or livestock quarantined or condemned because such commodities or livestock have been found to contain toxic chemicals dangerous to the public health. Referred to the Committee on Agriculture and Forestry.

Mr. HUMPHREY. Mr. President, I am introducing this bill on behalf of Senator PHILIP A. HART of Michigan.

Mr. President, I ask unanimous consent that the text of Senator HART's remarks as well as the text of the bill be printed in the RECORD.

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

S. 2578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that for the purposes of this Act—

(1) The term "agricultural producer" means any person engaged in the production of food crops, animal feedcrops, livestock, or livestock products, as owner, operator or renter.

(2) The term "toxic chemical" means any organic or inorganic chemical substance for which Federal or State standards exist to protect the public health.

(3) The term "federal official" means any officer of the United States Government empowered to quarantine or condemn property for reasons of public health.

(4) The term "State official" means any officer of a State Government empowered to quarantine or condemn property for reasons of public health.

(5) The term "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

(6) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, or the Trust Territory of the Pacific Islands.

(7) The term "Secretary" means the Secretary of Agriculture.

LOAN AUTHORITY

SEC. 2 (a) The Secretary is authorized to make loans through the Agricultural Credit Insurance Funds to agricultural producers in the United States who—

(1) have sustained losses as a direct result of their food crops, animal feedcrops, livestock or livestock products having been quarantined or condemned by a Federal official or State official because such crops, feedcrops, livestock, or livestock products contained quantities of toxic chemicals dangerous to the public health;

(2) have not willfully or negligently failed to follow procedures prescribed by the United States in connection with the use of the toxic chemical causing the quarantine or condemnation; and

(3) intends to use the proceeds of such loan to continue his farming or livestock operation.

(b) Loans made under this Act shall bear interest at 5 per centum per annum and shall be made for periods not to exceed 10 years, except as provided in subsection (d).

(c) The amount of any loan made under this Act shall not exceed the fair market value or the replacement value, whichever is less, of the property quarantined or condemned, and in no event shall the amount of any loan exceed $100,000 in the case of any agricultural producer.

(d) No loan shall be made under this Act to any agricultural producer who has been fully compensated for the loss for which the loan is requested. In any case in which an agricultural producer is granted a loan under this Act because of a loss and such agricultural producer is subsequently compensated for that loss, he shall be required to repay the loan up to the amount of compensation within a period of six months after receipt of compensation for such loss.

EFFECTIVE DATE

SEC. 3. Loans under this Act shall be made available to agricultural producers for looses incurred on and after January 1, 1973. Authority to make loans shall terminate three years after the date of enactment.

RULES AND REGULATIONS

SEC. 4. The Secretary is authorized to issue such rules and regulations as he deems necessary to carry out the provisions of this Act.

AUTHORIZATION FOR APPROPRIATIONS

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

STATEMENT BY SENATOR PHILIP A. HART

FARMERS' TOXIC CHEMICAL CONTAMINATION RELIEF ACT

The purpose of this legislation is to provide low-interest loans through the Department of Agriculture to farm producers whose feed or livestock has been condemned because of contamination by toxic chemicals through no fault of the farmer.

We are all familiar with the serious environmental problems facing this nation through the contamination of the food chain with toxic chemicals. When such contamination occurs, our first concern is properly for the consumer. Federal and State governments launch emergency recall and condemnation efforts to keep contaminated food from harming the public. But there is another victim of those incidents whom we seem all too willing to overlook—the farmer who, through no fault of his own, has his livestock or crops condemned to protect the public. I cannot emphasize too strongly the need for some assistance for those forgotten farmers who have suffered through the tragedy of having crops or animals destroyed because of someone else's error.

The problem has arisen as chemicals, some never intended to be used in agricultural production, have accidently been incorporated into animal feeds causing the loss of millions of dollars to American farmers. Since 1968, there have been 18 such incidents involving poultry in 20 states. Livestock (cattle, swine, or lambs) have been involved in another six incidents in five states during the same period. The following chart sets out in greater detail these contamination incidents:

State	Year	Animal	Estimated cost	Cause of loss
Arkansas	1969	Poultry	$4,000,000	Heptachlor.
Missouri	1969	Cattle	50,000	Dieldrin.
New York	1970	Poultry	500,000	Do.
Do	1971	do	1,000,000	PCB.
Southeastern United States (14 States).	1971	do	2,500,000	PCB.
Maine	1972	do	3,000,000	PCB.
Minnesota	1972	do	336,000	PCB.
Maine	1972	do	150,000	Dieldrin.
Missouri	1972	do	78,000	Do.
California	1972	do	90,000	Do.
Do	1971	do	50,000	PCB.
North Carolina	1973	do	2,000,000	Chlordane.
Do	1973	do	88,000	Dieldrin.
Louisiana	1973	do	20,000	Do.
Oregon	1969	Cattle	250,000	Do.
Mississippi	1971	Poultry	50,000	Do.
Georgia	1971	do	2,500	Do.
North Carolina	1971	Swine	10,000	Do.

State	Year	Animal	Estimated cost	Cause of loss
New Mexico	1970	...do	36,000	Mercury.
California	1973	Lambs	25,000	HCB.
Missouri	1973	Poultry	567,000	PCB.
Louisiana	1973	Cattle	400,000	HCB.
Michigan	1974	Cattle/poultry.	1 100,000,000	PBB.

1 Approximate.

The Wall Street Journal, on July 1, 1975, gave the following account of an incident of toxic chemical contamination which occurred in my State of Michigan when a chemical company accidentally substituted a fire retardant chemical (polybrominated biphenyl-PBB) for magnesium oxide, a supplement added to dairy cattle feed, in a shipment to Michigan Farm Bureau, which then mixed the chemical and feed and distributed it throughout the State to dairy farmers.

It was a nightmare for farmers. An obscure industrial chemical had accidentally been mixed into animal feed and had gone undetected for more than a year. Some animals were dying. Tens of thousands of cattle, sheep and hogs and 1.5 million chickens were quarantined, with all of these ultimately to be destroyed.

Meantime, unknown quantities of meat, milk, and eggs from the contaminated animals had found their way onto Midwestern dinner tables. When news of the problem got out, consumers anxiously awaited word on the health consequences for humans. But then the tension eased last year because no ill effects were found.

So the nightmare—one of the worst cases of contamination in U.S. farm history—seemed to be over.

But for farmers, the nightmare was not over. It had hardly begun, and there is no debate about the economic havoc wreaked by the FBB contamination on Michigan farmers. The losses have been staggering; over 600 claims have been filed with the Michigan Farm Bureau. Although about half of these claims have been settled, to the tune of $22 million, there are at least another 300 farmers who either continue to operate under the most impossible of financial situations or who have been forced into bankruptcy for lack of relief. Farm Bureau, itself, has filed a $200 million damage suit against Michigan Chemical, its supplier.

The effect of the Michigan disaster is best documented in the following excerpt from the report from the Michigan State Senate Special Investigating Committee, "The Contamination Crisis in Michigan: Polybrominated Biphenyls," (July 1975):

"With the imposition of a quarantine, the farmer was left with absolutely no source of income, yet his overhead continued to rise with the mounting enormous veterinary bills. It would have been unlawful to market any products from the farm, and yet, maintenance of these animals was necessitated. This was due to the questionable legal position of a farmer disposing of contaminated livestock, and/or products on his farm with the uncertainty of contaminating the local environment. For this reason, the farmers continued on a day to day, week to week, and month to month basis, maintaining herds that were most certainly doomed to be destroyed in the interest of public health. Unlike a situation created by a natural disaster, no state or federal funds were available to these farm individuals. They were forced to weather out this crises, caused by someone else and suffered fully by them.

"Relief began arriving in early October, 1974, when insurance settlements started through Michigan Farm Bureau. However, insurance settlements were not, and still are not, quick in coming. The insurance structure surrounding the PBB crisis is a mammoth conglomerate of bureaucracy and red tape. Perhaps hundreds of insuring and reinsuring corporations are involved. Decisions as to financial retribution are oftentimes made far beyond the boundaries of the State of Michigan, hundreds and thousands of miles removed from the plight of the farmer. In any case, some 74 claims were settled in the fall of 1974 out of the first insurance pool of some 10½ million dollars.

* * * * *

"Following the exhaustion of the first pool of insurance monies, efforts were undertaken to establish a second insurance pool. This was an involved process, but eventually, in February, 1975 settlements from the second insurance pool began.

. . . Eventual settlements . . . entails first of all, the formation of another insurance pool, as the current one will in no way meet the needs of the many claims yet unsettled. Secondly, just compensation is still contingent upon the various parties' acceptance of an individual's claim. Thirdly, even if a third insurance pool in constructed, and, even if the insuring corporations and responsible parties accept the claim and liability for damages of an individual farmer, he still has the grueling months of waiting until his claim is reached.

* * * * *

"To fully appreciate the straits of destitution faced by hundreds and hundreds of Michigan farmers, one would have to experience the situation that they did . . .

"Months and months were suffered without income. While the bills piled up, productive farm operations reached the levels of bankruptcy. All this time, the many other fears associated with the PBB crisis were compounded in these families. While the consuming public in the Grand Rapids area was in an uproar about the possibility of eating a half-pound of hamburger at .3 parts per million, farm families across the state wrestled daily with the fact that each of them, parents and children alike, had ingested large amounts of products contaminated with PBB at high levels for months. These farm families anxiously awaited reports from the Health Department that many times were long in coming. They awaited some kind of conclusive evidence that their family's health was safe. This danger was more real to them than that of the consuming public, whose exposure was only to the very low levels, which sporatically reached the market after quarantines were imposed. They were forced to face these questions and fears while constantly living under the economic shackles of quarantine and no income."

Despite the development of information on the cause of the contamination, farmers were left with little recourse once the first insurance companies' settlements reached their maximum. The only available alternative to waiting for further action by reinsuring companies was to seek redress in the courts. The Michigan State Senate Report aptly describes the futility of this remedy for most farmers:

"Unfortunately, in the months that we have researched this question, working in close conjunction with the Insurance Commissioner's office, this office has been unable to find a means of hastening this process or of forcing action. We are doomed to a role of sitting on the sidelines and urging action. The reason for this is that the insuring corporations or reinsuring corporations, as the case may be, (despite the appearance of disregard for the plight of the families involved) always have legal recourse to attempt to prove their case in court. Thus, if a farm family feels their claim is not being given just consideration, even if the Insurance Commissioner's office and this office is in concurrence with that opinion, perhaps the only option open to that farm family is a lengthy court battle. From a practical point of view, it is impossible for an individual farmer to finance the long, difficult legal battle necessary to defeat a giant corporation and its staff while maintaining this fight from a position of financial destitution inflicted by the PBB contamination."

The bill my colleagues and I are introducing today is to respond to situations such as faced by the Michigan farmers by making low-interest loans available to agriculture producers who, without negligence, are victims of such chemically induced disasters. These loans would allow the farmer to recoup his losses immediately and begin rebuilding rather than risk bankruptcy while waiting for compensation through the courts. Funds for these loans are to be obtained through the Agricultural Credit Insurance Fund, which is a revolving fund administered by the Farmers Home Administration. By using this funding approach, the cost to the government can be kept at a minimum. The loans under this bill are for a 10-year period, with a maximum available per farmer of $100,000 at 5% interest. The legislation also provides that the recipient must repay the loan within six months of receiving compensation from the parties at fault.

It is clear that there is a pressing need to protect the agricultural sector from the effects of these devastating contamination incidents. I strongly urge the Congress to act expeditiously to prevent future tragedies such as experienced by the Michigan farmers.

I include at this point in the RECORD, along with newspaper articles describing further the impact of the occurrence in Michigan.

[From the Washington Post, June 27, 1975]

MICHIGAN'S DYING COWS: AT LEAST THEY'RE FIREPROOFED

(A commentary by Nicholas von Hoffman)

Mrs. Anne Hale of Dafter, Mich., is calling for help. The beef cattle on her farm in the Upper Peninsula are dying. The family has suffered such financial reverses that her husband has had to take a construction job.

The Hales think that their cattle have been poisoned. The government does not. What is generally agreed on is that two years ago the Michigan Chemical Company accidentally filled a number of bags of livestock feed with a chemical called polybrominate biphenyl or PBB. This compound normally has nothing to do with agriculture, its principal use being as a fire retardant for plastics.

Unfortunately, PBB looks a great deal like livestock feed and by the time people realized that the mistake had occurred, over 20,000 head of cattle in Michigan had died or had to be destroyed. A million and a half chickens went the same route, as did lesser numbers of pigs and sheep.

Now enters the government. The Food and Drug Administration had no toxicity studies of PBB when the accident was discovered. It therefore decided that it would set the permissible limits of this substance in meat, milk and eggs on the basis of its experience with compounds having an analogous molecular structure, the poly-chlorinated biphenyls. As it turned out these limits were 10 times too high or perhaps even more so.

In other words these Borgias in Washington simply made a guess, an informed guess, possibly, but still a guess about allowing a toxic substance in the food chain. They had no direct clinical studies, no direct laboratory experiments about how little of this poison can kill and sicken man or beast. They can do that legally because under our laws anything from lead to plutonium is, for all practical purposes, presumed safe until people start dropping dead from it 20 years later.

So far, so deadly, but what comes next shows you why Lucretia Borgia would make the ideal head of the Food and Drug Administration. According to Alan Hoeting, the

FDA's Deputy Regional Director out there in Michigan, when they found out their original guidelines were too high, a period passed when they could do nothing about it. Convinced the permissible limits had to be dropped much lower, down to 3 parts per million, the agency discovered it had only one reliable test for picking up the existence of the offending chemicals at such a level. The agency's rules require it to have two independent tests so that the new, more conservative guidelines couldn't be put into effect until a new test was successfully devised. Note that the institutional presumption is in favor of the chemical's harmlessness, not the safety of human beings or animals.

Unhappily for Mrs. Hale and her family, the FDA failed to notify their livestock that it had been administratively determined they were supposed to stay alive at the .3 level. Mrs. Hale says her cattle tested at a far lower level of toxicity, at .07, but they were dying anyway. "We have lost 31 cows and calves," she says. "The normal loss for the winter or a whole year would have been three or four.

The FDA contends that if Mrs. Hale's cattle are suffering such awesome morbidity rates it must be due to another cause. A group of learned, and well-credentialed experts was hustled into Michigan by the agency. These worthy scientists did a study of 31 carefully selected herds and established cattle do not die at the .07 level. Case closed.

Well, not quite closed. Alpha Clark, a doctor of veterinary medicine in McBain, Mich., says, "I can blow a hole right straight through that study." If he's got his facts straight, he already has, because he says four of the control herds were fed feed with PBB in it, which, of course, would render the FDA effort meaningless. The doctor is very worried. He says he's done studies on 100 Michigan herds and that the data is anything but reassuring. "I wish someone from out of this state would look into this. This is a bugger and it's affecting lots of farm families," he declares adding he also has word of several suspicious cases affecting farm children.

The possibility that the PBB controversy won't be settled on its scientific merits but by innuendos about people's self-interest also concerns Dr. Clark. He has reason. The FDA office in Detroit won't say it, but they're hinting that the farmers want the permissible PBB limits lowered to make it easier for them to collect on insurance for the damage they've incurred. At any rate, it is passing strange that when you call up the FDA office for information on toxicity they volunteer economic statistics designed to put the farmers' motives in an unfavorable light.

While the Borgias of the Food and Drug bureaucracy work on a research plant to show Michigan livestock is suicidal, more of Mrs. Hale's cattle die. The calves are sickly and losing their hair and she is wondering if there isn't more PBB around than the authorities are letting on. But whether or not this fire retardant is still getting into the food chain, Mrs. Hale says, "We have no alternative but to put our cattle on the market. We are already finished financially, but it doesn't seem right if we won't eat them or feed them to our children to ask someone else to purchase and eat this meat."

There are consolations, though. Michigan now has fireproof cows. If you don't like it, America, don't eat your heart out. It might be poisoned.

[From the Wall Street Journal, July 1, 1975]

MICHIGAN FARMERS CONTINUE TO COMPLAIN ABOUT HEALTH HAZARD FROM 1973 ACCIDENT

(By John R. Emshwiller)

STANWOOD, MICH.—It was a nightmare for farmers. An obscure industrial chemical had accidentally been mixed into animal feed and had gone undetected for more than a year. Some animals were dying. Tens of thousands of cattle, sheep and hogs and 1.5 million chickens were quarantined, with all of these ultimately to be destroyed.

Meantime, unknown quantities of meat, milk and eggs from the contaminated animals had found their way onto Midwestern dinner tables. When news of the problem got out, consumers anxiously awaited word on the health consequences for humans. But then the tension eased last year because no ill effects were found.

So, the nightmare—one of the worst cases of contamination in U.S. farm history—seemed to be over.

But for people like Ronald Creighton the episode is neither gone nor forgotten. Some cattle and chickens on Mr. Creighton's 40-acre farm here were wiped out by the contamination problem, but that's the least of his worries. Lately, the 29-year-old farmer has been beset with fatigue, severe and nagging joint aches and a painfully swollen knee that have made his farm chores difficult and forced him to abandon a job with a county road commission.

"Sometimes it takes me an hour just to get up and get going in the morning," he says. and recently his doctor gave him more bad news—tests indicate his liver may be damaged.

EFFECT ON FARM FAMILIES

Nobody is sure just what is causing Mr. Creighton's ailments or similar complaints by some other Michigan farmers. But one theory is that while the general public may have escaped any ill effects from the contamination, those who relied most heavily on the afflicted animals for food—the farmers and their families—may not have been so lucky.

That theory has caused a smoldering controversy between farmers and health officials that has raised new questions not only about the bizarre accident here but also about how any such cases might be dealt with elsewhere in the future.

The trouble began here in 1973, when a major chemical concern, Michigan Chemical Co., accidentally supplied a large batch of a commercial fire retardant, polybrominated biphenyl, or PBB, to Farm Bureau Services, a farmers' cooperative, instead of a feed supplement that had been specified. The PBB was mixed into feed that then went to several hundred Michigan farms. The accident wasn't pinpointed until a year later, after it became clear something was making a large number of animals ill.

As soon as the contamination of the feed was found, state health officials moved quickly to quarantine and destroy the sickest animals. They also set standards for PBB content in food products that they say are so low as to eliminate any risk from marginally affected animals still on the market. And they successfully assured the public that food previously consumed from the afflicted animals didn't post any general health threat, because the amount eaten by any typical consumer would have represented only a tiny part of his overall diet.

But Mr. Creighton and some others aren't typical in this case. In the year before the contamination was discovered, thousands of Michigan farm dwellers ate a concentrated daily diet of products from their own tainted livestock. Some farmers, doctors and independent researchers now fear that the result for this group may be PBB-related illnesses.

HEALTH OFFICIALS' FINDINGS

So far, the suspicion is unproven. The Michigan Department of Public Health has repeatedly stated it hasn't been able to find any conclusive evidence of human sicknesses caused by the PBB debacle. It recently published a long-awaited scientific study of several hundred farmers that concluded "no disease or symptom that occurred consistently" could be isolated.

But a number of farmers remain unconvinced. For example, 50-year-old Leonard Rehkopf, a Big Rapids, Mich., farmer says he has suffered from headaches, fatigue and swollen finger joints. And he blames PBB, which he says has been found in his system through blood tests. Similarly, Douglas Warner, a Charlevoix, Mich., farmer who lost his herd last year to the chemical accident, worries that PBB may have caused some of his health problems.

Such health problems aren't universal among farmers who lost animals to PBB. But some observers agree that there has been at least a curious pattern in some cases. For example, Dr. David Salvati, a Big Rapids physician, says that besides Mr. Creighton, he has 32 other patients from farms where PBB-tainted food was consumed who show traces of liver damage. And Dr. Walter Meester, a Grand Rapids clinical toxicologist, adds that signs of liver damage have turned up in "some" of the 20 PBB related patients he has tested. Both physicians avoid any flat judgments, but Dr. Meester says there is "a logical suspicion that warrants further study."

Some research studies on rats and mice have also raised questions. One federal Food and Drug Administration experiment indicated PBB could cause such things as retarded growth and enlarged livers in the test animals. An Ann Arbor, Mich., medical researcher says signs of a high birth-defect rate turned up in the offspring of rodents fed large doses of PBB. But in both cases the scientists caution that such tests aren't conclusive and aren't necessarily meaningful for humans.

LACK OF INFORMATION

Because PBB was never intended to be used in connection with food products, little was known about its health effects.

Dr. John Isbister, chief of the state health department's bureau of community health, insists that his agency has been "doing everything within our capabilities to identify a health problem" from PBB. But "we haven't found any patterns of illness" so far, he says.

He suggests that some complaints that patients ascribe to PBB may have different sources. For example, one case of hair loss was traced to a ringworm fungus, whereas the victim suspected PBB. Health officials add that the entire PBB debacle, with its huge economic losses for many farmers, has put great nervous and emotional strain on many victims, which could indirectly account for some illnesses.

Still, some farmers argue that health officials have been too slow to aid them, and a few darkly suggest that because they are only a small group, they are being overlooked by an indifferent state and federal health bureaucracy.

"They're trying to sweep us under a rug," contends Mr. Rehkopf, the Big Rapids farmer. And Mr. Warner of Charlevoix charges health officials with "just breezing over things because if they said something bad, it might hurt sales" of the state's farm products.

Dr. Isbister and other health officials bristle at such accusations. The state's first report on the possible effect of PBB on farm families took 10 months to complete, but "this is very deliberate work and it has to be accurate and meaningful," Dr. Isbister says. He adds that my early this year he had assigned 12 to 15 staff members to the project to help speed it to conclusion, roughly double the number working on it initially.

LONG-TERM STUDY BEGINS

Dr. Isbister recently took a public tour of some rural communities in the state to answer questions from curious or nervous

farmers. His department, with the help of the federal government, has also set up plans for a long-term study of PBB's health effects on about 6,000 farmers here. The broad study could take up to 15 years to complete and may ultimately yield more definitive answers about the chemical's effects. But so far the health department is still trying to wring $225,000 in first-year costs from governmental budgets.

The lack of any standby system for handling such man-caused accidents particularly troubles some people, including Michigan farmer Frederick Halbert, who led the investigation that helped identify the PBB in the animal feed in the first place. The young chemical-engineer-turned-farmer spent thousands of dollars of his own money on research and telephone calls pending government agricultural and health establishments to action on the farmers' complaints more than a year ago.

"The bureaucracies still seem to have very little internal energy" for such problems, he says, perhaps because only a few thousand people seem to be directly affected. But he sees this state's PBB accident as just one of a new kind of potential hazard from the proliferation of exotic man-made chemicals, and he believes that information developed here could provide clues for dealing with any future contaminations.

Some officials agree that there may be a lesson in the controversy here. An aide to Michigan Sen. Philip Hart, for example, suggests that tighter food controls and a plan for compensating victims of such accidents may be needed. He says he fruitlessly searched federal health programs for possible help for Michigan farmers. "I can see why they're upset. We have plans for bailing out everything under the sun from Lockheed to the Penn Central," he says, but nothing to deal with an accident such as occurred here.

Meantime, the effects of the PBB issue continue to ripple. Farm Bureau Services, the cooperative that supplied the feed to the farmers, has settled about 300 damage claims from farmers for about $22 million, and another 300 claims are outstanding. The cooperative, in turn, has a $200 million suit pending against its supplier, Michigan Chemical.

Officials are still debating whether the allowable PBB-content standard for food products in the state should be lowered further. One agriculture expert estimates that a lower standard would mean the ultimate destruction of another 20,000 head of cattle on top of the 23,000 already taken off the market.

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

S. 2582. A bill to amend the Endangered Species Act of 1973. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce, by request, for appropriate reference, a bill to amend the Endangered Species Act of 1973, and I ask unanimous consent that the letter of transmittal be printed in the RECORD together with the text of the bill.

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

S. 2582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531–1543) is amended as follows—

(a) Section 4(f)(2)(B)(ii) (87 Stat. 889) is amended by striking ", (B) and (C)" after "subsection (b)(A)".

(b) Section 10(b) (87 Stat. 896) is amended by adding a new subparagraph (4) and (5) as follows: "(4) The Secretary may grant to any person subject to the jurisdiction of the United States, under such terms and conditions as he may prescribe, exemptions to the prohibitions on exportation in section 9(a)(1)(A) and to the prohibitions in sections 9(a)(1)(E) and (F) for stocks or inventories of parts or products of endangered species lawfully held within the United States on December 28, 1973, in the course of a commerical activity: *Provided,* That such an exemption shall not violate the Convention or other provisions of law: *Provided further,* That such an exemption may apply to such length of time as the Secretary may determine."

"(5) The Secretary may grant to any person subject to the jurisdiction of the United States, under such terms and conditions as he may prescribe, exemptions to the prohibitions in section 9(a)(1)(A), (E) and (F) for live endangered species of fish or wildlife lawfully held in captivity in the United States on December 28, 1973: *Provided,* That such exemption shall not violate the Convention or any other provisions of law: *Provided further,* That such an exemption may apply to such length of time as the Secretary may determine."

"(6)(A) Any such exemption may be granted under subparagraphs (4) and (5) of this subsection by such Secretary upon such terms and conditions as he shall prescribe, which may include, but are not limited to, requiring such persons to register inventories within a time certain to be set by the Secretary; to maintain complete sales records and such other documents and materials as the Secretary may prescribe; to permit duly authorized agents of such Secretary to inspect any such inventories and records; and to prepare and submit to such Secretary any reports requested by him. *Provided,* That if the Secretary requires such inventories under this subsection, he shall only grant an exemption pursuant to subparagraphs (4) and (5) for the holdings reported in such inventories. *Provided further,* that no regulations issued under this subsection shall be subject to the provisions of section 4(f)(2)(A)(i)."

"(B) With respect to any act prohibited by Section 9(a)(1)(A), (E) and (F) for live endangered species of fish or wildlife, or for stocks or inventories of parts or products of endangered species, there shall be a rebuttable presumption that the live endangered species of fish or wildlife, or the stocks or inventories of parts or products of endangered species involved in such act was not lawfully held within the United States on December 28, 1973."

(c) Section 10(c) (87 Stat. 896) is amended by—

(1) striking the word "subsection" in the first sentence and inserting in lieu thereof the word "section"; and

(2) striking the period at the end of the second sentence and inserting in lieu thereof ", except that the 30 day period may be waived by the Secretary in an emergency situation where the health or life of an endangered animal is threatened, and no reasonable alternative is available to the applicant. Notice of any emergency waivers granted pursuant to this subsection must be published in the Federal Register within 10 days following the issuance of the permit."

(d) Section 11(e)(3) (87 Stat. 899) is amended by—

(1) adding "make arrests without a warrant for any violation of this Act if they have reasonable grounds to believe that the person to be arrested is committing the violation in his presence or view, and" before the words "execute and serve any arrest warrant,"; and

(2) striking the period at the end of the subsection and inserting in lieu thereof "; upon forfeiture, or waiver, of any such property to the United States, it shall be disposed of by the Secretary in such a manner, consistent with the purposes of this Act, as the Secretary deems appropriate."

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 2, 1975.

Hon. NELSON A. ROCKEFELLER,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith are the Department of the Interior's proposed amendments to the Endangered Species Act of 1973 (P.L. 93–205; 87 Stat. 884).

We recommend that this proposal be referred to the appropriate Committee and that it be enacted.

The Endangered Species Act of 1973 provided new and stronger authority for the Secretary of the Interior (and the Secretary of Commerce) to prevent the extinction of plants and animals. That authority included a broader responsibility to list species that are subject to provisions of the Act and also strengthen the Secretary's ability to protect and manage listed species.

The goal of the endangered species program is to maintain a healthy diversity of species and to preserve in their natural ecosystem species that are endangered with extinction or threatened with endangerment. Wherever possible the program seeks to restore such species to the point at which it is once again a viable component of its ecosystem. Further, insofar as possible, it is intended to prevent other species from becoming endangered or threatened.

Since enactment of the 1973 Endangered Species Act, we have become aware of a number of problems; certain provisions need clarification or modification to expedite management and to insure equity to those individuals impacted by the Act.

Of great concern to the Department of the Interior is the situation where individuals legally possessed, prior to enactment of the 1973 Act, parts or products of endangered species for the purpose of sale or for other activities of a commercial nature. A similar situation exists with respect to live animals. For example, prior to enactment of the 1973 Endangered Species Act, zoos and circuses and various other types of live animal dealers regularly engaged in the sale and interstate transport of surplus or unneeded animals which were Federally listed as endangered. The Endangered Species Act of 1969 did not prohibit such commercial activity, but prohibited only the importation of species listed as endangered. With passage of the 1973 Act, such commercial activity was prohibited.

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

S. 2583. A bill to amend the Interstate Commerce Act to establish expeditious Interstate Commerce Commission procedures, and for other purposes. Referred to the Committee on Commerce.

Mr. HARTKE. Mr. President, Senator PEARSON and myself are introducing, by request, a bill to eliminate regulatory delay at the Interstate Commerce Commission. I ask unanimous consent that the text of the bill be printed in the RECORD, together with the letter of transmittal from the Interstate Commerce Commission and explanation and justification for the proposal.

This Department fully supported this prohibition so as to reduce the demand for certain animals whose continued existence was, and is, in jeopardy. However, we recognize that such a prohibition has also caused economic hardship on many individuals who

were engaged in legitimate commercial activities prior to passage of the 1973 Act. It is our judgment that the commercial demand for endangered animals should be reduced, and the United States should take the lead by reducing the demand of its citizens. However, we believe that a gradual reduction of this demand would create less severe economic hardhsip for many legitimate commercial enterprises.

The amendments proposed in subsection (b) of the proposed legislation would resolve the problems with respect to live animals and their parts or products of endangered species. The remaining proposed amendments would: 1) eliminate the 90 day comment period in issuance of emergency regulations. Such regulations cease to be in effect after 120 days unless the standard regulatory procedure is applied. As provided for in the current law, such regulations may be promulgated only in the case of an "emergency posing a significant risk to the well being of any species of fish or wildlife" and only if the Secretary publishes in the Federal Register the "detailed reasons why such regulation is necessary;" 2) clarify that notice of review of permit applications applies to the entire section 10, not just subsection (c); 3) waive the 30 day notice requirement in issuance of a permit where the health or life of an animal on the endangered species list is threatened; 4) authorize law enforcement personnel to arrest, without a warrant, persons committing violations in their presence or view; and 5) provide the Secretary with authority to dispose of forfeited property.

We urge enactment of this proposed legislation in order to assure the efficient administration of the Endangered Species Act of 1973.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely yours,

NATHANIAL REED,
Assistant Secretary of the Interior.

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

S. 2583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Interstate Commerce Act (49 U.S.C. 17) is amended as follows:

SECTION. 1. Subsection (5), (6), (7), and (8) of section 17 are deleted and the following subsections are substituted therefor:

(5) Any finding, report, or requirement or order of an individual Commissioner or board, with respect to any matter so assigned or referred involving the taking of testimony at public hearing shall be accompanied by a statement in writing of the reasons therefor, together with a recommended order, which shall be filed with the Commission. Copies thereof shall be served upon interested parties (including, in proceedings under part II, parties specified in section 205(e)). Such interested parties may appeal the initial decision to the Commission or a duly designated division of the Commission within twenty days after service; but, if within twenty days after service of the initial decision, or within such further period as the Commission or a duly designated division thereof may authorize, no appeal shall have been filed, the initial decision and order shall become the order of the Commission and shall become final. The Commission or a duly designated division thereof may, upon its own motion, and where an appeal is filed it shall, review the initial decision either upon the same record or after further hearing and rule thereon; and such recommended order shall thereupon be stayed or postponed pending final determination thereof. Review of an initial decision shall be made in accordance with section 8 of the Administrative Procedure Act, 5 U.S.C. § 557, and such rules limiting and defining the issues and pleadings upon review as the Commission may adopt in conformance with section 8(a), 5 U.S.C. § 557(b), thereof. When deemed by the Commission to be appropriate, it may authorize duly designated employee boards to perform under this paragraph functions of the same character as those which may be performed thereunder by duly designated divisions of the Commission. If the initial review upon appeal is performed by a duly designated employee board, then the decision of such employee board may be appealed to the Commission or duly designated division thereof as heretofore provide in this subsection.

(6) Any decision, order, or requirement of the Commission or a duly designated division thereof shall become effective within thirty days after service on the parties unless the decision, order, or requirement, or any applicable rule adopted by the Commission shall provide for such decision, order, or requirement to become effective at an earlier date. Any interested party to a decision, order or requirement of a duly designated division of the Commission, subject to such rules and limitations as the Commission may establish, may petition the Commission for rehearing, reargument, or reconsideration; and if the Commission finds that a matter of general transportation importance is presented, the Commission may reconsider the decision, order or requirement and in its discretion stay the effective date of such decision, order or requirement.

(7) Any decision, order or requirement of the Commission or a duly designated division thereof shall be administratively final on the date served; and from that time a suit to enforce, enjoin, suspend or set aside such decision, order, or requirement in whole or in part may be brought in a court of the United States under those provisions of law applicable in the case of suits to enforce, enjoin, suspend or set aside orders of the Commisison, but not otherwise.

(8) The Commission may at any time upon its own motive reopen any proceeding, and grant rehearing, reargument or reconsideration as to any decision, order, or requirement and reverse, modify, or change the same, and may establish rules allowing interested parties to petition for leave to request reopening and reconsideration based upon new evidence or changed circumstances.

SEC. 2. Section (9) of section 17 is deleted in its entirety; and subsections (10), (11) and (12) of section 17 are renumbered subsections (9), (10) and (11) respectively.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., October 17, 1975.

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

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

Hon. ROBERT E. JONES,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, D.C.

GENTLEMEN: Regulatory lag is a problem that both the Congress and this Commission are working to solve. Attached for your consideration is a Commission legislative proposal to modify section 17 of the Interstate Commerce Act, which we believe could aid the Commission substantially in its efforts to speed up its decision-making process. We believe that Section 17 imposes excessive and burdensome procedural requirements on the Commission that tend to drag out our cases. Our proposal would delete these excessive provisions and substitute a simple and logical procedure in conformance with the Administrative Procedure Act.

We have previously indicated in Congressional testimony that we intended to submit a legislative proposal that would provide for only one discretionary level of review. After careful consideration, we have decided that there should be an absolute right to one Commission (or Division) review, but that the Commission should have the discretion to limit the issues it will consider in making its review.

This, coupled with the various other parts of our proposal (which are fully explained in the attached Explanation and Justification), should enable the Commission to expedite its review process. Thus, we would be grateful for the prompt introduction and enactment of this proposal.

Sincerely yours,

A. DANIEL O'NEAL,
Acting Chairman.

By Mr. PASTORE (for himself and Mr. MAGNUSON):

S. 2584. A bill to amend certain provisions of the Communications Act of 1934, as amended, to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes. Referred to the Committee on Commerce.

LONG-RANGE FUNDING FOR PUBLIC BROADCASTING

Mr. PASTORE. Mr. President, today I introduce and send to the desk a compromise bill to provide long-range funding for public broadcasting in the United States.

In February, I introduced S. 893, a bill to amend certain provisions of the Communications Act of 1934, to provide long-term financing for the Corporation for Public Broadcasting. S. 893 was cosponsored by Senators GRIFFIN, MCINTYRE, PASTORE, and PEARSON.

On March 21, the Senate Commerce Committee reported the legislation favorably with amendments and the bill was then referred to the Senate Committee on Appropriations where it is now pending.

The bill I am introducing today is in every significant way a duplicate of the legislation that was favorably reported by the Senate Commerce Committee. Like S. 893, this legislation has three principal purposes relating to the Corporation for Public Broadcasting and the system of noncommercial educational radio and television stations:

First. To provide long-term Federal financing for the Corporation for Public Broadcasting by means of a 5-year authorization;

Second. To assure that a portion of Federal funds is distributed to local noncommercial educational broadcast stations; and

Third. To expand the scope of the Public Broadcasting Act of 1967 to include the development and use of nonbroadcast communications technologies for the distribution and dissemination of educational radio and television programing.

The only significant difference between this bill and S. 893 is the separation of the appropriation and authorizing functions with respect to long-term funding for public broadcasting. It is my sincere hope that this bill will provide the appropriate compromise vehicle to authorize long-term public financing for public broadcasting. It is extremely important that the Senate move quickly on this proposal. The Corporation for Public Broadcasting is functioning now on a continuing resolution. The basic programing decisions for the next TV season must be made within the next few months. It is important that authorizing legislation be enacted to allow the Appropriations Committee to act quickly on a supplemental appropriation for the Corporation for Public Broadcasting as soon as possible.

I would like to summarize why it is necessary that new legislation be introduced and be deferred to the Commerce Committee at this time.

The original bill, S. 893, combined appropriations and authorizations for CPB for a 5-year period. The companion legislation in the House of Representatives, H.R. 6461, was favorably reported by the Committee on Interstate and Foreign Commerce on May 22, 1975 and was sequentially referred to the Committee on Appropriations. The House Appropriations Committee reported the bill unfavorably on July 22, 1975.

The House Appropriations Committee opposed H.R. 6461 because it objected to the inclusion of appropriations in the authorization vehicle. The Appropriations Committee had no objection to the authorization language, the matching requirements, or the other essential features of the bill. The House Appropriations Committee stated in the body of its report that the committee would make appropriations to carry out the intent of H.R. 6461 following its enactment. The House Appropriations Committee apparently does not intend to delay in any way the availability of funds for public broadcasting. But the committee did object to the automatic appropriation for the 5-year period ending September 30, 1980, as proposed by H.R. 6461. The Committee states—

It does not in principle oppose advance appropriations for public broadcasting, and will include appropriations for the three fiscal years ending September 30, 1974 in an appropriation bill if and when H.R. 6461, or similar legislation, is enacted.

I believe that it is appropriate that Congress proceed with a 5-year authorization bill for the Corporation for Public Broadcasting with the assurance of the Appropriations Committees that they will proceed immediately to consider appropriations for the Corporation under the authorizing legislation. It is for that reason that I am introducing this legislation today which will not be required to be referred to the Senate Appropriations Committee for action.

I do not agree with the conclusions of the House Appropriations Committee with respect to insulated funding for the Corporation for Public Broadcasting. The House committee objects to the original proposal in S. 893 that the Corporation for Public Broadcasting have 5 years of "insulated" funding free of congressional oversight in the appropriations process. Personally, I believe there is great merit to the insulation argument. Certainly there is sufficient merit to warrant a trial period to allow the Corporation to experiment wih programing free of concerns about political restraints through the appropriations process. This argument is not settled and will be taken up between the Senate and House Appropriations Committees at the time that appropriations for the Corporation for Public Broadcasting are actually considered. But I think it is inappropriate to allow the very good things that were contained in S. 893 that everyone agrees upon to not become law quickly. Therefore, I think it is appropriate that Congress deal with the authorizing language in a separate vehicle from the appropriation language. It is for that reason that I am today introducing this legislation and calling the Senate's attention to the fact that I expect the Senate Commerce Committee to take this matter up in the very near future and report legislation without further hearings.

Mr. President, I request 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:

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 "Public Broadcasting Financing Act of 1975".

SEC. 2. Subsection 396(k) of the Communications Act of 1934 is amended by inserting after paragraph (2), the following paragraphs:

"(3) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Fund, administered by the Secretary of the Treasury. There are authorized to be appropriated to said fund for each of the fiscal years during the period beginning July 1, 1975, and ending September 30, 1980, an amount equal to 40 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, and for the period July 1, 1976, through September 30, 1976, an amount equal to 10 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year ending June 30, 1975: *Provided, however,* That the amount so appropriated shall not exceed $88,000,000 for the fiscal year ending June 30, 1976; $22,000,000 for the period July 1, 1976, through September 30, 1976; $103,000,000 for the fiscal year ending September 30, 1977; $121,000,000 for the fiscal year ending September 30, 1978; $140,000,000 for the fiscal year ending September 30, 1979; and $160,000,000 for the fiscal year ending September 30, 1980.

"(4) The funds authorized by this subsection shall be used solely for the expenses of the Corporation. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years indicated in paragraph (3) of this subsection for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall disburse to the Corporation, from such funds as may be appropriated to the Public Broadcasting Fund, the amount authorized for each of the fiscal years and for the period July 1, 1976, through September 30, 1976, pursuant to the provisions of this subsection.

"(5) The Corporation shall reserve for distribution among the licensees and permittees of noncommercial educational broadcast stations that are on the air an amount equal to not less than 40 per centum of the funds disbursed to the Corporation from the Public Broadcasting Fund during the period July 1, 1975, through September 30, 1976, and in each fiscal year in which the amount disbursed is $88,000,000 or more but less than $121,000,000, not less than 45 per centum in each fiscal year in which the amount disbursed is $121,000,000 or more but less than $160,000,000; and not less than 50 per centum in each fiscal year in which the amount disbursed is $160,000,000.

"(6) The Corporation shall, after consultation with licensees and permittees of noncommercial educational broadcast stations that are on the air, establish, and review annually, criteria and conditions regarding the distribution of funds reserved pursuant to paragraph (5) of this subsection, as set forth below:

"(A) The total amount of funds shall be divided into two portions, one to be distributed among radio stations, and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a noncommercial educational television station that is on the air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in noncommercial educational broadcasting, and on the basis of a formula designed to—

"(i) provide for the financial need and requirements of stations in relation to the communities and audiences such stations undertake to serve;

"(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

"(iii) assure that each eligible licensee and permittee of a noncommercial educational radio station receives a basic grant.

"(B) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee's or permittee's total Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

"(7) Funds distributed pursuant to this subsection may be used at the discretion or stations for purposes related to the provision of educational television and radio programming, including but not limited to producing, acquiring, broadcasting, or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educational television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring, replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of educational television and radio programs; developing and using nonbroadcast communications technologies for educational television or radio programing purposes.".

SEC. 3. Subsection 396(g)(2)(H) of the Communications Act of 1934 is amended by deleting the period after the "Broadcasting" and inserting the following: "and the use of

nonbroadcast communications technologies for the dissemination of educational television or radio programs.".

SEC. 4. Subsection 396(i) of the Communications Act of 1934 is amended by inserting after the word "appropriate" the following sentence: "The officers and directors of the Corporation shall be available to testify annually before appropriate committees of the Congress with respect to such report and with respect to the report of any audit made by the Comptroller General pursuant to subsection 396(l), or any other matter which any such committee may determine.".

SEC. 5. Section 397 of the Communications Act of 1934 is amended by inserting, after paragraph (9), the following paragraphs:

"(10) The term 'non-Federal financial support' means the total value of cash and the fair market value of property and services (except for personal services of volunteers) received—

"(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio programs, and related activities, from any source other than (I) the United States or any agency or establishment thereof, or (ii) any public broadcasting entity; or

"(B) as gifts, grants, donations, contributions, or payments from any State, any agency or political subdivision of a State, or any educational institution, for the construction or operation of noncommercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials respecting the provision of educational or instructional television or radio programs.

"(11) The term 'public broadcasting entity' means the Corporation, any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational television and radio programs.".

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 5

At the request of Mr. CHILES, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 5, the Federal Government in the Sunshine Act.

S. 1177

At the request of Mr. MCGEE, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 1177, the post card voter registration bill.

S. 1776

At the request of Mr. HUGH SCOTT, the Senator from Vermont (Mr. STAFFORD), the Senator from Oregon (Mr. HATFIELD), the Senator from Connecticut (Mr. WEICKER), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. Moss), the Senator from Minnesota (Mr. MONDALE), the Senator from Wyoming (Mr. MCGEE), and the Senator from Missouri (Mr. SYMINGTON) were added as cosponsors of S. 1776, a bill to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania.

S. 1847

At the request of Mr. HUMPHREY, the Senator from Pennsylvania (Mr. SCOTT) and the Senator from Connecticut (Mr. RIBICOFF), were added as cosponsors of S. 1847, to authorize the 101st Airborne Division Association to erect a memorial in the District of Columbia or its environs.

S. 1911

At the request of Mr. HARTKE, the Senator from Indiana (Mr. BAYH) was added as cosponsor to S. 1911, a bill to amend title 38, United States Code, to provide certain persons insured under servicemen's group life insurance, SGLI, with a choice of conversion to either an individual term or whole life insurance policy or veterans' group life insurance policy upon the expiration of their servicemen's group life insurance coverage, and for other purposes.

S. 1949

At the request of Mr. CURTIS, the Senator from Kentucky (Mr. FORD), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Nebraska (Mr. HRUSKA) were added as cosponsors of S. 1949, a bill to amend the Internal Revenue Code.

S. 2293

At the request of Mr. HELMS, the Senator from Nebraska (Mr. HRUSKA) was added as a cosponsor of S. 2293, a bill to amend section 402 of the Highway Safety Act of 1966, with respect to compulsory helmet laws for motorcyclists.

S. 2295

At the request of Mr. CANNON, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 2295, a bill relating to financial disclosure.

S. 2359

At the request of Mr. BAYH, the Senator from Indiana (Mr. HARTKE) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors to S. 2359, a bill to provide for equal treatment for all persons entering into health insurance agreements.

S. 2359 AND S. 2360—WITHDRAWAL

At the request of Mr. BAYH, the Senator from Colorado (Mr. HASKELL) was withdrawn as a cosponsor of S. 2359, a bill to provide for equal treatment for all persons entering into health insurance agreements; and

S. 2360, a bill to amend the Public Health Service Act.

S. 2360

At the request of Mr. BAYH, the Senator from Indiana (Mr. HARTKE), the Senator from Vermont (Mr. LEAHY), and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of S. 2360, the Life Support Centers Act of 1975, a bill to amend the Public Health Service Act to provide health care services for pregnant adolescents before and after childbirth.

S. 2389

At the request of Mr. INOUYE, the Senator from Alaska (Mr. STEVENS) and the Senator from New York (Mr. BUCKLEY) were added as cosponsors of S. 2389, a bill to amend Title I of the Employee Retirement Income Security Act and the Internal Revenue Act.

S. 2426

At the request of Mr. DOLE, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 2426, a bill to establish a reduced rate of postage for letters sealed against inspection mailed by private citizens.

S. 2459

At the request of Mr. KENNEDY, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 2459, the Rail Rehabilitation Act of 1975.

S. 2471

At the request of Mr. ABOUREZK, the Senator from Wyoming (Mr. MCGEE) was added as a cosponsor of S. 2471, a bill to provide payments to State and local governments based on public lands within their boundaries.

S. 2521

At the request of Mr. BELLMON, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2521, a bill to amend the Consolidated Farm and Rural Development Act.

S. 2524

At the request of Mr. MCINTYRE, the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mr. MONDALE), and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 2524, to require that the Secretaries of the military departments be kept fully and currently informed regarding matters considered and acted upon by the Joint Chiefs of Staff.

S. 2529

At the request of Mr. HARTKE, the Senator from Indiana (Mr. BAYH) and the Senator from California (Mr. TUNNEY) were added as cosponsors to S. 2529, a bill to amend chapter 37 of title 38, United States Code, to increase the maximum Veterans' Administration's guaranty for mobile home loans from 30 to 50 percent, to make permanent the direct loan revolving fund, to extend entitlement under chapter 37 to those veterans who served exclusively between World War II and the Korean conflict, and for other purposes.

SENATE JOINT RESOLUTION 60

At the request of Mr. BARTLETT, the Senator from Texas (Mr. TOWER) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Joint Resolution 60, proposing an amendment to the Constitution relating to open admissions to public schools.

SENATE JOINT RESOLUTION 131

At the request of Mr. HUMPHREY, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of Senate Joint Resolution 131, to establish a Joint Congressional Task Force on Federal Small Business Impact.

SENATE RESOLUTION 104

At the request of Mr. HATHAWAY, the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from New

Mexico (Mr. MONTOYA), and the Senator from Missouri (Mr. SYMINGTON) were added as cosponsors of Senate Resolution 104, relating to the Select Committee on Small Business (to provide limited legislative authority).

SENATE RESOLUTION 201

At the request of Mr. CRANSTON, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Resolution 201, relating to the status of certain Americans held in Mexico.

SENATE RESOLUTION 288

At the request of Mr. HUMPHREY, the Senator from Alabama (Mr. ALLEN), the Senator from Tennessee (Mr. BAKER), the Senator from Indiana (Mr. BAYH), the Senator from Maryland (Mr. BEALL), the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. BROOKE), the Senator from West Virginia (Mr. BYRD), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Delaware (Mr. WEICKER), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Senate Resolution 288, relating to an action of the United Nations concerning Zionism.

SENATE RESOLUTION 290—ORIGINAL RESOLUTION REPORTED RELATING TO THE ANNUAL REPORT OF THE DAR

(Placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following resolution:

S. RES. 290

Resolved, That the Seventy-seventh Annual Report of the National Society of the Daughters of the American Revolution for the year ended March 1, 1974, be printed, with an illustration, as a Senate document.

AMENDMENTS SUBMITTED FOR PRINTING

APPOINTMENT OF ADDITIONAL DISTRICT COURT JUDGES—S. 287

AMENDMENT NO. 1019

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

Mr. ROTH submitted an amendment intended to be proposed by him to the bill (S. 287) to provide for the appointment of additional district court judges and for other purposes.

CONSTRUCTION OF NATURAL GAS PIPELINES—S. 2510

AMENDMENT NO. 1020

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

Mr. GRAVEL submitted an amendment intended to be proposed by him to the bill (S. 2510) relating to construction of natural gas pipelines for transporting Alaskan North Slope natural gas to the lower 48 States.

SMALL BUSINESS EXPORT DEVELOPMENT ACT—S. 2498

AMENDMENTS NOS. 1021 AND 1022

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

Mr. EAGLETON submitted two amendments intended to be proposed by him to the bill (S. 2498) to amend the Small Business Act to provide assistance for small business export activities, to transfer certain disaster relief functions of the Small Business Administration to offer Federal agencies, to establish a National Commission on Small Business in America, and for other purposes.

MINNESOTA VALLEY NATIONAL WILDLIFE RECREATION AREA—S. 2097

AMENDMENT NO. 1023

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

Mr. MONDALE submitted an amendment intended to be proposed by him to the bill (S. 2097) to provide for the establishment of the Minnesota Valley National Wildlife Recreation Area.

INTERNATIONAL DEVELOPMENT AND FOOD ASSISTANCE ACT OF 1975—H.R. 9005

AMENDMENT NO. 1024

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

HUMANITARIAN FOOD AID

Mr. CLARK. Mr. President, today I am submitting a humanitarian food aid amendment to the Food for Peace—Public Law 480—section of the International Development and Food Assistance Act (H.R. 9005). My purpose is simple: To retain and safeguard recent accomplishments in the allocation of Food for Peace commodities now threatened by measures pending in the Senate. The amendment I am offering requires that at least 70 percent of title I—concessional sales—food aid be allocated to countries with an annual per capita gross national product of $200 or less, the lowest income category of developing nations.

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

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

AMENDMENT NO. 1024

In section 207, strike out all preceding subsection (b) and insert in lieu thereof the following:

ASSISTANCE TO MOST SERIOUSLY AFFECTED COUNTRIES

SEC. 207. Title I of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following new section:

"SEC. 111. Not more than 30 per centum of the food aid commodities provided under this title shall be allocated and agreed to be delivered to countries other than those with a per capita gross national product of $200 or less (as adjusted to reflect that country's annual rate of inflation), and affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad, unless the President certifies to the Congress that the use of such food assistance is required for humanitarian food purposes and neither House of Congress disapproves such use, by resolution, within thirty calendar days after such certification. In determining per capita gross national product for the purposes of this section, the President is authorized and directed to make use of data developed by the World Bank and relied upon by the Secretary of the Treasury. A reduction below 70 per centum in the proportion of food aid allocated to most seriously affected countries which results from critical and unforeseeable circumstances occurring after the initial allocation shall not constitute a violation of the requirements of this section. Any reallocation of food aid shall be in accordance with this section so far as practicable. The President shall report promptly any such reduction, and the reasons therefor, to the Congress.".

FOOD FOR PEACE OR POLITICS: A BRIEF HISTORY

Mr. CLARK. Last year, Congress took steps to halt the extensive politicization of our food aid program. In an amendment to the 1974 Foreign Assistance Act, an allocation formula was applied to food for peace concessional sales. Congress required that at least 70 percent of title I food aid must be allocated to countries on the United Nations list of those most seriously affected—MSA—by the threat of famine and the world economic crisis. By the time the legislation was enacted, the political abuses of Public Law 480 were well documented and the subject of national debate. Americans who had always considered Public Law 480 to be a humanitarian program learned that nearly half of all food for peace commodities had gone to the war economies of Vietnam and Cambodia in fiscal year 1974. For 1975, the administration had planned to ship up to two-thirds of the commodities to Southeast Asia, the Middle East, and countries such as Chile,

with which it had a "special" relationship. It was only because Congress imposed the 70/30 MSA allocation formula that the food for peace program reached countries most in need this past year. The shift was dramatic; in fiscal year 1974 MSA countries received commodities valued at $43.5 million. By 1975, when the congressional allocation formula took effect, aid to MSA countries increased to almost 80 percent of the total title I program.

AN ALTERNATIVE ALLOCATION FORMULA

Through H.R. 9005, the Senate will soon consider a new allocation formula for this year's food for peace program. The House version continues last year's 70/30 allocation formula but holds that the President "may be guided" rather than "shall be guided" by the United Nations' MSA list. The Senate Committee on Foreign Relations, in its review, required that the President "shall be guided" by an 80/20 MSA allocation formula. I supported this stronger language and formula in the Foreign Relations Committee since it actually maintains the status quo established last year when the final food aid allocation was 79/21 MSA.

However, the Senate Committee on Agriculture and Forestry has reported a 70/30 formula and deleted the Foreign Relations Committee's reference to the United Nations MSA list. In its place, the President is instructed to submit his own list of recipients. The 70/30 formula is then applied to the Presidential list.

My amendment provides an alternative vehicle for assuring humanitarian food aid allocation while eliminating objections to the MSA list. The 70/30 allocation formula I propose is applied to countries with a per capita/GNP of $200 or less. Thirty-nine countries—one-fourth of the world's population—fit this description of abject poverty.

The food scarcity of these poorest of the poor nations is an undeniable and chronic fact of life. Two hundred dollars per capita is by definition the lowest income category of developing nations.

The amendment I am offering today should not suggest that my support for either the United Nations or the MSA list is weakening. I still support both. However, since many Members have raised serious objections to the U.N. list it as imperative we agree upon an alternative approach that achieves our one overriding goal—food aid allocations under title I based primarily on human need.

THE FOOD DEFICIT AND POLITICAL FOOD AID CONTINUE

This year, it is at least as critical as in the past that we impose strong congressional oversight if we want to insure food aid reaches the hungriest. Despite good crops in our own Nation, the world's food deficit is not diminishing. The Food and Agriculture Organization—FAO—has estimated the world food shortage will be at least 14 and as much as 20 million tons this year compared to 15.9 million tons last year.

Despite this overwhelming evidence of continued and ever expanding human need, the administration has proposed allocations for fiscal year 1976 which demonstrate a persistent inclination toward political food assistance. For example, the projected allocation to Korea—a relatively well off country—is roughly equal to that of Bangladesh, an extremely impoverished nation where the per capita GNP is $70. In fact, U.S. food aid to Korea is expected to double from last year's $74 million allocation to $150 million in fiscal year 1976. As another example, the projected allocation to Chile represents 85 percent of the concessional sales to all of Latin America. It is three times greater than the entire Public Law 480 title I commitment to all of Africa.

A few countries receive more than their share of limited food for peace commodities. While the comparison of inequities is endless, one point is clear—food will always be susceptible to use for political purposes unless Congress guards against it. The fact is that the ending of our heavy food for peace allocations to Southeast Asia has not ended political food aid allocations.

A close examination of the administration's projected fiscal year 1976 allocations confirms this fear by revealing that 28 percent of title I is already slated for non-MSA countries. Although the administration's food aid allocations to Syria, Jordan, and Isreal—all non-MSA's—have not yet been shared with the Congress, it is safe to say they will receive considerably more than the remaining 2 percent of the concessional sales. Thus, when all the allocations are known, more than 30 percent of title I will in all probability be for non-MSA countries. It appears the administration already anticipates Congress will not continue the allocation requirements it established last year.

TWO HUNDRED DOLLARS OR LESS PER CAPITA/GNP

Mr. President, I ask unanimous consent to have printed in the RECORD a list of the 39 countries whose income is below $200 per capita.

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

COUNTRIES WITH PER CAPITA GROSS NATIONAL PRODUCTS OF $200 AND LESS

Afghanistan	Mauritania
Bangladesh	Nepal
Burma	Niger
Burundi	Nigeria
Cambodia (Khmer Republic)	Pakistan
Central African Rep.	Rwanda
Chad	Sierra Leone
Dahomey	Somalia
Ethiopia	Sudan
The Gambia	Sri Lanka
Guinea	Togo
Haiti	Tanzania
India	Uganda
Indonesia	Upper Volta
Kenya	Vietnam
Laos	W. Samoa
Lesotho	Yemen Arab Republic
Malagasy Rep.	Yemen Peoples Republic
Malawi	Zaire
Mali	

Mr. CLARK. Mr. President, no list is perfect. There will always be some countries which are not included on any list, simply because the purpose of a list is to be selective. The value of the list I am preparing is that it uses an objective standard of per capita/GNP as its basis. The $200 figure has been selected rather than a higher one to focus aid on the world's neediest persons in the lowest income category.

Let me also say that there are three basic ways in which countries not on this list may receive food aid. In the first place, they may receive food under concessional sales from within the 30 percent allowed for countries not on the $200 per capita/GNP list. Second, they may receive food aid under the grant provisions of title II. And third, and perhaps most significant, is the waiver provision.

Through the waiver provision, which is part of the Senate Agriculture Committee language, the President is able to include a food deficit country with a greater than $200 per capita/GNP within the 70 percent humanitarian allocation. It is entirely possible that a nation which has a relatively high income is unable to meet its food needs for a combination of reasons. Congress would then consider the Executive request and determine the extent of food aid.

In short, the amendment I am proposing guarantees that the most needy nations will receive priority in title I food aid allocations. It continues the oversight exercised last year by the Congress, the beneficial results of which are beyond question. It responds legislatively to the food needs documented at the World Food Conference, to which the U.S. Government then pledged to respond in humanitarian fashion.

NOTICE OF HEARINGS ON THE SMALL BUSINESS ADMINISTRATION

Mr. NELSON. Mr. President, I wish to announce that the Senate Small Business Committee will begin oversight hearings on the Small Business Administration on November 11, 12, and 13 in room 457, Russell Senate Office Building, beginning each day at 10 a.m. Senators HATHAWAY and PACKWOOD have been designated to begin these hearings with a series on the procurement assistance programs of that agency.

They will focus on whether SBA is effectively implementing the goal of insuring that an equitable proportion of Government contracts are being awarded to small business firms.

The committee at that time will also examine the small business timber set-aside programs as administered by joint agreement between the Small Business Administration and the Forest Service of the Department of Agriculture.

Representatives of the Office of Federal Procurement Policy, the Small Business Administration and the Forest Service, as well as several representatives of the timber industry have been invited to testify. Others who wish to testify may contact the committee at room 424, Russell Senate Office Building.

ANNOUNCEMENT OF HEARING

Mr. HASKELL. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a public hearing before the Environment and Land Resources Subcommittee of the Senate Interior and Insular Affairs Committee.

The hearing is scheduled for November 17, 1975, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited on S. 2125—a bill to provide for the issuance of permits on public domain national forest lands for commercial outdoor recreation facilities and activities, and for other purposes. As you know, Mr. President, the subcommittee recently conducted 2 days of field hearings in Aspen and Denver on this legislation.

For further information regarding the hearings, you many wish to contact Mr. Steven Quarles or Mr. Thomas Williams of the subcommittee staff on 224–9894. Those who wish to either testify or to submit a written statement for the hearing record should contact the Environment and Land Resources Subcommittee, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510, 224–9894.

CHANGE OF HEARING SCHEDULE

Mr. KENNEDY. Mr. President, as chairman of the Senate Health Subcommittee, I wish to announce a change in the subcommittee's public hearings regarding health manpower. The proposed hearing for November 4, 1975, has been rescheduled to November 18, 1975.

Mr. President, I wish to announce that the hearings on Senate bill 2538 and other bills relating to schoolage mother and child health have been postponed from October 23, 1975, to November 4, 1975.

NOTICE OF HEARING

Mr. PERCY. Mr. President, I wish to announce on behalf of the Government Operations Committee that the committee will hold a hearing on Wednesday, November 12, at 10 a.m., in room 3302 Dirksen Senate Office Building. OMB witnesses will be testifying on S. 1874, S. 2444, and S. 2445. These three bills deal with the transition quarter between the old and new fiscal years next year and in general with necessary changes in law to make an orderly transition from the old July 1 to June 30 fiscal year to the new October 1 to September 30 fiscal year.

Any committees or individual Senators with comments on these bills should let the Government Operations Committee know prior to November 12.

ANNOUNCEMENT OF HEARINGS ON NOMINATIONS BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS

Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Government Operations will hold hearings on the nomination of Jack M. Eckerd, of Florida, to be Administrator of the General Services Administration, and the nominations of Lucius D. Battle, of the District of Columbia, Herbert Brownell, of New York, and Ernest R. May, of Massachusetts, to be members of the National Study Commission on Records and Documents of Federal Officials, Friday, October 31. The hearings will begin at 10 a.m. in room 3302, Dirksen Building.

Any other interested party should advise the committee of their interest in appearing or filing a statement. The committee's office number is 244–4751.

ANNOUNCEMENT OF HEARINGS ON LOBBYING LEGISLATION

Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Government Operations will hold 2 days of hearings on lobbying legislation next Tuesday and Wednesday, November 4 and 5, beginning each morning at 10 in room 3302, Dirksen Building. The bills before the committee will be S. 774, S. 815, S. 2068, S. 2167, and S. 2477.

Testimony will be heard from the following witnesses:

Tuesday, November 4: John C. Keeney, Deputy Assistant Attorney General, Criminal Division, and Mary Lawton, Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice.

George Mickum, chairman, Committee on Regulation of Lobbying, Bar Association of the District of Columbia.

Wednesday, November 5: Kenneth P. Norwick, legislative director of New York Civil Liberties Union and author of Lobbying for Freedom, and Hope Eastman, associate director, Washington Office, American Civil Liberties Union.

Hal Bensen, director of government activities, United Cerebral Palsy Associations, accompanied by Barney Sellers, director of goverment relations, National Health Council.

Henry P. Monaghan, professor of law, Boston University.

ANNOUNCEMENTS OF HEARINGS

Mr. JACKSON. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

October 29—*Minerals, Materials and Fuels Subcommittee:* 10 a.m., room 3110, hearing, to hear Administration witnesses re oversight on law of sea.

October 29—*Energy Research and Water Resources Subcommittee:* 2 p.m., room 3110, hearing, S. 2361, to reauthorize and modify McKay Dam, Oregon.

October 30—*Parks and Recreation Subcommittee:* 10 a.m., room 3110, hearing S. 1725, Chickasaw National Recreation Area, and S. 847, Seward National Recreation Area.

October 30—*Energy Research and Water Resources Subcommittee:* 2 p.m., room 3110, hearing, S. 2089, to authorize modifications to Dickinson Dam, North Dakota, and S. 2498, Pollock-Herreid unit authorization, South Dakota.

October 31—*Full Committee:* 10 a.m., room 3110, Business Meeting, pending calendar business.

November 3—*House-Senate Conference:* 2:30 p.m., room, S–407, Capitol, H.R. 3979, Indian Claims Commission Appropriations.

November 4 and 5—*Minerals, Materials and Fuels Subcommittee:* 10 a.m., room 3110, hearing, S. 62, to establish university coal research laboratories and for other purposes.

November 6—*Parks and Recreation Subcommittee:* 10 a.m., room 3110, hearing, S. 885, S. 1096, S. 1099, S. 97, S. 1093, S. 72, S. 1092, S. 1085, S. 1675, S. 1068, S. 1069, S. 731, park areas to be added to wilderness system.

ADDITIONAL STATEMENTS

A HISTORY OF OUR INTELLIGENCE ACTIVITIES

Mr. GOLDWATER. Mr. President, in all of the current furor over the activities of the CIA and other intelligence gathering units, the accomplishments and history of our intelligence-gathering efforts have been badly overlooked. One would think from the much discussed efforts of certain members of the printed media and the transmitted media that intelligence gathering, including covert actions, is something relatively new in our history and that Americans have never engaged in it before the current efforts, which began about 1950.

Mr. William Colby, testifying before the Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities, presented as an introduction to his discussion of this subject a brief history as to the extent of the activities in the intelligence field experienced by our country. This material has been downgraded and I ask unanimous consent that it be printed in the RECORD.

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

INTELLIGENCE ACTIVITIES

As the United States approaches its Bicentennial Year, Mr. Chairman, it seems fitting to note that the Founding Fathers had a lively appreciation of covert action as a foreign policy tool.

Two hundred years ago next month, the Continental Congress created our first intelligence service, the Committee of Secret Correspondence. Benjamin Franklin functioned in Paris as both intelligence collector and agent of influence in its behalf. Historians tell us that Franklin used all the tools of the intelligence profession in pursuing his mission in France—mail drops, ciphers, aliases, forged documents and mail interception. To prevent others from forging his correspondence, Franklin used his typographical ingenuity to produce a distinctive script type designed by himself. Franklin's agents established what may have been the first covert action proprietary company, HORTALEZ and Company, to acquire and ship French arms to America.

George Washington used a code number—"711"— and personally engaged in intelligence deception. In one covert deception operation he allowed the British to capture "secret" papers misdirecting the British forces to Manhattan and away from our

troops at Newberry saving American forces from defeat. And of course what we now call paramilitary advisers from abroad are heroes to the American people they helped free: Lafayette, von Steuben, Koskiusko and others.

The first known American intelligence net was established by Paul Revere. Thirty persons were assigned the job of reporting on British troop movements in Boston and performing occasional sabotage. The members of this net were known as the "mechanics" because of their technical skills.

Paul Revere filed the first recorded covert action voucher with the Continental Congress for three pounds to cover the cost of printing one thousand impressions. Revere's accounting also asked for reimbursement of living and travel expenses for himself amounting to seven pounds. The House of Representatives reduced his per diem to four shillings a day and settled the bill in full on the 22nd of August 1775.

The Committee of Correspondence also had problems on the degree of secrecy and protection of sources and methods. On one occasion it refused to provide the Congress with secret information. At issue was a dispatch from Arthur Lee brought to the Committee by Thomas Story. The record of the Committee deliberations noted that considering the importance of the information, it was their "indispensable duty" to keep it secret, even from the Congress. The Committee noted that the Congress consisted of too many members to keep secrets. Later, on the 10th of May 1776, the Congress called on the Committee to lay their proceedings before it. An exception was made to this request, and the Committee was permitted to withhold the names of persons they employed or with whom they had corresponded.

It would appear that little has changed!

Mr. Chairman, there are those today who question whether the United States should conduct covert action and, if so, under what rules and constraints. I welcome this opportunity for a serious and substantive discussion of covert action. I am particularly mindful that this issue is being examined against the backdrop of unprecedented public controversy over many of the Agency's past covert action operations. Nevertheless, I firmly believe that the full story of CIA covert action is a good story and one through which the Agency made a real contribution to the security of our country and the survival of democratic government in the world. I am also convinced that our Government should retain the option of employing covert action and that the responsibility for this mission is properly vested in the CIA.

RESPONSIBLE JOURNALISM

Mr. McCLELLAN. Mr. President, last week, on the occasion of the reporting of S. 1, the Criminal Justice Reform Act of 1975, to the Senate Judiciary Committee by the Subcommittee on Criminal Laws and Procedures, I spoke in some detail about the unfortunate distortions and misrepresentations of various provisions of the bill that had been made by certain news reporters in some very respected newspapers. One article that I took issue with at that time was written by Mr. Alan Otten and appeared in the Wall Street Journal on June 5 of this year.

Because Mr. Otten's article was particularly misleading and was given credence because of its appearance in a paper of the caliber of the Journal, Senator HRUSKA and I undertook to correct his most serious misstatements in a letter to the editor of the paper. After a 2-month delay, that letter was finally published—together with an editorial "response" that simply ignored the points we had raised.

I do not now propose to discuss again the errors made by Mr. Otten or the lack of responsible journalism on the part of the Wall Street Journal. However, I recently received a letter from Mr. James P. Chapman of Detroit, Mich., on this very subject. As a former journalist, Mr. Chapman is seriously concerned that the great power of the press over the minds of the people not be abused. His views on the necessity for responsible journalism are eloquently articulated and self-explanatory.

Mr. Chapman has been kind enough to allow me to insert his correspondence to me in the RECORD, and I commend his views to the attention of all the Senators.

I ask unanimous consent that there be printed in the RECORD the letters sent to me by Mr. Chapman on August 26 and October 6, 1975, and the copy of his letter to the Wall Street Journal dated August 22, 1975, to which I am advised there has been no response.

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

JAMES P. CHAPMAN, INC.,
PUBLIC RELATIONS COUNSELORS,
Detroit, Mich., October 6, 1975.

Hon. JOHN L. MCCLELLAN,
U.S. Senate, Senate Office Building, Washington, D.C.

SIR: I have waited to determine if The Wall Street Journal would get around to publishing my letter in response to its editorial before responding to your kind of letter of September 9. Sufficient time has elapsed, and the letter, not surprisingly in view of the press' almost paranoiac reaction against outside criticism, remains unpublished. I did, however, receive a form, printed postcard noting receipt of the letter.

Your comments on the proposed S1 legislation were enlightening, and I thoroughly agree with your appraisal of the opposition.

Also, I wish to advise that I have no objection to your placing the contents of my letter to The Journal in the Congressional Record, and would appreciate a copy of the issue in which it appears.

Keep the fires burning for freedom in Washington—and in our nation—but also maintain constant vigilance against efforts of the press to escape the responsibilities which come with the cherished freedoms it is guaranteed in our Constitution.

Sincerely,

JAMES P. CHAPMAN.

JAMES P. CHAPMAN, INC.,
PUBLIC RELATIONS COUNSELORS,
Detroit, Mich., August 26, 1975.

Hon. JOHN L. MCCLELLAN,
U.S. Senate,
Senate Office Building, Washington, D.C.

SIR: I thought you might be interested in seeing a copy of a letter I wrote to The Wall Street Journal in response to its editorial reply to your letter in the edition of Friday, August 22.

As a former journalist, it galls me to see the rather devious manner in which so many of the nation's newspapers respond to honest criticism of inaccuracies, or just plain advocacy journalism (where facts succumb to opinions). One might expect such a reaction from some of the newspapers of the far right or far left—especially one which reigns so supremely in the nation's capital—but The Journal is normally very accurate, and quick to admit a mistake when one is made.

I would doubt that Alan Otten deliberately misrepresented the facts in his column, but you appear to have caught him in one of those rare moments when his research was left dangling like a participle, a crime a good journalist like Mr. Otten should not be guilty of.

Although I am not well informed on the legislation in question, and have formed no definite opinion on its merits, I never miss an opportunity to take the press to task for sins that narrow its credibility gap in the public eye. For this, I have earned a reputation, at least locally, as a walking journalism review, a status I find somewhat comforting. For it isn't just the rascals who need to be watched, but the rascals who are after the rascals, as well.

Respectfully,

JAMES P. CHAPMAN.

Enclosure.

AUGUST 22, 1975.

EDITOR,
The Wall Street Journal,
New York, N.Y.

SIR: I happen to be a great admirer of Alan Otten's work and consider him one of the better journalists around, but you did a great disservice to the cause of freedom of the press by your rather cavalier editorial dismissal of a well-documented complaint by Senators McClellan and Hruska of Mr. Otten's column on the Criminal Justice Reform Act of 1975.

After carefully reading and re-reading both the letter from the senators and your editorial response, I don't find one instance of where you honestly answered the charges of inaccuracy made by the senators. Rather, you appear to have further confused the issue by raising points that were not even included in their letter, while remaining strangely silent on their very serious charges of "inaccuracy."

I have always believed that a free press that is so free to criticize—sometimes in the case of public officials even abusively—must, in turn, be willing to accept criticism, so I hope you were not simply a victim of the paranoia that inflicts some segments of the press when any of its work is faulted, no matter how valid the criticism.

Sadly, no one, especially an elected official, has even a fighting chance of winning an argument with a publication which always asserts its right to have the last word. I expect, and usually get, more integrity from the editors of The Journal.

Sincerely,

JAMES P. CHAPMAN.

CAMBRIDGE WIRE CLOTH COMPANY WINS PRESIDENTIAL "E" AWARD FOR EXCELLENCE IN EXPORT

Mr. BEALL. Mr. President, as our country works to strengthen and to improve its domestic economy, perhaps no factor is more important to that economic good health than the development of increased exports. By opening up foreign markets, we give our economy the opportunity to produce to its maximum, thus providing jobs and other economic benefits to our people.

In the past, our export market has been dominated by large firms. However,

in recent years, a trend has begun whereby smaller firms have recognized the benefits of exports, and have moved into this promising field with enthusiasm.

One such relatively small firm is the Cambridge Wire Cloth Co. With about 350 employees, Cambridge Wire Cloth does not yet rank with the likes of IBM, Westinghouse, or General Motors. However, this company, under strong leadership from President Edward N. Evans, has used its innovativeness and high productivity to become a major producer in the world market of various conveyor belting.

For the recognition of their outstanding record of achievement, the firm was presented the Presidential "E" award for excellence in export by Commerce Secretary Rogers C. B. Morton on October 24. This significant honor strongly testifies to the fine efforts of the company, and each employee can take just pride in receiving this much-sought-after distinction.

Mr. President, I ask unanimous consent that an article appearing in the Baltimore Sunday Sun of October 26, 1975, which outlines the growth and activities of the Cambridge Wire Cloth Co., be printed in the RECORD.

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

UNITED STATES HONORS CAMBRIDGE WIRE CLOTH FIRM FOR ITS EXPORTS

(By Mary Corddry)

CAMBRIDGE.—If the Shore town of Cambridge claims the world's biggest production of anything it would be expected to be seafood, not metal mesh conveyor belting.

It is this product, used in food processing, glass, ceramic, metalworking, chemical, petroleum and several dozen other industries, that has made the Cambridge Wire Cloth Company the first industry on the Eastern Shore to win the Presidential "E" Award for excellence in export.

The award certificate and flag were presented to the management and employees of the company by Rogers C. B. Morton, the Secretary of Commerce and former congressman from the First district, at a ceremony here Friday.

Cambridge Wire Cloth is the 15th company in Maryland to win the award since it was established in 1961. The award is part of an effort by the United States Department of Commerce to bring the balance of international payments into favorable adjustment through increased foreign sales.

The company was first established here in 1915, long before Cambridge began the aggressive efforts to bolster a depressed rural economy that have led to its present collection of small diversified industries.

The firm was incorporated by two brothers, Edward F. and Robert W. Pink, the outgrowth of a company that began in New York and was re-established here when the owner, William Estey, bought a farm on the Choptank River and moved to the Shore.

From a slow start it has developed into an international business, with sales between $15 million and $20 million a year. It has manufacturing facilities in Mexico and Australia, warehouses in Houston, Los Angeles and Chicago, and a sales force of 14 major U.S. cities and around the world.

Cambridge Wire Cloth is still privately owned. Its president is Edward N. Evans of Cambridge.

The company helps hold its top position in what its officers describe as an "extremely competitive market" with an annual advertising budget of $300,000. It devotes 15 per cent of the advertising budget to export, according to John S. Stroup, company vice president.

In its early days in the 1920's the big challenge for Cambridge Wire Cloth was to develop a market in Baltimore, then accessible by overnight freight service via steamboat. At that time it produced wire cloth mainly for food and chemical processors.

A customer in Baltimore suggested a belt to convey tomatoes from the scalder to the skinning table. It was from this commission that the company developed the idea that a spiral belt with an open mesh could be used, not just to convey a product from point to point, but for such operations as washing, pasteurizing, peeling, freezing or baking directly on the belt.

Today 25 per cent of the company's belt sales are for food processing, some of them to Shore canneries and seafood houses.

Later the company developed belts that can withstand temperatures up to 2,000 degrees Fahrenheit and that can be used in the processing of glassware, porcelain and silver. To date, Mr. Stroup said, it has designed belts to 3,000 different specifications.

Cambridge Wire Cloth first established an export department in 1966, to handle growing international sales in replacement belts for equipment bought from other manufacturers, which it supplied.

Today much of its export business is direct, according to Peter K. Bailey, export manager. Conveyor belts remain its biggest export item, both for replacement or for newly designed production lines.

In one- and two-page color ads in trade journals the company says it is the biggest producer of chain-driven belting in the world.

It also claims to have built some of the biggest wire cloth parts in the world for pollution control in chemical plants and petroleum refineries, as well as precision parts.

A display case in the Cambridge office of wire weaves in varied size and design looks at first glance like an exhibit of metal sculpture. Included in the display is its newest architectual mesh or, decorative wire cloth, used in the interiors of buildings or elevator cabs.

In the plant itself the metal spindles in 16 power-driven looms dart back and forth through the woof and warp, differing from more familiar fabric looms only in the clangor.

Elsewhere lengths of wire are being twisted mechanically from the right or the left, and fitted together by hand into lengths of belting that again seem more the product of artistic design than industrial engineering.

The plant has a work force of 350, according to Mr. Stroup. The work is highly skilled and takes years of training.

It is "a very family-oriented company," Mr. Stroup said. Sons have followed their fathers into the occupation for 60 years.

Today workers are trained on the job by the company through a program of the Dorchester county public school system called CIVEC (Co-operative Instructional Vocational Education Curriculum). Trainees attend school for half a day and work half a day at the plant for pay.

As to the company's entry into worldwide markets, "exporting is a whole other world," Mr. Bailey said. He became the company's export manager after securing a degree in business and industrial management at Johns Hopkins University.

The company now has two smaller competitors on the Shore as well as international competition. "But," Mr. Bailey said last week, "we are just scratching the surface" in the use of woven wire cloth for air and water-pollution control.

TRIBUTE TO ADMIRAL RICKOVER

Mr. PASTORE. Mr. President, I am pleased to note that the Secretary of Defense and the Secretary of the Navy have recently reappointed Admiral Rickover for an additional 2 years to continue leading the joint ERDA/DOD Naval nuclear propulsion program. We all owe a great debt to Admiral Rickover for his contribution to our national defense and for his faithful services to the public for well over 50 years.

We are also in debt to him for his continuing and fruitful work on behalf of our Nation's peaceful nuclear power program, particularly in connection with developments in the light water breeder reactor at Shippingport. If this concept works, Admiral Rickover will have provided this Nation with the means to increase dramatically our source of electrical energy.

I hope that Admiral Rickover will continue to serve in his present capacity for as long as he is able to do so. Our Nation needs a man of his tremendous ability and depth of character.

HOW OBJECTIVE IS THE CONGRESSIONAL BUDGET OFFICE IN DEFENSE MATTERS?

Mr. THURMOND. Mr. President, Congress needs to give its supervision to the "numbers game" involving the national functional defense category of the congressional budget. This activity has drawn my attention to the organization, staffing, and production to date of the Congressional Budget Office.

CBO OBJECTIVITY QUESTIONED

It is well known on Capitol Hill that the Budget Office has been staffed by a number of individuals from the Brookings Institution and other sources known for an antidefense stance. It is personally disappointing to me that a key position such as that of General Counsel of CBO has been filled by an individual who appeared before the Senate Armed Services Committee 2 years ago advocating a 15-percent reduction in defense spending. Also, many have noted that the production of that Office to date has tilted toward an antidefense line, while on the other hand, data provided relative to nondefense spending has been blurred and lacks real focus.

Information available to me leads to the belief that the CBO has been staffed with many individuals who have brought to this work preconceived notions on how budget priorities should be allocated.

This brings into question the credibility of this important Office which has been charged with supporting all Members of the Congress in a commendable effort to bring Federal spending under control.

CBO DIRECTOR SPEAKS FOR WHOM?

On top of all this, the law provides that the new Budget Office be nonparti-

san and serve as an analysis source for the entire Congress, not one ideological element of the Congress. Yet Wednesday I read in the Washington Post that Alice Rivlin, Budget Office Director, sharply criticized the President's recent proposal to reduce Federal spending in fiscal year 1977. It would seem the CBO would favor bringing our skyrocketing national budget under control, but apparently not.

Director Rivlin, a long-time staffer of the Brookings Institution, has violated her own credo of objectivity. In July of this year, she published a status report on the Budget Office in which the very first sentence describes the Budget Office as a nonpartisan agency. Yet, she publicly attacks a Republican President who wants less Federal spending. I do not recall the Director of the Library of Congress or the head of the General Accounting Office, both chiefs of analysis agencies of the Congress, making partisan speeches around town.

Based on Director Rivlin's remarks to the National Economists Club last Wednesday, she is not satisfied with the attacks on the President's budget reduction proposals by some Members of Congress, but feels it is necessary to add her own voice to the chorus now rising from partisans in this body.

Perhaps the statutory role of the Director of the CBO needs legislative clarification by the Congress. It was my impression that this position was not comparable to the Director of the Office of Management and Budget. That is a political office, as that individual is an agent of the President. If Director Rivlin holds a similar charter, then she would have to speak for the Congress as a whole. Her recent remarks certainly do not represent my views, and it would be interesting to know for whom she is speaking when she leveled her attack on the President.

UNREAL DEFENSE ANALYSIS

Earlier this week I was shocked by the defense bill budget estimate provided to Senator CRANSTON and seven other Senators by the Budget Office. This estimate concluded that the $7.6 billion budget authority cut in the defense appropriations bill by the House committee was still over $900 million higher than the target in the first concurrent resolution.

As I recall, the Budget Committees originally set a target reduction in defense of 6.5 percent in budget authority. Yet the House defense appropriations bill, just one part of the defense category, was cut $7.6 billion in budget authority from the original appropriations request, a reduction of about 8 percent.

This analysis, based on unreal assumptions, is typical of what has been produced by some in the Budget Committee and the Budget Office. To come up with a justification for further defense cuts, the Budget Office analysis subtracts all funds in the $107.7 national defense category for both Cambodia and South Vietnam, uses an old figure on military construction cuts, presumes no reduction in foreign military aid, adds on the unbudgeted blue collar and retired pay hike of over 8 percent, plus other unrealistic assumptions.

FIGURE JUGGLING

Everyone knows it is easy to take statistics and make them serve a particular purpose. Although the Armed Services and Appropriations Committees deal primarily in budget authority, the Congressional Budget Office has overstressed the defense outlay aspects in their apparent desire to reduce defense spending.

The fact is that outlays in fiscal year 1975 over fiscal year 1974 show a defense growth of only about 2.8 percent and a nondefense growth of about 17 percent for that 1 year. Yet the budget scorekeeping reports of the CBO on nondefense are presented in such a way as to make it almost impossible to tell what is taking place in the nondefense areas.

This scorekeeping report provided by the CBO is really unintelligible, yet it offers the only tool to track target violations in nondefense areas. It is noteworthy that the House Budget Committee has not associated itself with these scorekeeping reports, as has been done by the Senate Budget Committee.

CBO CREDIBILITY DAMAGED

It appears the congressional budget process is being used by some to accomplish the previously unsuccessful goals of those who favor deep and unrealistic defense reductions. Thus, the credibility of the new budget agencies is coming into question as we witness their use of unreal assumptions to juggle defense category figures to justify further cuts.

Secretary of Defense Schlesinger recently told the Senate Appropriations Committee that the House defense cuts were "deep, savage, and arbitrary." It is clear that, under any reasonable approach, they exceed the already high defense reduction target set forth by the first budget resolution.

Despite any reasonable analysis of the defense category actions to date, aggressive efforts are being made to develop various analyses calling for even further budget reductions such as the one provided by the CBO on October 15. While I recognize reasonable men can differ on their approach to defense budget accounting procedures, I would certainly hope that each of us would make a sincere effort to be as objective as possible.

I note that Congress has yet to act on the request of the CBO for a staff of 259 people and a budget of $8 million. This request is to provide funding from October 1, 1975, through September 30, 1976. Obviously, there are a number of well-paid individuals in the employ of CBO, and the Congress has every right to expect from this Office analysis production of the highest caliber.

BUDGET BRINGS DEFENSE TO KNEES

As one final point it should be noted that the congressional budget process and the confusion generated by the numbers game is having the effect desired by those who favor deep slashes in the defense budget. This point is substantiated by the fact that the defense appropriations bill was reduced 5 percent in fiscal year 1974 and 6 percent in fiscal year 1975, but this year it has been reduced so far by 8 percent.

This high cut comes after significant reductions in the past. For instance, in the past 20 years, defense is up 128 percent, while nondefense has grown about 800 percent. During the last year, defense is up 6 percent, while nondefense is up 20 percent.

It is my sincere hope that the Senate will not be buffaloed by this CBO numbers game leading to dangerous cuts in defense where previous efforts have failed.

RESPONSIBILITY OF CONGRESS

It would be my view that the budget committees of the Congrses have a responsibility to see that the CBO maintains real objectivity. Further, something should be done forthwith about providing Congress with intelligible analysis in the nondefense category. How can Congress maintain budget control when the Office charged with providing data is unable to express itself in terms that are understandable? Also, nondefense spending areas must be given equal attention, along with defense, as it is in these areas that the real budget growth is taking place.

EQUAL TREATMENT

The CBO is supposed to be an analysis office designed to respond to requests of Members of Congress. I wrote Director Rivlin with a request recently and I have yet to receive a reply, except through one of her subordinates to a member of my staff.

I notice certain other Members of Congress get direct replies—plus studies based on the assumptions they lay down. However, I would caution the CBO against associating itself with studies in which the assumptions are dictated rather than decided upon by the collective judgment of the CBO.

The new CBO is rapidly taking on an antidefense complexion. The whole budget effort will be endangered if there is not a balance of the staff of this new office, a nonpartisan and objective approach in their work, and a production effort which avoids an advocacy of a certain viewpoint.

While I have today criticized the Congressional Budget Office, I feel this criticism is justified. My remarks today, however, do not assume that these irregularities during the current test period cannot be overcome. I urge all of those responsible, especially the Members of Congress, to see that a balance is given to the CBO staff and that this staff is monitored. It is my sincere hope that future production of the CBO will be worthy of the trust reposed in them by the Congress.

THEY SIGNED AWAY THEIR LIVES FOR YOU

Mr. McGEE. Mr. President, the 56 signers of the Declaration of Independence were shining examples of a human nature sometimes not revealed on the pages of history texts. As we celebrate

the Bicentennial, we should note not only the unprecedented actions of our Founding Fathers in the most serious of times, but also the richness of their character, which enhanced their spirit and suffering and makes even more significant their time.

What would American history be without humor, for example? What part did that humor play in the lives of men who, faced with the most nonhumorous of circumstances, could have been shot or hanged as a result of their defiant courage?

Author Roger Butterfield in his Saturday Evening Post Bicentennial feature, "They Signed Away Their Lives for You," puts together, as the subhead reads, ". . . an intimate collective portrait of the defiant patriots who signed our Declaration of Independence—a varied group of men who had their human vices as well as their virtues."

Mr. President, I ask unanimous consent that this article about the signers of the Declaration of Independence be printed in the RECORD, and urge my colleagues to take a few moments to read about some of the 56 separate characters who hung together and produced a parchment of mandates on which American democracy, not by a slender thread but an unseverable chain, hangs.

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

THEY SIGNED AWAY THEIR LIVES FOR YOU

(By Roger Butterfield)

It was hot in Philadelphia on those days in early July. There was a livery stable near the room where the distinguished gentlemen were sitting. Big, blue-black horseflies buzzed through the windows and bit the gentlemen through their white silk stockings. Handkerchiefs lashed at the flies, but the attack was severe, and the impatience of the sufferers was great. Thomas Jefferson used to say, many years later, that the Declaration of Independence went through the Congress much faster because of the horseflies.

It was July, 1776, that we are talking about, of course. And there was something else in the air that made the gentlemen very uncomfortable—something that made them steal a glance now and then at one another's necks. They joked about it among themselves, but they knew it was no joke. It was the threat of hanging.

Ben Franklin is credited in the history books with saying, "We must indeed all hang together, or, most assuredly, we shall all hang separately." But this was a standard wisecrack in the Continental Congress long before Franklin is supposed to have said it. Unfortunately, it was all too true. Every man who signed the Declaration knew that he might be signing his own ticket to the gallows.

There is a story about Elbridge Gerry, a short, skinny signer from Massachusetts, and Benjamin Harrison, a big, husky signer from Virginia. About the time the Declaration was passed, Gerry said to Harrison, "When the hanging scene comes to be exhibited, I shall have all the advantage over you. It will be over with me in a minute, but you will be kicking in the air, half an hour after I am gone."

American humor was rather grim around the Fourth of July, 1776.

American history usually presents the fifty-six signers standing in a flag-draped tableau beside a table in Independence Hall, and then says no more about them. But the signers did a lot more than just sign. They were in the thick of the Revolution. The British, naturally enough, singled them out. No signer, as it turned out, was ever hanged. But they were hunted, shot, captured, robbed, and subjected to every conceivable hardship and abuse.

A few days after Lewis' signing, the British and Hessian armies of General Howe landed on Long Island and swooped down on the Lewis household. They arrested Mrs. Lewis, an elderly lady, and treated her with incredible harshness. For several months she was locked in a small room with no bed and no change of clothes. By the time General Washington was able to arrange for her exchange, her health was shattered, and she died soon afterward. Meanwhile the occupying troops carried off everything they wanted from Lewis' house and burned it down. Within a month after putting his name to the Declaration, this signer had lost almost everything.

Later that same year the British invaded New Jersey and caught a real live signer. He was Richard Stockton, of Princeton, a wealthy, cultured lawyer and landowner, who had lived in England and was a personal friend of famous Englishmen like Edmund Burke, David Garrick and Lord Chesterfield.

Stockton was a splendid example of the American colonial gentry—a tall, commanding man who was famous for his skill as a horseman and swordsman. Once while visiting Edinburgh he had been attacked on a dark street by an armed footpad, but drove the man off with his sword.

When the British took Princeton, Stockton put his wife and family in hiding in another New Jersey town, and took refuge himself in the home of a relative. But in December some local Tories arrested him, dragged him out of bed into freezing weather, and forced him to walk many miles through the snow to Perth Amboy, where he was tossed into an unheated cell and left without food for a day and night. Enemy troops pillaged his house, burned his books and family papers, and drank up everything in his cellar.

The British were eager to make an example of this first captured signer. Stockton was taken to New York and placed in the loathsome Provost Jail, where hundreds of American prisoners of war starved and died. His superb physique and his morale both cracked under the brutal treatment he received. He was persuaded—doubtless under duress which amounted to torture—to sign the amnesty proclamation issued by Howe soon after the capture of New York. This proclamation offered forgiveness to all Americans who would quit the fight and take no further action against the King. This was the nearest any signer came to turning traitor during the whole Revolution. But it would be unfair to blame him too deeply. He was probably a helpless invalid when he signed it. He was certainly an invalid when he returned home the following year, and he died in 1781, after suffering agonies of body and spirit.

Signer John Hart, of Hopewell, New Jersey, was just a little luckier than Stockton. Hart was sixty-five years old at the time of the Declaration—a hard-working farmer, miller and justice of the peace who was sent to the Congress because he was "the most considerable man" of his community. A few months after signing, Hart was being hunted through the New Jersey Sourland Mountains like a dog—in fact, one night he actually slept with a large warm dog in a barnyard doghouse.

All through that winter Hart dodged the Hessians by sleeping in a different place every night—sometimes in a friendly house, more often in a barn or haystack. The reason he did not flee the country altogether was that his wife was very ill in a neighbor's home, and he wanted to be able to rush to her bedside at any time. The enemy knew this, of course, and set many traps for him, as well as burning his house and mill. Hart had been a sturdy outdoor man, but within six months his health was wrecked, and within three years he was dead.

Sometimes a signer got in a good lick in the other direction. At Yorktown, in the last important battle, signer Thomas Nelson was in the odd position of commanding the Virginia militia outside the town while the British occupied his handsome mansion inside. Nelson, who was governor of Virginia and a brigadier general as well, noticed that the American batteries were deliberately avoiding his house. He dashed over and told the artillerymen to go ahead and fire at his property. The very first ball went through his dining room, killing two British officers who were eating there, and wounding several more. A few more shots made a shambles of the place, but Nelson, a red-hot patriot, was delighted. He spent so much of his very large fortune on the war—outfitting and paying whole regiments of troops out of his own pocket—that he lived in comparative poverty the rest of his life.

The homes and personal property of at least fourteen signers were destroyed or badly smashed up during the Revolution. A fifteenth, Josiah Bartlett, of New Hampshire, had his house burned by Tories even before he signed. Everywhere the British landed along the coast of America, they were sure to find a helpful Tory who could lead them to the house of a signer. It happened in Georgia, to the handsome plantations of Lyman Hall and Button Gwinnett. It happened around Charleston, where the estates of three signers were looted of slaves, paintings, silverware and other valuables. On the way to the Battle of Brandywine, the British troops detoured to the country house of Pennsylvania signer George Clymer, emptied his wine cellar, dumped his furniture out the windows, and set fire to the house. When they moved into Newport, Rhode Island, they burned the home of signer William Ellery.

FLIGHT IN A NIGHTSHIRT

But this was only part of it. At least nine of the signers were physically hunted across various parts of the American landscape with the vision of a noose dangling before their eyes. Signer Gerry, for instance, barely got away through a cornfield in his nightshirt. Four signers died from war hardships or overwork. One, who has already been described, lost his wife. Another suffered the refined torture of having his two officer sons captured and maltreated because of their father's prominence.

Then there were the sons of signer Richard Henry Lee, of Virginia. These boys were in an English school when the Revolution began, and couldn't get away. One day they were informed by their schoolmates that they would soon see their father. When they eagerly asked when and where, they were told that his head would shortly be decorating the walls of the Tower of London. But it never did.

Perhaps the most ironic loss was experienced by signer Joseph Hewes, of North Carolina. Hewes was one of the two bachelor signers, and his favorite sport was dancing, in which he participated with "glee and animation." But he was also a very hard worker, and was largely responsible for organizing the first American Navy. He found and hired John Paul Jones and sent him out to sea. Hewes used to work from six in the morning until six at night, trembling with a chronic fever and half blind from constant reading and writing. His almost fanatical devotion to duty led to his early death in 1779.

But before he died, Hewes got word that one of his own merchant ships, the brig *Joseph*, had been seized by an American privateer and its whole cargo confiscated. So signer Hewes, a godfather of American privateering, had to go up to Boston to try to get his ship back from his own side. There is no record of how he made out.

Eighteen of the signers, or approximately one out of three, were in the armed forces before the fighting ended. This was a good showing, for their average age in 1776 was 46.26, and twelve of them served as wartime state governors. At least ten of them got into actual combat, two were wounded in action and five were taken prisoner. At the siege of Savannah, in 1778, signer George Walton, of Georgia, was shot in the leg, knocked from his horse and captured. He was well treated—by this time the British were more used to the idea of American independence—and exchanged for a British navy captain.

The biggest bag of signers came at the fall of Charleston, in 1780, when three of them—Thomas Heyward, Edward Rutledge and Arthur Middleton—were seized. Heyward and Rutledge were both artillery captains in the Charleston Ancient Battalion, and Heyward had been wounded the year before in the American victory at Fort Moultrie. Middleton was also serving in the militia. The three signers and a number of other prominent captives were sent to St. Augustine, Florida, and returned home in 1781 by way of Philadelphia. During his exile in Florida, Heyward whiled away the time writing new words beginning "God save our glorious States," to the tune of "God Save the King." This became a nationally popular song for a time.

It took a large amount of sincerity and personal courage to be a signer in 1776. We have forgotten by now that there were other members of Congress who were too timid or too Tory-minded to sign the Declaration. There were men who attended on July 1, 2, 3 and 4, 1776, and then quietly disappeared. A few even went over to the enemy.

The fifty-six who did sign were not, of course, angels in mortal form. They were very human beings, and a few of them turned out rather badly—or so many people thought. Four of them—Robert Morris and James Wilson, of Pennsylvania; Samuel Chase, of Maryland; Gerry, of Massachusetts—engaged in open profiteering during the Revolution.

Morris, who became the financial dictator of the United States, continued his private business while a member of Congress—including Government contracts for war supplies on which his profits were guaranteed by Congress. He emerged from the war even richer than when it started. But he also saved the Army by pledging his whole personal credit at a time of great danger.

Chase tried to corner the flour market at a time when American troops were starving. Wilson was the storm center of the worst civil riot of the war. He made himself obnoxious by acting as attorney for Tories and other collaborators in Philadelphia, and he advised rich merchants to ignore local price ceilings and continue with their blackmarket operations. In 1779 a mob of hungercrazed Philadelphians, led by armed militiamen, stormed Wilson's house and started a pitched battle in which many were killed or wounded. Wilson and two other signers—Morris and Clymer—were inside the house with other prominent citizens. They had guns and ammunition, for the attack had been widely advertised in advance.

Mounted members of the First City Troop, all young city aristocrats, charged to their rescue and scattered the mob, and none of the signers got hurt. But Wilson skipped town and hid for several days.

The lure of easy money eventually dragged Wilson, Morris and Chase into bankruptcy and disgrace. Chase lived it down and was appointed a Supreme Court Justice by President Washington. In 1804, however, he faced new charges of political and personal misconduct, being acquitted in congressional impeachment proceedings only after a hard fight.

Morris made out very well until the 1790's, when he began to display delusions of financial grandeur. As senator from Pennsylvania he tried to corner all the real estate on which the national capital would be built, and also bought up millions of acres of wild Western land. In 1798 his many speculations crashed around his head, and he was locked up in the Philadelphia debtors' prison. He probably would have died there, except for a Federal bankruptcy law which freed him in 1801. He died in 1806, virtually a forgotten man.

Wilson, like Chase, became a Supreme Court Justice. But he continued to speculate in land and manufacturing enterprises, and eventually had to hide out from his creditors while he was still technically on the Supreme Court bench. He took refuge in the North Carolina home of his colleague, Justice Iredell, where he died in 1798 from "a violent nervous fever."

But the first signer to come to bad end was Button Gwinnett, of Georgia. Even his best friends agreed that Gwinnett was "of an irritable temper and impatient of contradiction." He had been born in England, made money as a merchant there, and established himself as a Georgia planter. At the time he signed the Declaration his great ambition was to become commander of the Georgia troops in the Continental Army, but this post went to a more experienced officer, General Lachlan McIntosh. Gwinnett, however, was elected governor of Georgia and proceeded to order McIntosh around, finally engineering an invasion of Florida which was a wretched failure. He then tried to put the blame on McIntosh, and McIntosh denounced Gwinnett publicly as "a scoundrel and lying rascal."

In those days there could be only one answer to such a statement. Early on the morning of May 13, 1777, the two men met on the outskirts of Savannah with dueling pistols in their hands. They fired at each other from the unusually short distance of twelve feet and both were hit. But Gwinnett died, while McIntosh lived to tell the tale. Gwinnett's only claim to fame today is that his autograph has sold for a higher price—$28,000—than that of any other signer.

The strangest death came to signer George Wythe, of Virginia, who was poisoned with arsenic in his coffee. Wythe was among the greatest of American lawyers—at the College of William and Mary he taught law to Jefferson, and, in his own school at Richmond, to Henry Clay. In 1806, the year he was murdered, he was still active as chancellor of Virginia. He was a widower, without children, living in Richmond. Wythe, who was extremely kind to his Negro servants, had emancipated three of them and even left one a legacy in his will. There was a provision that if this servant died, the money would go to Wythe's favorite nephew and namesake, George Wythe Sweeney, who was also to receive the rest of the estate.

One morning the Negro servant and Chancellor Wythe both became deathly ill after drinking their breakfast coffee. The servant died very quickly, but the old chancellor, whose appetite was light, lingered long enough to learn about the arsenic, and to send for his will. Hurriedly he dictated a codicil disinheriting Sweeney and leaving his estate to other relatives. Then he died too.

Sweeney was later tried for murder, but was acquitted because the Virginia laws would not allow a Negro to testify against a white defendant, and the principal witness against him was the Negro cook.

Most of the signers died normally in their beds. The disease most prevalent among them, apparently, was what they called "the gout." Gout was a very respectable malady then probably because it was associated with wealth and easy living.

John Hancock, who signed his name "in a large strong hand," and exclaimed defiantly, "There! John Bull can read my name without his spectacles!" was a famous sufferer from gout. He used "pine buds" as a remedy, and willingly shared his store of buds with other members of Congress. Ben Franklin, who at seventy was the oldest of the signers, wrote to George Washington on June 21, 1776, that "I am just recovering from a severe Fit of the Gout, which has kept me from Congress and Company almost ever since you left us, so that I know little of what has passed there, except that a Declaration of Independence is preparing." He should have known that, for he was appointed to help write it.

Big Ben Harrison blamed his gout on the fact that he patriotically gave up "good old Madeira" and started drinking light French wines. The Madeira trade was a British monopoly, so Madeira became an un-American drink for a while.

It is little realized that the signers were, almost all of them, very well-to-do men who had much more to lose by revolting than most of their countrymen. When they pledged their lives, their fortunes and their sacred honor to support the Declaration, they were risking a lot. Signer Charles Carroll, of Carrollton, Maryland, was undoubtedly the richest man in America; when he signed his name, one of the bystanders remarked, "There goes a few million." Hancock was the richest man in New England. Philip Livingston, of New York, was probably the richest man in that city.

The one really poor signer was Samuel Adams, of Boston, who was broke most of his life. When he left for the first meeting of Congress in Philadelphia, his friends gave him a new suit of clothes and a purseful of gold and silver.

A few statistics may help give a better picture of the signers. Forty-eight of them—or almost all—were American-born: ten from Massachusetts, nine from Virginia, five each from Pennsylvania, Maryland and Connecticut, four from South Carolina, three each from New Jersey and New York, two each from Rhode Island and Delaware. The eight foreign-born signers all came from the British Isles.

It would be a mistake to think of the signers as a group of grim, purposeful men who had nothing on their minds but war and independence. They engaged in the same amount of horseplay, of practical jokes and hair-pulling, of petty household errands, as any collection of fifty-six American congressmen today.

Signer Caesar Rodney, of Delaware, is a good example. Rodney was a tall, gaunt man with a tiny head and a face "not bigger than a large apple," which he partly hid under a mask of green silk because of a disfiguring skin disease. But he was highly respected both in and out of Congress. He went home just before the Declaration was voted on, to stamp out a Tory uprising in lower Delaware. On the night of July 1, 1776, Thomas McKean sent word to Rodney that the Delaware delegation was split 1-1, and therefore unable to vote either way on the question of independence. Rodney came tearing up the next day on a fast horse, riding through a thunderstorm, and burst into the meeting room in his boots and spurs.

He came at the tensest possible moment. The original resolution declaring the thirteen colonies to be "Free and Independent

States" had been introduced June 7, 1776, by Richard Henry Lee, of Virginia, and, after several days of debate, had been tabled until July 1. Meanwhile a committee was appointed to draft a Declaration of Independence which would be made public if and when Lee's resolution carried. Lee had to hurry home to his sick wife at this time, and the job of drafting the Declaration fell mostly to young Thomas Jefferson.

On July 1 the debate was resumed and a test vote taken. The result was nine colonies for independence, two (Pennsylvania and South Carolina) against, one (Delaware) divided and unable to vote, and one (New York) not voting at all, because its Provincial Congress had instructed the delegates not to act on independence. The next day, July 2, another vote was taken. South Carolina switched its vote to independence. Four of the nine Pennsylvania delegates purposely stayed away, so that colony's vote was also changed.

Then Rodney's dramatic arrival added Delaware. New York still did not vote, but it was announced—not quite accurately—that independence had carried unanimously. The next day the delegates took up Jefferson's Declaration, which they debated, revised to some extent, and finally passed on July 4.

Signer James Smith, of York, Pennsylvania, was another who had many pleasing and laughable reflections about that summer of 1776. In one convivial week in August he lost "a new Cane . . . my New Hat & 37 Dollars," he wrote home to his wife. He recovered his cane at the New Tavern, where he had attended "a Turtle Feast with Mr. Hancock and ye Delegates." He got his hat back from an American general named Wooster, who had borrowed it by mistake, and the "37 Dollars" were found by a tavern maid "among some Old Papers" in his room. So all his problems turned out well. Mr. Smith, in fact, was having such a good time in Philadelphia that when his wife said she was coming up to see him, he wrote her a dozen good reasons why she should stay home.

Some of the other signers found quieter ways to spend their time. John Adams went to visit a waxworks, and spent an afternoon in Charles Wilson Peale's "Painting Room." Thomas Jefferson, who could never pass up a curious sight, paid a shilling one day to see a monkey. He didn't say what kind of monkey it was—probably some sailor's pet in a waterfront tavern or lodging house. At any rate, he went to look at the monkey just a few days before he started writing the Declaration of Independence, and noted it carefully in his personal account book: "pd for seeing a monkey 1/."

During the time he was actually writing the Declaration, Jefferson paid one shilling sixpence for a new pencil, seven shillings sixpence for a map, and six shillings for wine. He also bought a new straw hat for ten shillings. On the first Fourth of July, either before or after the Declaration was adopted, he went on quite a shopping spree. Jefferson bought seven pairs of women's gloves for twenty-seven shillings; a thermometer for three pounds, fifteen shillings; and "gave in charity 1/6."

At this time Jefferson was thirty-three years old, a tall young man with curly red hair who rarely said anything during debates, but was regarded by other congressmen as a deep thinker and a clever writer. There is no doubt that he was very proud of his version of the Declaration, and his feelings were hurt considerably when parts of it were changed or omitted by Congress on July 3 and 4. Old Doctor Franklin tried to soothe him by taking him in a corner and telling him a funny story. But for several days afterward, judging from his letters home, Jefferson was upset and a little angry.

On the sixth, however, he must have felt better, because his little account book showed that he had paid a shilling for beer for the first time since he came to Philadelphia. It is pleasant to think that perhaps this was his modest way of celebrating a very great event. It must have been delightfully refreshing on that summer afternoon.

NATIONAL HEALTH INSURANCE

Mr. BUCKLEY. Mr. President, on August 28, 1975, I had the honor to speak before the Nassau-Suffolk Medical Society. The subject of my speech—national health insurance—is one that I am convinced deserves the most careful study by every Member of Congress, for it deals with matters that are at the very heart of our health care delivery systems. For that reason, I ask unanimous consent to have this speech printed in the RECORD so that my views may be made available to my colleagues as an addition to the ongoing debate over national health insurance in our Nation.

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

REMARKS OF THE HONORABLE JAMES L. BUCKLEY BEFORE THE NASSAU-SUFFOLK MEDICAL SOCIETY

There are no shortages of political issues these days, but there are some that are so important that they demand the attention of all citizens.

Clearly, national health insurance is one of these, as a fundamental revision of our health care delivery systems will affect all Americans.

Almost without exception, discussions about an increasing role for the Federal Government in the provision of health care begin with the observation, asserted as immutable truth, that soon the United States will have national health insurance.

This assertion, however, is most often made without any regard to the content of the plan or the likely consequences that will flow from it.

The idea that national health insurance is inevitable is as strongly and widely held as the belief that there is an overwhelming need for it.

Unfortunately, both propositions are incomplete and flawed.

Medical care in the United States is today a $100 billion plus enterprise, of which the Government accounts for less than 30%.

As a nation we spend almost as much on medical care as we do on food.

While the nature of the enterprise remains for the most part private, the role of Government has grown dramatically since the early 1960's.

In fiscal 1976 the Federal Government will spend $24 billion on medicare and medicaid, an increase of 15% over this past year.

In addition, the Federal Government will spend $9 billion on medical research, education, public health, and medical service planning functions.

However much has been done by Government in the field of medicine in recent years, it is relatively minor when compared with proposals presently before the Congress that, while most of them are labelled medical insurance, go up to and include an almost total nationalization of medical care.

This adds a great deal of confusion to the discussion, because while we use the word "insurance," we are in most instances talking about a major escalation of Federal control over American medicine.

It is, therefore, dangerous to allow ourselves to drift into a fundamental change of our medical health delivery systems without first coming to terms with the nature of the need.

I suggest that it is impossible to consider prudent health insurance legislation without first knowing the questions which must be asked.

Is there, indeed, a need for national health insurance?

If there is a need, what is the nature of the need?

Can the Federal Government meet such a need in such a manner that the nation's citizens will be assured of as good or improved health care as they now enjoy?

What are the comparative costs between an essentially public system and our current private arrangements?

If there is to be national health insurance, how should it be financed, and should those currently covered by private insurance be permitted to keep their present arrangements?

These are all important questions; and as a nation, we must attempt to come up with the correct answers to them before we drift into making legislative decisions that will institute fundamental changes.

In other words, the issue of national health insurance or national health care is more than a matter of political convenience or ideology.

It is more than a matter of believing that something must be done.

Political ideology and even sincerely held beliefs do not answer the important questions.

Allow me, then, to present some of the facts of the matter as I see them, in the hope that, if I cannot provide all of the answers, I can at least present a fairly accurate picture of what some of the problems will be.

First there is the important matter of time.

When can we reasonably expect an all-out push for national health insurance to be made?

My more than four years in the Senate have made me extremely wary of predicting with any degree of assurance anything that August body might do.

But I think it is fair to say that before the end of 1976, national health insurance will be one of the leading topics before the Congress.

The House Ways and Means Committee is presently planning to conclude their deliberations within the next few months; and in my opinion, the Senate can expect to be presented with a House-passed version within a year.

Next, I think we must determine, as best we can, how those who will be most directly affected feel about the idea.

In an informal poll taken by my office of non-medical personnel, we asked two questions regarding national health care.

First, did the respondent favor national health care? Although I note here that we made no effort to suggest what might or might not be the particulars of such a plan—the majority favored some form of national health insurance.

This is not surprising given the amount of politically-attractive rhetoric that has been lavished on the idea.

But second, and more interestingly, in answer to my next question, the great majority of respondents also indicated that they themselves expected to be less well off under a national health plan than under their current arrangements.

I hasten to add that while the sampling techniques was "unscientific," I am advised by an opinion polling expert that the very large number of questionnaires returned (over 20,000), and the random manner in which they were distributed, made the sample reasonably representative.

Those results suggest to me that we have a long way to go before the public is adequately informed over what may be the consequences of some of the proposals now being promoted, although they do have latent misgivings about them.

Therefore, if you think you have something to say to your fellow citizens about what is appropriate on the question of national health and the role of government, tell them.

Let them know what you believe will be the consequences to their health care under the various nationalized health proposals.

We need your input—as individual practitioners.

I cannot, as I said, give you the answers to all the questions that need to be asked before this Nation commits itself revolutionary changes in our system of health care.

I can tell you, however, that there are a number of propositions which to me appear clear and uncontroverted.

First, the essential, private nature of medicine which has produced the personal relationship between doctor and patient has worked well for us and must be preserved. Proposals which would in effect make all medical personnel dependent upon the Federal Government for remuneration would transpose presently independent, self-employed professionals into civil servants. To this I am opposed, as I would be opposed to the proposal that all attorneys or all construction workers be made dependent upon the Government. It is not just because I wish the doctors and nurses in this land well that I hold this view—it is because I am deeply concerned about the Nation's future health care system; because I, as a patient, want the ability to choose among professionals who owe their first obligation to me. Inherent in any system of national health care is the element of control over the doctor. If for no other reason than that of controlling costs, as under medicare and medicaid, it is not at all unlikely that the Federal Government would require certain performance standards in the nature of standardizing medical response to certain medical problems.

Interestingly, the same issue was central to the debate over Federal aid to education wherein critics suggested that Federal money would eventually lead to Federal control. This proposition was, of course, vehemently denied. But now we have colleges and universities being ordered to establish quota systems which discriminate against some of our most able fellow citizens. We have local school districts, such as one in Mt. Vernon, over in Westchester, being ordered to not reopen a certain school building because the Federal Government—specifically, the Department of Health, Education, and Welfare—did not agree with the decision made by the local school board. Can anyone be absolutely sure that an analogous situation might not develop with hospitals, group practices or other health systems?

I think it is safe to say that even if the Federal Government is twice as effective delivering medical care to citizens as it is delivering the mail, then we would be in deep trouble should there grow up an almost exclusive dependency upon the Federal Government for health care.

And one point should be here added parenthetically—any medical care delivery system patterned after Great Britain's, which permits some elements of private practice, is a system of two-class medicine.

The wealthy and well-to-do will be able to afford an additional, private option while most others will necessarily be limited to the Government system for medical care.

The second point to be considered is that there is no such thing as free or unlimited medical services, or, in the immortal words of Milton Friedman, there is no such thing as a free lunch.

Unfortunately, there is a body of opinion in this country which somehow believes that if only the Federal Government would give us national health insurance there would be unlimited health care for all at no cost to anyone.

The system will have to be paid for; and its cost will not be measured in taxes alone.

It is a fact of life that when available medical resources fall behind the increased demand stimulated by a "free lunch" approach, there will have to be some kind of allocation.

This is as true in medicine as it is in anything else.

Precisely what the allocation system might be is one of those presently unanswered questions.

One critical observation is that if doctor-patient selection is not controlled by Government, and if price is made relatively less important in allocating health resources as any public system would make it, then the mechanism to allocate the medical services will likely be time.

Those able to wait longest, those able to visit clinics or offices most often will have relatively better access to health care under a nationalized system of public health than under the present arrangements.

This is the kind of cost that tends to be lost sight of in public debate.

Third, the greater the role Government assumes to itself, the greater will be the threat to the future of this Nation's health care.

I do not say this to scare people—or even because I am a congenital skeptic when it comes to my views about the potential efficiency of Government.

I say this because if we look around to our long-term experience with Federal intervention we find, more often than not, a record of inefficiency, unintended ill-effects, and outright failure.

In the '30's, the federal government created a social insurance system which at the time was intended to forever function without serious problems.

But now, as a result of constant tinkering and ill-considered add-ons, many serious-minded people are beginning to wonder whether the Social Security System will survive fiscally intact to pay out pensions to those who twenty-five years from now will be expecting them.

In the meantime, millions of young people are beginning to complain that rising payroll taxes deprive them of significant income and make it almost impossible to set anything aside with which to supplement their social security income after they have retired.

The record is replete with examples where the federal government in a burst of enthusiasm has adopted a program, or undertaken a new area of regulation or responsibility in the invincible belief that there is nothing government cannot accomplish, given enough money and authority.

Ten years ago the government decided it would, by legislation, eliminate poverty.

That burst of creativity has turned into a multi-billion dollar enterprise which whatever it might have accomplished, did not "end poverty."

Only a few today disagree with the proposition that the government regulated the railroads into bankrutpcy and disuse while simultaneously subsidizing their operations.

Now people speculate on what to do to reinvigorate a decayed rail system.

My point in citing these examples is self-evident.

There are good and sufficient reasons why serious-minded people should be very nervous when the government gets around to making decisions which will affect the whole of the future of medical care in this country.

We must have learned by now that there is no turning around once government preempts a new field.

To be sure, adjustments are possible, but in their very nature there will be attempts to correct problems which have emerged in the operation of the program.

It is most unlikely that we will be able to make fundamental re-orientations.

With this, national health care is analogous to social security.

Even though any number of people now realize that there are problems within the social security system, problems that could endanger its future well-being and successful operation, no one really knows what to do about it.

The very magnitude and exclusivity of government action makes future reform enormously difficult.

I would suggest that this is a problem which cannot be simply swept under the rug. These are problems which run to the very foundation of the national health insurance debate.

I would be remiss if before I concluded I failed to direct at least brief attention to the issue of medical malpractice insurance. While New York and other States are still groping for permanent solutions, it is not at all certain that on their first attempts they have come up with ones that will keep premium costs at less than crippling rates.

The problem will have to be examined and reexamined in every aspect, including a willingness to reexamine some of our concepts of tort liability.

For this reason, I continue to urge the Office of Technological Assessment, the Research arm of the Congress, to push ahead on its study on the complex nature of the problem; to determine how is it that after so many years malpractice insurance is such a problem? In fact, it is alarming when one thinks about the fact that 95% of all malpractice cases have been filed since 1960. Something has gone wrong, and we must keep open minds as we seek ways out of the present predicament.

In looking for a long-term solution, we should not avoid reviewing the present law which makes up the tort of medical malpractice. We should not limit ourselves to tinkering with insurance regulations when in fact the whole of the law which governs medical liability may require thoughtful reexamination. There is no question but that all reasonable people should want a wronged patient or client to receive adequate and reasonable compensation for injuries which arise out of the negligence of the professional. That is as true for attorneys as it is for doctors. But certainly we should look closely at the applicable standards of practice to insure that they are in fact reasonable and just, for patient and practitioner alike. Surely the dictates of true justice require that the law not allow one party to benefit unfairly at the expense of the other.

Before closing, I would like to mention another very serious—and relevant—issue: the Nation's economic condition.

As a Nation we have been playing fast and loose with our economic future. For too long we have been trying to deny the validity of certain economic laws. For too long we have been driving almost relentlessly to regulate and control from Washington every facet of our economic system even though the evidence is overwhelming that Federal regulations tend to create more problems than they solve, and impose tens of billions of dollars of needless costs on consumers.

It is probably not great exaggeration to point out that in fact the issues of national

health and the national economy are not as unrelated as one might think. In both instances, the Nation's political leaders seem intent upon moving Washington into a central and controlling position.

The spirit and drive to regulate has been with us now throughout most of the twentieth century, and one might point out it initially was undoubtedly the result of justifiable conditions. But as government seems so intent on proving, it cannot adopt to changing circumstances. Of all institutions in society, government may be the slowest moving, most cumbersome, and least responsive—and it is always the most expensive.

There are ways in which genuine deficiencies in medical care can be corrected without a Federal preemption of the field. We should therefore move cautiously, lest we destroy a system of health care that has for so long admirably served the needs of so great a percentage of our people.

THE NEED FOR A NEW DOMESTIC AGENDA

Mr. GARY HART. Mr. President, the time has come for a long, hard look at alternatives to big Government and big spending. This year, we are faced with a possible $100 billion deficit to pay for Federal programs which, in many cases, have more than quadrupled in cost in the past decade. Citizens must quit demanding more from their Government and then criticizing Government expenditures. Elected officials must quit acceding to every demand in an effort to be popular. Both must be willing to reduce waste and equitably share sacrifices.

The people are not only tired of paying for Government programs; they are getting fed up with what they get in return. In my recent travels throughout my State, if there was any single issue that was on the people's minds, it was this: "Get Government off our backs."

The issues raised here require thorough analysis, and their resolution will necessitate firm and considerable reform in the existing Federal bureaucratic system. Mr. Ted Van Dyk, a thoughtful and respected political analysist, has offered an excellent commentary on this subject, entitled "An Open Letter to the Democratic Party: The Need for a New Domestic Agenda." In his paper, Mr. Van Dyk succinctly identifies the problems before us, and contributes some very sound remedies. I strongly concur in most of his analysis and many of his conclusions. I highly commend his analysis to my colleagues, and ask unanimous consent that it be printed in the RECORD.

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

AN OPEN LETTER TO THE DEMOCRATIC PARTY: THE NEED FOR A NEW DOMESTIC AGENDA

(By Ted Van Dyk)

". . . The liberal (Democratic) party insists that the Government has the definite duty to use all its power and resources to meet new social problems with new social controls—to insure to the average person the right to his own economic and political life, liberty and the pursuit of happiness."—Franklin D. Roosevelt.

Since the Great Depression—when Franklin Roosevelt and the Democratic Party, on taking power, examined a nation suffering from the benign neglect of the Hoover Administration and the "economic royalism" of major corporations and financial institutions, and concluded that large doses of federal Government (upper-case "G") action were the indicated therapy—we as a party have acted on several basic premises regarding the federal government's relation to the individual citizen, to the country's private institutions, and to other levels of government.

First, that unless the federal government acted as the average citizen's powerful surrogate, he inevitably would be victimized by powerful economic and social forces beyond his control.

Second, that private institutions such as corporations and banks, unless checked by a citizen's-surrogate federal government, would work their rapacious and evil ways upon Mr. and Mrs. America. (Labor unions were exempt from such definition, since they, as Democratic Party allies, were "good" institutions and acting on the average citizen's behalf).

Third, that state and local governments—witness their regressive tax structures, political corruption, Fair Trade and Right to Work laws, and sometimes-discriminatory practices against minority groups—could simply not be trusted to be citizens' surrogates. As administrative units, they often were anachronisms. Beyond that, some of them had an unhappy habit of challenging the economic and social policies promulgated by progressive-minded federal executives.

Beginning with Roosevelt's famous 100 days through the multitude of actions and laws culminating in Lyndon Johnson's 1965 burst of Great Society legislation, we Democrats have acted on these premises—first, through such measures as unemployment compensation and Social Security, erecting federal "safety nets" to cushion the economic disaster which might befall any citizen; then, through federal laws to regulate business, banking and securities markets and to strengthen labor unions and farm cooperatives, thus creating checks and balances among private institutions; finally, through such diverse programs as Medicare, aid to elementary, secondary and higher education, and the Highway Trust Fund, channeling federal money and effort to objectives deemed socially valuable.

Where we felt other levels of government might partially be trusted, we have, through such programs as Model Cities and revenue-sharing, attached tight strings and guidelines to the federal monies and other material assistance we have made available to them. (Or, as per the Community Action concept, as promulgated by Johnson and administered by Sargent Shriver during the mid-1960's, we have created competitive political forces on a grassroots level to help keep the distrusted local elected officials "honest").

The Johnsonian performance was nothing short of incredible. Determined to complete Roosevelt's unfinished New Deal, Johnson pushed through not only such landmark legislation as Medicare, the 1965 Voting Rights Act, and the Elementary and Secondary Education Act, but created a virtual explosion of new federal programs.

When Dwight Eisenhower left the Presidency, there were some 45 federal domestic social programs. When Johnson left office, there were 435. And we're paying for them.

In 10 years, federal Medicaid costs have risen from $770 million to $6.6 billion, Medicare costs from $3.4 billion to $14.2 billion, overall social welfare program costs from $38 billion to $140 billion.

Out of our seminal 1930's experience, we Democrats almost reflexively have evolved a system of problem-solving which has influenced our programmatic approach, our political rhetoric, and our collective mindset: Once a social and/or economic problem is perceived, a new federal program or agency should be established to solve it. If the problem proves intractible, the program or agency should be given additional funding and personnel, in Patrick Moynihan's phrase, "throwing dollars after problems." If the problem still exists, it should be studied through grants to former colleagues in the agency. If, at last, the problem begins to be solved, nonetheless leave the agency or program, its budget, and its personnel in place. (Example: Federal aid to "impacted" school districts, instituted during World War II, still costs us some $900 million annually, despite the fact that it bears no discernible relationship to any rational educational priority or need).

Our Depression-era perceptions were largely accurate, and our resulting premises were then largely valid. But recent Presidential-election experience, if nothing else, should cause us now to give them serious reexamination.

Post-election data in 1968 from the University of Michigan Survey and other sources indicated that the electorate, including millions of Democrats, had rejected Hubert Humphrey in favor of Richard Nixon (and, in some places, George Wallace) *not* because of Humphrey's equivocal position on the Vietnam war . . . certainly *not* because of Nixon's personal popularity . . . but because the American people were convinced that, in the wake of the exhausting Johnson years, Humphrey would mean more New Deal/Fair Deal/New Frontier/Great Society government activism.

Similar 1972 data indicated that George McGovern, admittedly the victim of the disastrous Eagleton affair and other public-confidence-destroying campaign episodes, was also seriously harmed by the public's false perception of him as "another social-welfare liberal" eagerly waiting to dispense $1,000 in public funds to every man, woman, and child (and, the suspicion went, probably more to his own radic-lib, welfare-chiseling adherents).

Only the endemic optimist in our party could claim that the Democratic Party's 1974 offyear election successes had anything whatever to do with a public endorsement of the New Deal ethic. Rather, as polling data again indicates, Democratic candidates reaped the good fortune of a general post-Watergate backlash against Richard Nixon and of another backlash, one of general disgust, against incumbent officeholders perceived as ineffective.

Few successful Democratic candidates, in any case, ran on New Deal planks. Rather, they offered themselves more often as vehicles for public anger with the performances both of government and of politicians.

Governors Jerry Brown of California and Mike Dukakis of Massachusetts, both elected in 1974, moreover, have since governed accordingly, perhaps ironically setting themselves up as public surrogates against government encroachments and abuses, while at the same time arraying themselves against the old corporate and banking adversaries and, now, some labor unions perceived by the public as abusing their power. Both Brown and Dukakis have refused a priori to accept or endorse pre-existing government programs and practices within their own states, even if they were instituted by Democrats and continue to have their support.

This new trend, whereby governors such as Brown, Dukakis, and Dan Walker in Illinois frequently position themselves as anti-politicians in opposition to their own Democratic establishments and traditional supportive interest groups, including teachers and labor unions, has coincided with the general decline in public support for both major political parties, the steady increase in voters, particularly young voters,

classifying themselves as independents, and the present low esteem in which all establishmentarian institutions are now held.

Some critics claim the Brown/Dukakis/Walker approach is calculated posturing, "cleaned-up Wallaceism," designed to ride the public tide of discontent, rather than a genuine effort toward a new ideological basis for government. Or, it may simply be a natural outcome of their recognition that the recession has shrunk the tax dollars available to pay for government services. Whatever their internal reasoning for their actions, they clearly have struck a receptive chord with an uncertain and alienated electorate.

". . . Any government, like any family, can . . . spend a little more than it earns. But you and I know that a continuance of that habit means the poorhouse."—Franklin D. Roosevelt

New York City, more than any other city in America, has been the exemplar of New Deal democracy in action, a melting pot of races and nationalities providing a high level of public services to its citizens, just in fact what the United States could be if only less-progressive constituencies did not stand in the way. Yet today New York City stands as another kind of exemplar—$12 billion in debt; its operating budget having increased sixfold in 15 years; its city government employing one out of 22 city residents, including children and retirees; its welfare rolls at one million people; its human-resource costs making up one-fourth of the city budget; and its debt service totaling $1.6 billion this year.

Of course this disaster cannot be laid solely to overapplication of the federal New Deal ethic on a local level. There has been a 30-year flight by taxpaying affluent and middle-class citizens, and many businesses, to the suburbs. There has been the disparity in various welfare benefits which has lured the indigent to New York City from low-benefit states. There have been the floods of unskilled black and Spanish-speaking immigrants seeking the city's traditional opportunities. There has been the unprecedented growth in labor-union strength and political leverage in the city.

Yet it is indisputable that a proliferation of city-administered programs has led to a situation where the city's Health and Hospitals Corporation, which operates 19 municipal hospitals, has 10,000 more employees now than it had 10 years ago, although the patient load has dropped 25 per cent in that period; that educational employees have increased from 44,000 in 1960 to 80,000 today, although pupil enrollment has remained constant; that the average yearly salary for city employees, $13,000, is now some $3,000 more than the average for private-sector employees.

The reaction of the average citizen—that fellow we Democrats set out to rescue 40 years ago through governmental programs and services—may not be far from that expressed in a letter this July to the editor of the San Francisco *Chronicle* by one George C. McNutt of Oakland, California, in response to a suggestion by columnist Joseph Kraft that New York and other financially-distressed cities should receive more federal assistance:

". . . What's fair and logical about the cities' case? Why should they get more money?

"If you and I continually spend more than our income, will our friendly loan company volunteer free money or the welfare office pay our debts? Not likely, though debt stamps already may be more than a gleam in some congressman's eye.

"I submit cities plunge into debt not because the public demands services beyond their taxing abilities, but because city officials believe they always will be rescued by federal grants. Can this beautiful dream by U.S. mayors that the federal treasury is a bottomless barrel go on forever? For the answer, stay tuned."

Mr. McNutt's reaction may be unfair, but it is surely widely held.

One conjures a vision of millions of American voters seated before a massive television screen. On the screen is portrayed New York City, inundated to the Empire State Building's 50th floor with uncollected garbage, picket signs, welfare recipients and protesting city employees. Standing astride it all in a hovering cloud of pollution, are Humphrey, Ted Kennedy, Ed Muskie, and the ghost of Lyndon Johnson, all furiously signing new laws to create similar situations in the voters own communities. (It is this symbolic New York, by the way, that our party's elders in their wisdom have chosen as the site of our 1976 national convention).

Regrettably, the 1976 campaign will offer little incentive to Democratic Presidential candidates to test and explore a new approach to governance. The primary elections, and caucuses in the non-primary states, will be decided in this period of voter indifference not by the presentation of any new ideology by a Democratic candidate, but rather by the voter-identification and voter-turnout activites of small cadres of organizers working among those slightly-larger numbers of voters who bother to concern themsleves with pre-general-election activity.

For the Fall 1976 general election, the lines already have been drawn. Responding to the survey data principal voter concerns, we Democrats will charge that President Ford has mismanaged the economy, calculatedly caused unemployment, and—because of his ties to big business—allowed prices to go unchecked. The President, on the other hand, will portray himself as a prudent man trying to hold down irresponsible and inflationary Democratic spending, while at the same time bringing the economy slowly but steadily back to health.

With the national electorate preoccupied with macroeconomics, there will be little reason for the Democratic candidate to attempt a redfinition of his party's approach to public problems. It would all seem so much fingerprint to voters concerned about jobs and grocery prices. But the issue will be lingering there nonetheless in the back of the public mind. ("Okay, we'll bring the Democrats back one more time because they're better on jobs and economic growth. But they better stop all this big-government, social-welfare spending once we put them in, or they've had it").

The peril will be that, if a Democratic President is elected—and activist New Dealers Humphrey and Kennedy would seem at this point the most likely Democratic candidates or, perhaps, ticket—his first instinct will be to quickly form his new Administration out of the cadre of Kennedy-Johnson alumni huddled together for mutual support in academia and the Northeast corridor.

It takes little imagination to foresee a first 1977 Democratic Cabinet meeting, a meeting in which an HEW Secretary Wilbur Cohen, Attorney General Nicholas Katzenbach and HUD Secretary Shriver, among others, get underway by simultaneously saying: "Now, where were we before we were so rudely interrupted?"

Cohen, Katzenbach, and Shriver, and hundreds like them who served faithfully and honorably through the 1950's, could only change their habits of governance by a wrenching act of will, or on specific and constant direction of a President determined to shake his party's philosophy into a new pattern.

That is not to say it could not be done.

It would serve the Democratic Party well to retrace its steps to the 1930's period for inspiration. In doing so, we might conclude that we as a party have long since confused our ends and means.

The end in the 1930's was to build a safety net of economic security beneath the average citizen. The means—in a period when the government had previously provided no safety net at all—was to devise a series of federally-funded and administered programs.

The end, too, was to redress the imbalances of power among the various private and public institutions, so as to create a more just social and economic order. The means was to add power to the federal government, to labor unions and farm cooperatives, and to diminish or regulate the power of previously-unchecked business and financial interests, and less-progressive state and local governmental units.

Our ends, it would seem, are still more than valid. But our society is no longer the society of the 1930's, and the means require adjustment.

The first 1000 days of a new Democratic Presidency could be well used to promulgate a new agenda, concentrating on reorganization and management of the whole governmental process. Such an agenda would include a ruthless reexamination of every federally-funded and administered agency and program.

It would not discard out-of-hand, for instance, the 1971 reorganization proposals, prepared by the Advisory Council on Executive Reorganization, which would have dismantled the Departments of Agriculture, Commerce, Interior, Labor, Housing and Urban Development, Health, Education and Welfare, and Transportation and consolidated their present overlapping and uncoordinated functions in four departments of Human Resources, Natural Resources, Community Development and Economic Development.

A Democratic President also would review the entire regulatory structure—the present Ford Administration "regulatory reform" proposals seeming little more than the issuance of hunting licenses to the Republican Party's heartland, big-business constituency.

Reorganization could eliminate many duplicate agencies and services, and save taxpayers' dollars. It also, of course, would face a hornet's nest of protest from countless special-interest groups—including many of the Democratic Party's allies in organized labor; many present Congressional committee chairmen; and most of the 430,000 employees of the agencies involved.

But the net result of such a reorganization would be a federal government organized according to function and goal, rather than program.

The present organization has meant that each special interest has viewed its Cabinet-level department as its private advocate at the White House—i.e., a Commerce Department dominated by business, a Labor Department dominated by organized labor, an Agriculture Department dominated by agricultural pressure groups, an HEW responding to senior-citizen, medical, educational and welfare lobbies, an ICC dominated by shippers and truckers. In such an environment, it is all but impossible to cutback or eliminate an already-existing program. But under a consolidation, such as that proposed five years ago, constituent groups would be forced to deal with new departments—often in competition with other constituent groups—concerned with the overall public interest rather than that of a narrow sector.

Then there are the 1,250 federal advisory boards, committees, commissions and councils—filled by some 24,000 private citizens and public officials, staffed by more than 4,000 federal employees—which cost $75 million annually. The $75 million involved is, by federal government standards, small change. But the symbolic act of their abolition would gain a new President much more than that in public esteem. The Board of Tea Tasters, the Panel on Sunburn Treatment, the

Women's Advisory Committee on Aviation, a review Committee on laxatives, and the Dance Advisory Committee are among the many advisory bodies which would never be missed. Some have not met in many months.

Far more importantly, a new Democratic agenda should make a serious attempt to deal with what in shorthand is now called "the welfare mess," but includes not only welfare per se, but the multitude of well-intended income maintenance and transfer-payment programs which have spawned their own bureaucratic abuses while in many cases stripping their recipients of human dignity.

The headlines abound: "Food Stamp Costs Rise from $35.1 Million to $4.9 Billion in 10 Years, $6 Billion Cost Expected in 1976"; "Social Security Overpayments May Total $1 Billion Since January 1974, Others Underpaid by $36 Million, Overtime to Correct Errors Totals $50 Million"; "Welfare Mothers Stand in Line at 5 a.m. for Chance to Fill Out Day's Quota of Application Forms."

Senator McGovern was politically wounded in 1972 by his proposal, borrowed from James Tobin of Yale, for a negative income tax to replace the present welter of programs. Yet the relative simplicity of such an approach, administered through the Internal Revenue Service, whereby every family would be guaranteed an income floor above an established minimum level, would seem vastly preferable to the present maddening patchwork of Democratic-conceived programs—each requiring its own bureaucracy; each subject to its own errors of administration; each captive to the constituencies which benefit from it. To those who patronizingly say that the poor, if guaranteed a minimum income, could not be trusted to make proper decisions about use of their money (whereas food stamps, for instance, can only be used for purchase of food), one can only point to 1960's minimum-income experiments where recipients spent the overwhelming bulk of their income on food, clothing, and shelter.

A new agenda also should make some attempt at establishing a workable incomes policy which will exert discipline not only upon those large, price-administered industries unresponsive to normal competitive factors but also, far more difficult, upon a labor movement which forms the heart of the Democratic Party's political support.

John Kenneth Galbraith says in *Money:* "A central feature of modern economic society is the rejection by subordinate classes of the prescriptive limits on their income and consumption. With this rejection go claims on production that cannot be met; from these claims come inflation."

If one substitutes "labor unions" for "subordinate classes," Galbraith's statement rings more true. For, in the late 1970's, organized labor—especially the teacher and public-employee unions, paid with public funds—can no longer, as in the 1930's, be exempt from our short-list of institutions which sometimes exert their power to the average citizen's detriment.

Labor pays our bills, registers our voters, and lobbies for our legislation. But, clearly, we as a party no longer can reflexively endorse labor's program as our own—except in those cases where we think it makes sense. It's a problem we never talk about, but finally must face on a national level as it is being faced daily on a state and local level.

There must be a hard look, too, at the federal government's present-day relationship to state and local governments.

Revenue-sharing, conceived in 1964 by Democratic economists Walter Heller and Joseph Pechman, has been many things to many people. Early advocates of revenue-sharing pointed out that federal taxes were preferable to state and local taxes because, by and large, they were vastly more progressive. Far better, they reasoned, to distribute monies to states and localities through revenue sharing than through federal tax reduction, since the states and localities would rely in the latter case on unprogressive taxes to raise their funds. Since then, however, the federal payroll tax has risen so steeply as to make it more regressive than most state and local property and sales taxes.

But it was not just tax progressivism which we originally considered. In the early days, revenue-sharing's Democratic adherents argued too that, through the federal government's distribution of monies to the states, it would also be able to control its uses (Again, our old belief that states and localities were simply not to be trusted). Surely, we reasoned, we enlightened social engineers at the federal level could better judge where the money should go than those grubby elected officials at the grassroots.

But this, too, proved to be a two-edged sword. The Nixon Administration, not sharing our high social purposes, used revenue sharing as a screen for reduction of some of our favorite federal grant programs in the social areas. Governors and mayors found themselves not receiving the usual federal grant assistance *plus* revenue sharing, but revenue sharing *instead* of federal grants. As a sweetener to states and localities, a shift began from strictly-deliminted ground rules under which the revenue-sharing monies could be used to no-strings-attached funds called "general revenue sharing."

One wonders if Nixon was not right (heresy!) in using revenue-sharing as a disguised means of stopping the growth in federal grant programs. When President Eisenhower left office, there were some 100 federal grant-in-aid programs costing $7 billion annually. When President Johnson departed, there were 530, costing $24 billion. Now there are 975, costing $52 billion annually. The Department of Health, Education and Welfare alone has 274 such programs, each administered by its own bureaucracy, each requiring comparable bureaucracies at state and local level to apply for and administer the grants. But extrapolations by revenue-sharing authority Ray Whitman of the University of Maryland indicate that, had the 1973 Nixon turnaround not taken place, grant programs would today cost $85 billion!

Federal grant programs obviously need to be brought under even tighter control. ("It's mind-boggling to try to keep up with all the federal programs that come down the pike," Democratic Governor Robert Straub of Oregon said in a recent interview, "And it's confusing to try to cope with all the rules and regulations that have to be dealt with"). But, at the same time, should we not also review revenue-sharing as a long-term concept?

As noted, the federal tax system no longer is more progressive than many state and local systems. Thus revenue-sharing loses its attractiveness in that respect. Secondly, do we Democrats still really believe that tight federal guidelines should be attached to revenue-sharing funds on the basis that federal bureaucrats can make better judgments about their use than local elected officials. If we do not believe the guidelines to be necessary, why should we interpose the federal government at all in the tax collection-public expenditure process at other levels of government?

Surely, in an era when people desperately seek accountability and responsiveness from the nearest level of government, we should reconsider any concept which would seem to move in the other direction. Rather than collecting tax monies from states and localities, and then sending them back, shouldn't the federal government instead return this authority—and responsibility—to state and local officials directly accountable to their own constituencies?

Why don't we Democrats, at a homely local level, concentrate on the desperately-needed reorganizations and consolidations which must take place in America's major metropolitan areas, which suffer from even worse overlaps of government program and authority than the federal government does? How can we help create new lines of metropolitan and regional government authority? How can duplicative and wasteful taxing jurisdictions more rationally be redrawn? How, in fact, can we help restore the average citizen's confidence that the pothole in his street quickly can be repaired without the matter passing through dozens of anonymous bureaucratic hands, up to the federal level and back? How can he come to know that, down his street, or in his precinct (as in Mayor Daley's Chicago, whatever its other faults) there is someone to see who can fix the pothole?

Now, in our Bicentennial Year, are we as a party to devote ourselves, figuratively, to fixing governmental potholes?

People we know have been trying to tell us something.

Bill Moyers, former assistant to President Johnson now a syndicated columnist and broadcaster: "One (Democratic) economist sent LBJ a memo referring to America's future as an 'inexhaustible cornucopia.' And we believed it . . . As the commitments grew, the ability to finance them declined . . . Thus, the predicament we face today: who will get what?"

Alice Rivlin, economist, former HEW official under President Johnson now heading the Congressional Budget Office: " . . . Liberals are going to have to state the costs and face the music. New programs are suspect. There really haven't been any big new breakthroughs in 10 years, but a lot of liberals haven't recognized this fact yet, that what worked in the sixties isn't working anymore."

The Trilateral Commission, task force report on the Governability of Democracies: "The challenges which democratic governments face now are the products of . . . past successes as well as changes in past trends. The incorporation of substantial elements of the population into the middle class has escalated their expectations and aspirations, thereby causing a more intense reaction if these are not met in reality. Broadened political participation has increased the demands on government. Widespread material well-being has caused a substantial portion of the population, particularly among the young and the 'intellectual' professional classes, to adopt new life styles and new social-political values."

Joseph Califano, attorney, former special assistant for domestic affairs to President Johnson: "The American people have become so jaded with political promises that most hold politicians in less esteem than frontier settlers held snake-oil salesmen. Over the past generation, the drum beats of exaggerated promise has been far more debilitating to the political cohesive fabric of American society than even the grossest dissembling of Richard Nixon and Ron Ziegler."

Alvin Toffler, futurist, in discussing what he foresees as "a long period of nonserenity": "We'll have to scrap our obsolete ideologies—the old political labels like 'left wing' or 'right wing' . . . What we need is not a single, great master plan in the White House. Nothing could be more unworkable. What's needed is a process for generating, changing regenerating plans at the regional, local and community level, and in every industry and nonprofit sector. There's your question about who is to do it. Traditional planning is based on the idea that ordinary lay citizens are dumb and passive. It's elitist and subject to capture by powerful interests. The alternative is 'antic'patory democracy' . . . Unless you have feedback coming in from millions of ordinary people whose lives are affected, and unless those millions of ordinary people can alter the plans, you not only create the

conditions for 'friendly fascism' but the possibilities of massive disaster as well."

The Democratic Party, since 1968, has devoted itself internally to massive institutional reform, seeking to create in fact the "anticipatory democracy" that Toffler proposes. In all cases in this process, we have opted for wider public participation rather than less . . . for more decentralization of decision-making rather than less . . . for, in short, the responsiveness that both the times and the changing electorate demand. We as a political party have reached a firm decision to listen as well as to act.

Yet our overall higher objectives have not changed. We still share a vision of our society that begins not with General Motors or some mythical "free enterprise system" but with the immigrant citizen—whatever his race, religion or nationality—seeking a new life in a freer, more just land.

On that citizen's behalf, we should begin to apply in our approach to government the same principles we already are applying in the process of Democratic Party reform.

We have no need for defensiveness about our recent past. In 40-odd years, we Democrats have been instrumental in building the freest, most prosperous society in human history. Our commitment to social justice has sustained itself through even the most complacent passages of the period. Nonetheless, if we want the American people to ask us for an encore, we'd damned well better fill those real potholes our freewheeling cavalcade of progress has left in its wake.

THE DANGERS OF INFLATION

Mr. GARN. Mr. President, last week the House Committee on Ways and Means rejected President Ford's proposal to tie permanent tax cuts to an overall spending limitation. In my view that was a most unwise decision, one which I hope the Senate will quickly reverse. The people of the Nation have not lost sight of the dangers of inflation, even if Congress has.

In that connection, Mr. President, last Friday's Salt Lake Tribune carried an article by Harold Finley of the Chicago Tribune, in which he weighs the relative seriousness of inflation and recession. Clearly, he concludes, inflation is worse, since its early appearance is not seen as bad; by the time it is recognized as evil, it is too late. Right now, we are seeing further evidence of the truth of that judgment as Congress rushes to increase the deficit position of the Federal Government, stoking the inflationary pressures which have such a deleterious effect on the old, the poor, and on the capital markets of this Nation.

Mr. President, I ask unanimous consent that the article referred to be printed in the RECORD.

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

FINANCIAL FOCUS: INFLATION MORE VICIOUS THAN RECESSION EFFECT

(By Harold Finley)

"I wish you'd make up your mind as to which is worse, inflation or recession." The answer is easy. Inflation during 1974 went to greater extremes than recession in any year since the 1930s and is more of a long-term threat to our way of life.

Inflation is a more vicious problem than recession inasmuch as it seems a healthy development in its early stages whereas recession is never popular. In fact, a major reason inflation has been so damaging in recent years is that the Depression was so severe that inflation was widely welcomed as a cure.

The recession of 1974–75 is very mild when compared with the Depression. Its impact on the unemployed is cushioned by unemployment compensation, and businesses have had the benefit of an unusually long period of prosperity.

AT LOWEST LEVEL

The stock market in late 1974 was at its lowest level in many years, reflecting great pessimism in the minds of investors because both inflation and prospects of recession were serious at the same time. The vigorous rally of the first half of 1975 anticipated considerable easing of both problems, which became evident this summer.

The decline since July 15 reflects a few weeks of new inflation at a double-digit annual rate and the realization that recovery in business activity is proceeding at a slower rate than expected in early summer.

My contention is that an additional year of mild recovery or continued recession in the long run would be beneficial to the country as a whole because it would provide the background for further cooling of inflation and yet permit a comfortable standard of living for most Americans.

DETRIMENTAL TO COUNTRY

The lush extravagance of peak prosperity may seem temporarily gratifying, but is detrimental to the country because it is produced only by excessive debt, depletion of natural resources, and ruinous inflation. A more austere way of life permits reduction of debt, increased rate of saving, and competitive prices.

Many young people assume that promotion of an ever higher standard of living is mandatory because it was the accepted goal for so many years from the early 1930s until the early 1970s.

However, public sentiment in this area has swung in long cycles through the centuries. We are now seeing increasing evidence that inflation is becoming politically unpopular and that fiscal sanity, reduction of debt, conservation of resources, and emphasis on comforts rather than luxuries are the wishes of the majority of the citizenry.

BICENTENNIAL BLUES IN BOSTON

Mr. KENNEDY. Mr. President, I call the attention of Senators to an article from the New York Times entitled "Bicentennial Blues in Boston."

In this article Jonathan Kozol has very articulately chronicled the conditions and events that many poor and deprived people are forced to endure in some communities of Boston, Mass.

For a long time, Mr. Kozol has campaigned for the improvement of conditions in our schools and in the neighborhoods where poor and oppressed citizens must live.

The following article is excerpted from Mr. Kozol's forthcoming new book entitled "The Night Is Dark and I Am Far From Home."

This extract from the book is exceptionally well written and I feel it clearly deserves to be brought to the attention of my colleagues.

I ask unanimous consent to have printed in the RECORD the article entitled "Bicentennial Blues in Boston" by Jonathan Kozol.

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

BICENTENNIAL BLUES IN BOSTON

(By Jonathan Kozol)

I live today in a remarkable section of a very great, and old, tormented town.

The town is Boston. The section is the strange, historic—and despairing—South End. William Lloyd Garrison and Harriet Tubman both have taken sanctuary in this section of the town. A young black streetwise pimp and dealer, with reddish "conk" and a flamboyant zoot suit, lived and loved and hustled in this neighborhood in 1945. Years later, after he received his education in the prison system of our state, he changed his name to Malcolm X.

Malcolm's South End still exists, at least in part, today. It will not be found, however, on that mandatory tourist trek known, by some irony, as "The Freedom Trail," that costly stroll contrived by Boston merchants with the full cooperation of our business-minded Mayor, to hustle some money from the second Centennial of the birth of freedom in this land.

If you should come to Boston one day in the next few years, take the counsel of an old and penny-pinching citizen of town: Skip the Freedom Trail! Cut out on the entire patched-together fake-colonial setup that has been so avariciously devised to catch your dollars as they fall. You'll lose the chance to buy a lot of tinsel, trinkets and a guaranteed breakable replica of Paul Revere. Instead, you might learn something about freedom.

Come over instead and take a good long stroll around the oldest section of the South End. Twenty thousand people now claim residence within these blocks. With the exception of a number of well-demarcated islands of white middle-class houses, the largest number of the people here remain still black and Puerto Rican, poor-white, Chinese, Syrian and Lebanese.

In one direction or another, the neighborhood encompasses approximately fifty square blocks. Many buildings have been boarded up; some are still partly occupied, one or two families camping out in partly heated rooms. There are many broken-down rooming houses, crumbling brownstones, urine-smelling city welfare projects.

In the alleyways and on the fringes of this neighborhood there are large numbers of poor derelicts: solitary men, penniless old women, dozens of whom die along the sidewalks or between the cars each winter, 2,000 heroin addicts and 4,000 homeless men, many of them alcoholics who live on the cheapest brand of sweet wine. The largest numbers, though, are neither derelicts nor alcoholics. They are the poor, the black, the undefended.

I do not know all of the houses and the buildings in these fifty blocks. I know perhaps fifteen or twenty houses in about ten sections. I have a picture, then, of what life might be like for many people I do not know. In the kitchen, faucets keep on dripping, water leaking also underneath the sink and in the bath. Heat is often choking and cannot be turned down; yet, in some of the buildings there is no heat at all and children keep on outside coats all day.

Potato-chip bags, part empty, get kicked under kitchen tables. Cold food hardens on the plates inside the sink, while mother is sick, or working nights, and the oldest child is an 11-year-old girl who cannot cope with all the needs and voices, appetites and tempers of the younger ones.

In the choking heat, one large blue light, the huge TV, is never shut off but keeps pumping out the sound, like an extra and maniacal presence in the room, of an endless series of kiddies' cartoons, advertisements for racing tracks and miniature cars, for plastic garbage bags and for fruit-flavored wines to go with candlelight and dinner.

There are some books in the living room, but many are torn up, lost or scattered among underpants and sofas. Homework

papers are also torn up, shredded, lost or scattered.

If I had to describe the total experience of these children with a single phrase, I would speak of it as a life of stifling slowly among dirty underclothes, millions of roaches and the endless hypnotism of one large blue light.

I go downstairs and walk out onto Shawmut Avenue.

Standing here, I ask myself, like someone who attempts to take his own pulse: What, then, do I think about these children? I find that what I think, what I experience and feel and live with, is that everything is getting better all the time, that change is somehow on the way, that time is on the side of children such as these, the next year cannot be the same as this year. School will be happier. Mother will come home all better from the hospital. The children will eat real meals. Their teeth will stop rotting. Someone will fix the drip under the sink.

It is like mental illness. There is no basis for this optimism. I go back next year, and things are no better. The children are settled only a little deeper in squalor and despair, dying amid potato-chip bags and nonstop television. Two years later, I go back once more. They are in a new apartment in another section now: new objects, junk commodities piled, torn and ruined on the bathroom floor, underneath the TV and beside the door. The sink works; but plaster falls out of the ceiling, and the whole place stinks of urine and unwashed diapers. There is a new baby. The oldest child is her mother....

I walk often in the neighborhood at night. In the streets are children I have known for years. When we are together, we have fun and feel at ease with one another. We fool around. We do things that are silly.

Later, in the quiet of my own apartment, I find that I am thinking once again of a particular child by the name of Peter. I knew Peter for a year, thinking him to be about eight or nine before I learned he was fourteen. I wrote that off to malnutrition. We could feed him, my girl friend and I, when he came by for supper, or else we could go over to his place and make sure he'd had his supper. So we'd go there, or he'd be here, and we'd cook something good, spaghetti with hamburger, or good lamb chops, something like that, make him eat, sit down and eat with him: "Come on, let's eat it all up, Peter!"

At night, sometimes, as late as twelve, my doorbell rings and Peter's down there: hungry. He has known, by now, at least six different white men and white women, just like me, cadging his meals and shirts and shoes and short-term love. Now most of them are gone but Peter makes the rounds. I find myself afraid to go out nights for fear that he'll be sitting on the stoop in the front when I get home.

So we do good, as we believe we ought to, and for a year or more we tell ourselves that he needs fattening. And he has trouble learning in the school. But we say he's just hungry in the mornings. A year has come, a year has gone.

One day, I am forced to recognize that Peter is no longer growing at a normal rate. I go into a panic, and the world falls into pieces. We have tests made: a psychological exam. Peter is examined by a specialist on growth and on the nervous system. The word he brings into our life is this: "microcephalic." It is a term that has to do with brain development. Brain growth was impeded prior to birth or else in infancy; he will not grow up to normal size. We protest to the doctor, whom we do not know: "He is only the size of a small child."

The doctor is firm in his professional decision: *"This young man will not grow up to normal size."* He can learn. He can be educated, but there will be limits. We ask if this is common and we ask, as well, what causes something of this sort. Prenatal care. The mother is poor, or ill, or underfed. Often there is no obstetric treatment. Sometimes, too, it is a case of malnutrition in the first few weeks of life.

We look at one another in a state of grim unwillingness to credit what we hear. Peter's mother was, in fact, extremely ill. Peter was born six weeks or eight weeks premature. His infancy was lived in almost unabated hunger.

The doctor goes on: "With proper facilities and with the right health program, and with the proper care, we'd deal with this when the mother first came in to visit at the clinic ... or even when she first came in to ask for contraceptive pills. With the right kind of care, this could be totally eliminated."

He goes on for a while in his almost optimistic frame of mind: "It hardly ever happens in white neighborhoods any more. It's a problem of the poor, of rural slums and of impacted sections in the cities. Someday, of course, we ought to have facilities to deal with this."

Someday, but we are alive on this day. And Peter will not be born someday, will not be crippled one day. He is sitting here, right outside the office this day. Peter is not a child who might perhaps come in for an examination someday, whom we might meet or think of, deal with, one day in a statistician's future. He is a real boy, in the real world, with a real curse.

There is a moment when I tell myself that this curse ought to doom the city that I live in. Then that rewarding instinct for the Apocalypse subsides. I have been given assurance, after all, that medical services will one day be provided for poor people such as Peter and his mother.

And some day there will be prenatal clinics, outpatient departments for expectant mothers, a treatment center for the child who is not born exactly whole or with entirely proper brain-development.

Someday, but not this day. Some place, but not in this place. For some child, but not for this child. This child, this one real child, this one thin boy right here, aged fourteen, by the name of Peter, is alive today. He will not profit from the research and evaluation of the next ten decades. He will not be born in 1980 or in 1985.

He will not get a second run-through on the hour of his imperfect birth by the goodness of the United States Congress or of the assembled leaders of the American Medical Association. He is alive right now. It will be too late for him next time.

We thank the doctor and we go outside and head out to the door, and pick up Peter, and we come back to have some dinner and to watch TV with Peter on the bed upstairs, then to talk and fool around about his girls, and friends, and racing cars, and things like that, which do not matter but which seem familiar to us.

At eleven o'clock, I walk him home and stop by at the store to get the milk and cream and come back home, and we sit up a while and talk and try to think how we can tell this to his father....

It isn't the Freedom Trail. I warned you in advance. They don't sell replicas of Paul Revere around these parts. Still, if your eyes are open and your heart is not yet cold, you might just learn a thing or two about this land of lost ideals that we once learned to love and trust—and now must fight with all our hearts not to despise and fear.

"AGENCY FOR CONSUMER ADVOCACY": WHAT IS IN A NAME?

Mr. FANNIN. Mr. President, during the recent AEI-Hoover Institution conference on regulatory reform, Mr. Ralph K. Winter, Jr., professor at Yale Law school, made an eloquent and perceptive statement on regulatory reform proposals to create a new consumer protection agency. Since the House is about to consider legislation establishing such an agency, and since the President may soon be called upon to veto such a bill, I think Professor Winter's timely remarks should be carefully considered.

Professor Winter argues that a consumer protection agency, empowered to intervene in the proceedings of other Government agencies on behalf of consumers as a class, is a bad idea. Actually, the agency's name has been changed to the Agency for Consumer Advocacy which, as the professor observes, may have been a serious public relations mistake:

> For the abandonment of the appealing rhetoric of consumer protection causes some to question the underlying concept of the legislation and of consumer advocacy generally, particularly when armed with government power. For if ever there was a legislative product that depended on its packaging more than on its substance, it is this one.

Professor Winter states that—

> The chronic failure of regulation in the past . . . demonstrates the need for deregulation rather than for the creation of yet another agency.

In his view, an agency for consumer advocacy, however titled, will not differ substantially from other agencies and can be expected to suffer from the same problems of bureaucracy, inefficiency, cost, industry influence and anticonsumer bias which have afflicted existing agencies. In fact, the results of such consumer advocacy by such an agency could be even more harmful because the advocate's support for an unworthy cause, such as new protectionist regulation, would lend additional credence to such a proposal, for it would then be espoused in the name of consumer protection.

Professor Winter points out that such an agency—

> By diffusing responsibility for carrying out policies genuinely designed to further consumer welfare, will in fact reduce the effectiveness of such policies and the political accountability of elected officials for their execution.

The professor foresees a day when the courts could be faced with the choice between several different antitrust policies, all conflicting but all advocated by three Government agencies—the Antitrust Division of the Department of Justice, the Federal Trade Commission and the Agency for Consumer Advocacy. This would lead to a chaotic situation whereby important antitrust policy would be further removed from voter control, thereby increasing the power of the judiciary to regulate the economy.

Professor Winter argues that the ACA legislation is really not a proposal aimed at regulatory reform. It is likely that the Agency for Consumer Advocacy will simply urge compliance to existing laws. It will have no power to affect the performance of existing agencies. Furthermore, it is fallacious to believe that there is a single consumer interest that such an

agency can represent. In Professor Winter's view—

The very concept of consumer advocacy is defective. Consumers are in every meaningful sense horizontal competitors with such diverse tastes they have no single common interest. Gains by one group of consumers are thus usually losses to others. . . . Where product durability is concerned, for example, the tradeoff may be between increased product life and decreased price, or between product life and performance or design. Individual consumers will differ on what is the most preferable tradeoff.

It is simply not true that protecting consumers will maximize consumer welfare or preserve competition:

One agency, or two, or even 10, cannot represent all consumers. . . . Legal representation can be effective only when there is a single interest to represent.

In other words, a consumer protection agency will not represent or protect the interests of consumers at large, but of one group of consumers who appear to have the ear of the bureaucrat persuaded to represent their narrow interest. In fact, as Professor Winter rightly suggests, such an agency will be anticonsumer since it will increase the price of a large number of products that the public, particularly low income consumers, needs.

The approach to regulatory reform recommended by Professor Winter—one to which I subscribe wholeheartedly—is deregulation which, he says—

Is an infinitely better remedy. Indeed, consumer advocacy is no remedy at all.

I agree with Professor Winter's conclusion:

An Agency for Consumer Advocacy, however politically possible, is not better than doing nothing. It is a reform which will aggravate rather than alleviate the problem. And in so doing will obfuscate and distract us from the only real remedy: deregulation.

Mr. President, I ask unanimous consent that the remarks by Yale Law Professor Ralph Winter at the AEI regulatory reform conference be printed in the RECORD.

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

WHAT IS IN A NAME?

(By Ralph K. Winter, Jr.)

Some years ago, I had occasion to testify before a congressional committee upon legislation to establish a "Consumer Protection Agency" empowered to intervene as a party in the proceedings of other agencies in order to represent the interests of consumers. At that time I noted that the proposal was not without merit; indeed, the title of the agency it created and its statement of purpose could hardly be improved upon. It is to be regretted that the sponsors of the legislation in this session of Congress have gravely weakened it by changing the agency title from "Consumer Protection Agency" to the "Agency for Consumer Advocacy," however much that change furthers the still distant goal of truth in political advertising. For the abandonment of the appealing rhetoric of consumer protection cause some to question the underlying concept of the legislation and of consumer advocacy generally, particularly when armed with governmental power. For if ever there was a legislative product that depended on its packaging more than on its substance, it is this one.

I

The need for an agency empowered to intervene in the proceedings of other federal agencies as a representative of consumer interests is said to arise from the pervasive failure of these other agencies to protect the consumer. This failure has many manifestations, but most advocates of consumer advocacy point to inefficiency, partisanship and excessive responsiveness to organized interests. (Rarely do they point to the fact that some agencies were in fact established to protect those interests.)

The chronic failure of regulation in the past, however, demonstrates the need for deregulation rather than for the creation of yet another agency, and on several grounds. Unless there is magic in a legislative statement of purpose and an already compromised title, there is no reason whatsoever to expect it to avoid the very pitfalls which have tripped up its predecessors. They too were created in a cloud of promising rhetoric about consumer protection, came into being with the blessing of an admirable statement of congressional purpose and also suffered from titles which could be improved upon. The discovery that they are not merely superfluous but downright counterproductive surely does not call for the creation of another agency, not, at least, if logic and experience, rather than mystical faith, are to govern our affairs.

In what ways will an Agency for Consumer Advocacy differ from other agencies? Lower level employees will be drawn from the same pool which supplies the older agencies and protected by the same civil service. The Administrator will be appointed by the President, who also appoints the top officials in the agencies which are said to have failed. And the special interests which have sought, often successfully, to turn the work of other agencies to their advantage, will find it in their interest to attempt to influence this agency also.

Safety regulation, for example, can easily be utilized to injure foreign competitors and thus serve as a restriction on entry. The support lent by the advocacy of an Agency for Consumer Advocacy would provide the perfect camouflage for such a monopolistic venture, for it would then be accomplished in the name of consumer protection. One of the charges made against the older agencies is that they have permitted their powers to be turned to just such monopolistic ends. Why the proposed agency would be less responsive to such pressure is hardly self-evident.

Moreover, such an agency, by diffusing responsibility for carrying out policies genuinely designed to further consumer welfare, will in fact reduce the effectiveness of such policies and the political accountability of elected officials for their execution. Regulatory agencies, for example, often act in ways which restrain competition and undermine the policies of the Sherman Act. The function of developing and executing antitrust policy ought to be performed by politically accountable officials, however, namely Congress and the Antitrust Division of the Department of Justice. Where regulatory action intersects with antitrust considerations, these considerations should be brought to the agency's attention by the Antitrust Division and, if that fails to have the desired impact, Congress should pass appropriate legislation. Creating a new agency with power to formulate antitrust policy on its own is redundant and divides responsibility, so that all concerned can avoid accountability for the failure of the policy.

At the present time, for example, the Federal Trade Commission can pursue in the courts antitrust policies which differ from those of the Department of Justice. If an Agency for Consumer Advocacy is created, it is inevitable that one day the courts will be faced with a choice between three antitrust policies, all conflicting but all sponsored by the government. Such chaos removes antitrust policy from the control of politically accountable officials and thus reduces the control of the voters over it.

The practical impact of such an agency will be to increase the responsibility of the judiciary to regulate the economy. Since the Agency for Consumer Advocacy's principal power is the right to appeal the action of regulatory agencies to the court, the effect will be to place the courts in a position of having to choose between competing governmental positions, with no presumption attaching to either as the authoritative judgment of a responsible official. The discretion of the courts to make the underlying policy decisions will thus be greatly enlarged. There is, however, no reason to believe the courts are well equipped to exercise such discretion in the regulatory area; indeed, their incapacity to do so has long been assumed. At the very least, proponents of the new agency should be forced to address the fundamental shift in institutional responsibilities they are proposing, to address the substance of the product they are huckstering instead of relying entirely on attractive packaging.

The proposed Agency for Consumer Advocacy is in other ways a cure not well designed for the diagnosed disease. Where the legislation implemented by the older agency is itself contrary to the interest of consumers—as is the case in transportation, for example—deregulation is an infinitely better remedy. Indeed, consumer advocacy is no remedy at all.

Where the legislation is designed to help the consumer, advocacy by the Agency for Consumer Advocacy will, in large part, simply urge adherence to laws already on the books. But if agencies are presently disregarding the intent of Congress, better remedies are to rewrite the basic statutes so that legislative intent is more specifically reflected in the language or reform the original agency in some other way. The least desirable step would seem to be the creation of a new agency which, except for advocacy and the ability to block settlements and appeal, has no power to affect the work of the older ones but which is subject to all the defects which underly the present dissatisfaction with their work.

II

In any event, the very concept of consumer advocacy is defective. Consumers are in every meaningful sense horizontal competitors with such diverse tastes that they have no single common interest. Gains by one group of consumers are thus usually losses to others.

In a world of scarce resources, benefits are rarely gained without costs. Where product durability is concerned, for example, the tradeoff may be between increased product life and decreased price, or between product life and performance or design. Individual consumers will differ on what is the most preferable tradeoff. There is thus no single consumer interest to represent.

Confusion over this obvious point exists because of a sloppy and misleading use of language. One can meaningfully speak of the maximization of consumer welfare in analyzing economic models. But protecting consumers does not maximize consumer welfare any more than protecting competitors preserves competition. Put another way, consumer welfare is not maximized by government's protecting particular consumers from being outlined by other consumers for scarce resources, just as competition is not enhanced by government's protecting the market share of the least efficient competitor.

For example, when government prohibits a railroad from abandoning an unprofitable line, it is protecting the consumers of that service. But other consumers, as purchasers

of that service (or as taxpayers if there is a subsidy), are disadvantaged by government's intervention, since they must pay higher prices to help support the unprofitable route.

One agency, or two, or even 10, cannot represent all consumers, and that demonstrably incontestable fact is a fatal blow to the very concept of consumer advocacy. Legal representation can be effective only when there is a single interest to represent. Where there is no homogeneous single interest, as with durability of abandonment, there is a conflict of interest between consumers, and representation is impossible. For this reason, the proposed Agency for Consumer Advocacy must always be the principal rather than the agent.

That is why, I take it, proposals to establish such an agency do not detail with any specificity the grounds on which the agency is to appear before another tribunal and argue for more safety, more durability, or against abandonment. For, if it did, it would then be clear that what was being represented was not the interests of consumers at large, but of one group of consumers who appear to have the ear of a bureaucrat persuaded to represent their narrow interests.

I strongly fear, moreover, the Agency for Consumer Advocacy will never argue for a cheaper product with less durability, or purity, or what have you, for once it is acknowledged that increased benefits mean increased costs and the Agency for Consumer Advocacy does not provide something for nothing—that, in short, the packaging misrepresent the product—the voter will view the agency as a useless, if not harmful, expenditure of the taxpayer's dollar.

The Agency for Consumer Advocacy may thus injure the low-income consumer by increasing the price of a large number of products. To be sure, law can compel the production of "better" products, but only by increasing their cost. It can also compel, at a cost to all consumers, the dissemination of detailed products information which is of interest and value only to the highly educated. These measures must decrease output and, in particular, the production of cheaper products. It is very well for middle and higher income groups to call for more quality and safety, for they can afford it; and laws compelling greater production of better goods may, because of economies of scale, make higher quality goods less expensive. But such laws may also eliminate the even cheaper products the poor now can afford.

The fear that the proposed agency is likely to have this impact is increased by the fact that consumerism is largely a middle or higher income group movement, the product more of Princeton and the Harvard Law School than of hard times on the streets.

And that, I think, demonstrates the final theoretical fallacy of the concept of consumer advocacy. Proponents of the agency correctly perceive that the existing regulatory schemes endow some groups with monopoly power. In the hope of offsetting this, they propose to increase the monopoly power of another group. The fallacy of such an approach is this: if A (producers), because of regulation, have monopoly power and B, C, D, E and F (consumers) do not, giving monopoly power to B (high income consumers) will as likely further disadvantage C, D, E and F as reduce the power of A. That, I predict, will be the effect of the Agency for Consumer Advocacy. The producer groups will find their power slightly diminished. The middle or upper income consumer will find its power increased. And everyone else will be saved from the effects of regulation in the same way that Jack the Ripper saved women from a life of prostitution.

An Agency for Consumer Advocacy, however politically possible, is not better than doing nothing. It is a reform which will aggravate rather than alleviate the problem. And in so doing will obfuscate and distract us from the only real remedy: deregulation.

JACK BEIDLER

Mr. WILLIAMS. Mr. President, I join my colleagues of the Senate in mourning the death of Jack Beidler, legislative director of the United Auto Workers.

Our sadness derives not only from the loss of a personal friend, but from the certain knowledge that every American has lost a friend who worked on their behalf for a better life for all.

Much of his work brought him into constant contact with the Committee on Labor and Public Welfare, for we had Senate jurisdiction for the programs that meant a great deal to Jack Beidler—programs to help the hungry, the sick, the handicapped, the disabled, and the disadvantaged, as well as those for enhancing the lives of working people in their places of employment.

He never tired, because he cared about people and what could be done to lift their spirits and begin a better day. His advice was highly valued, and his willingness to invest his personal effort in human causes made the value of his assistance inestimable.

Mrs. Beidler, his family, and his associates at the United Auto Workers have my deepest sympathy and sincere condolences in their sorrow. May they find comfort in knowing that their loss is felt by millions who have better schools, safer jobs, wholesome housing and food, and better medical care as a result of Jack Beidler's stewardship in the Nation's Capital.

VOCATIONAL EDUCATION: ANOTHER EXAMPLE OF THE NEED FOR GRANT PROGRAM REFORM

Mr. ROTH. Mr. President, vocational education legislation expires in this session of Congress. The Senate Education Subcommittee has held extensive hearings and has had access to a searching review of the program by the General Accounting Office.[1] I am hopeful that, as a result, the Labor and Public Welfare Committee will report out legislation that will provide for those substantial reforms that appear to be necessary if the taxpayers and the Congress are to have some assurance that Federal expenditures for vocational education—which have totaled over $3 billion since the enactment of the Vocational Education Act in 1963 and are currently at a level of $670 million annually—are, in fact, achieving their objectives.

These are critical objectives. At a time when more than one-fifth of the teenagers in the labor force are unemployed, it is essential that our expenditures for the vocational preparation of our youth have the maximum impact in improving their chances for employment. It is thus disquieting to review the GAO report, as well as the committee hearings, and note that there are serious deficiencies in the way this program is administered, under current legislation.

[1] What is the Role of Federal Assistance for Vocational Education? Dec. 31, 1974.

The basic problem here—as in other grant programs—is what I have described in the past as a "levels of government" problem.

There is a need to more clearly define the nature and scope of responsibility at both the Federal and State levels.

An important responsibility of the Federal financial assistance to State and local governments, should be to provide general oversight and evaluation of program effectiveness. Yet, the evidence indicates that the Federal Governmnt has not adquately carried out this role.

The States, on the other hand, are responsible for program administration, for which they should be given maximum flexibility. Unfortunately, at this level, the program is unduly fragmented into federally imposed categorical titles, which result in unnecessary inefficiencies and rigidities in the State programs.

FEDERAL OVERSIGHT HAS BEEN INADEQUATE

It is disturbing that, so frequently, Federal agencies charged with overseeing the expenditure of millions in Federal funds are unable to account to Congress and the American people concerning the net impact these funds have had on the problems they are designed to solve. The GAO study noted:

> OE officials told us there is little analysis of the way States spend Federal funds, and that the OE does not know what the impact of Federal vocational funding actually has been.

In a colloquy with Senator BEALL at the subcommittee hearings on March 3, 1975, representatives of the Office of Education indicated that there were insufficient resources at the Federal level to conduct ongoing evaluations of the program and that OE relied heavily on the State advisory councils for this purpose. If this is the case, then we certainly need some modification of the vocational education statute to put the burden of accountability squarely on the Department of Health, Education, and Welfare where it belongs. I found the Office of Education's response to Senator BEALL particularly disturbing in view of the fact that during the 5-year period from fiscal year 1970 through 1974 alone, approximately $91 million was appropriated by the Congress for research and development on vocational education. A high priority in the use of these research funds should—by statute, if necessary—be devoted to rigorous evaluation of these programs. I might note parenthetically, that this raises the broader question of the results Congress is getting from the enormous investment it is making in its appropriations to Federal agencies for social research and development activities. I will be dealing with this subject in a subsequent statement.

THE NEED TO CONSOLIDATE PROGRAMS AT THE STATE LEVEL

While we need to fix oversight responsibility more clearly at the Federal level, our new vocational education legislation should provide greater operational flexibility at the State level. Under current legislation, these funds are appropriated by Congress and allocated to the States under nine separate categorical titles, with a variety of matching fund provi-

sions, different guidelines and requirements. While eight of these titles account for only 20 percent of total Federal funding to the States, it seems to me unnecessarily restrictive, both in terms of program effectiveness and administrative efficiency, for Congress to earmark mandatory set-asides in State programs for: research and training; exemplary programs; residential programs; homemaking programs; cooperative education; work-study programs; curriculum development; and bilingual vocational training.

A State might wish, for example, to devote a major share of these Federal funds now divided into narrow categories to initiating cooperative education programs to bring its vocational students in closer touch with the real world of work, or for some other aspect of vocational education. The best judges of the appropriate program mix for a given State are the State vocational education agencies who are closest to the particular needs of their young people and the employers who will eventually hire them.

I hope that the vocational education legislation which we eventually enact will provide for the consolidation of these categorical programs into broad flexible State grants, as has been proposed by the administration in its bill, S. 1863. I might add that I have introduced legislation, S. 2390, which, if enacted, will provide the administration with an efficient stand-by mechanism for consolidating such related programs.

I urge the members of the Labor and Public Welfare Committee to report out legislation in this field that will correct these serious weaknesses. We cannot afford a vocational education program that provides anything less than a maximum return on this investment in the youth of our Nation.

THE NATIONAL BUSINESS LEAGUE IN BOSTON

Mr. BAYH. Mr. President, on October 10 I had the distinct honor of addressing the annual convention of the National Business League in Boston, Mass.

The National Business League was founded in 1900 by Booker T. Washington to promote development and economic self-help among black people in the United States. It is one of the oldest black self-help organizations in the world.

The principles of economic development and cooperation and business development enunciated by Booker T. Washington are still the primary goals of the National Business League.

In 1967, the National Business League chartered the Booker T. Washington Foundation, a public, nonprofit organization intended to develop and provide resources for the furtherance of the purposes and programs of the National Business League.

Mr. President, I ask unanimous consent that my remarks to the National Business League Annual Convention be printed in the RECORD.

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

SPEECH BY SENATOR BIRCH BAYH

Ten years ago, the Congress of the United States under the urging of President Lyndon Johnson declared war on poverty. The Economic Opportunity Act of 1965 and the establishment of the Office of Economic Opportunity were the battle plan and command post for that war.

Ten years later, we bear witness to the insensitive, thoughtless destruction through administrative manipulation that has turned the war against poverty into a war against the poor. In relative terms the poor of our country are less well housed, less healthy, less well educated, and less employed than they were ten years ago.

This is the reality for millions of our poor, and an even more painful reality for Black Americans whose opportunities for upward mobility are crippled by the senseless and dehumanizing racism in our society.

This was the reality when the National Business League was founded by Booker T. Washington in 1900 to foster the development of black enterprise as a means of building economically sound black communities.

As our nation moves toward the celebration of two hundred years of freedom we must be painfully conscious that to millions of black people in this country 1776 means far less than the economic enslavement which has crippled black progress since the end of the Reconstruction, in 1876.

The celebration of our Bicentennial as a free nation will have a hollow ring if our plans fail to address the 100 years of suffering of physically emancipated yet economically enslaved Black Americans.

I have given considerable thought to how we might transform that hollow ring to a clarion call signaling full economic participation by every segment of our society.

Such participation can in part be achieved by thoughtful and imaginative commitment to finding ways to increase the market accessibility and capital base for minority business development and expansion.

Government is my business. And I am convinced that it should be the business of government to use the full weight of its executive and administrative power to achieve this end.

The federal government has the power to create markets, to limit markets, and indeed is itself a vast market.

But these powers of our government have never been mobilized to adequately deal with the market and capital problems of minority enterprise.

Major surgery, not bandaids, is required for this job . . . think with me for a moment.

Government money, the people's money, used to bail out the Lockheeds benefits a limited class—the stockholders and management and the workers of such companies. Their equity is guaranteed by government intervention.

Should not the benefits of such intervention be broadened to include opportunities for blacks and other minorities? I say yes, they should.

I have had the distinct pleasure of assisting the Booker T. Washington Foundation and the National Business League under the able leadership of your President, Berkeley Burrell, in securing a concrete plan for the involvement of the Black community in the economic forces generated by the Railway Reorganization Act of 1974.

When Charles Tate, whom you all know, presented the merits of such a plan to me it represented a clear opportunity to broaden the impact of government intervention to include Black and other minority interests.

With the assistance of my distinguished colleague, Senator Clifford Case of New Jersey, language addressing the issue was included in the Department of Transportation and Related Agencies Appropriation Bill for 1976.

I would like to share this language with you:

It has come to the attention of the Committee that the USRA has had discussions with certain minority contractors concerning the procedures they might follow in being considered by the new ConRail which will come into existence if Congress approves the final system plan for contracts in connection with their new responsibilities. The Committee encourages USRA to make a definitive response to such inquiries and further encourages USRA and ConRail to take necessary and appropriate action to guarantee adequate minority participation in future contracting.

Subsequent to inclusion of the language, Senator Case and I wrote to ConRail, USRA, and DOT on September 8, 1975, requesting that action be taken by them to implement the report language.

And I quote, in part from that letter:

"Implementation of procedures to insure adequate minority business participation in the reorganization of the railroads will promote economic redevelopment, benefit the railroads, and encourage broader public participation in the process of rail revitalization."

To date, ConRail has responded noncommitally. We have not heard from the Department of Transportation. However, as a result of our efforts, on October 1, the USRA Board of Directors adopted a resolution which commits the USRA to an affirmative action program to ensure that minority firms receive a fair proportion of contracts and which endorses a procurement policy which will channel a portion of ConRail business to minority and small business enterprises.

This is a step in the right direction. But I can assure you that we intend to get more, in short, to implement this plan. This may require special legislation. If it does, I will work for that legislation.

The federal government has the power to establish and regulate markets through various licensing and regulatory authorities. The beneficiaries of such authority have in effect a license to coin money.

These beneficiaries should be required to invest in and employ the services of minority communities and businesses as a condition for continued licensure.

Money spent by the federal government ends up in someone's pocket. But Black pockets remain for the most part—empty—or at best contain what I have come to understand as chump change.

Some may argue that such transfer payments as Social Security, unemployment compensation, and welfare more than equalize tax revenues flowing from Black Americans. But let's face it. There is legitimate need for these payments and that need would be greatly reduced if we would get about the business of reducing the level of minority economic dependence by commitment now to the achievement of minority economic parity.

To achieve this parity we must move beyond hit or miss, uncoordinated, poorly planned, and politically exploitative approaches to minority business and economic development.

To achieve this parity we must conduct the same kind of systemic analysis of our government's ability to mobilize resources for minority economic development as it has demonstrated in the development of nuclear capability and the placement of man on the moon.

Now, I'm not going to stand here before you and engage in the kind of rhetorical slight of hand which is all too common when these issues are addressed.

I do stand here before you as one member of the Congress of these United States who has wrestled with the problems which face you and has moved beyond rhetoric to seek some definite quantifiable solutions.

During my campaign in 1968 for my second term in the United States Senate, the President of the Indianapolis Chapter of the National Business League invited me to meet with the membership. At that time, you may recall that project OWN in SBA under the direction of Howard Samuels was the only commitment that government had made to the development of minority enterprise. And that was only a minor commitment.

At one point in that meeting, an elderly contractor named G. H. Poindexter rose and told me in effect that even though he was considered a successful "Black" contractor, he would have been 20 times as successful if he had not had to struggle to obtain bid and performance bonds on every contract he went after.

Poindexter then said, "Senator Bayh . . . I've lived my life but you could render a great service to the younger men coming behind me if you could find a way to solve their bonding problem."

I worked on the problem with the help of the National Association of Minority Contractors and many of you here today. And in July of 1969 I introduced legislation to amend the Small Business Act of 1945 which authorized SBA to guarantee 90 percent of any bid or performance bond necessary for small contractors to do business.

Since its enactment in December of 1970, the surety bond guarantee program has generated work for small contractors, and over thirty percent of this contract opportunity has been performed by minority contractors.

Yes, government can respond by exercising its power to guarantee surety bonds or bank loans but in my opinion these devices fall short of dealing with the principal question.

How does the minority businessman obtain the capital necessary to take advantage of market opportunities, even though, as in the case of the small contractor, bonding guarantees are available?

How do we move beyond the SBA loans, and MESBICS which are too small and not usually owned by the minority communities they serve?

How do we create large enough pools of equity capital available for long term capitalization?

How do we create a mechanism which makes capital available in a manner which increases the extent to which members of the Black community share in the benefits of the development and expansion of Black business enterprises?

How can We? . . .

The same way we bailed out Lockheed—not for the purchase of additional equity but for the protection of existing equity.

The same way that subsidized housing programs attracted equity capital through tax relief to investors in high tax brackets.

The same way that the Kelso Plan provides tax relief to corporations which allow employees to purchase stock equity in their companies.

These are a few examples of what government can do if the commitment is strong enough. And these actions are often taken in "the national interest" or to save "a critical national resource."

Well, I consider 25 million Americans to be an important national resource.

We know that capital is in scarce supply but may I suggest a few actions an enlightened, committed government could propose:

1. The set aside in the federal budget of an equity capital pool.

2. Tax advantages to private investment in minority enterprise.

3. A federal guarantee of private equity capital similar to the surety bond guarantee program in SBA. I have joined Senator Buckley in this proposal and will work for its passage by the Congress.

While we consider these possible legislative initiatives, we must keep in mind that government, through its procurement and contract authorities, could and should be much more aggressive in the programs administered under these authorities.

We must, as national leaders, jawbone the captain of business and industry to support our efforts.

And we must not allow the pressures of our national economy to deter us from pursuing solutions which would result in strengthening our economy.

I join you in that commitment.

And I join your President, Berkeley Burrell, in his belief, and I quote him:

"We have too much invested, indeed the entire nation has too great a stake in minority businesses, economic development organizations and the supporting programs and institutions to stand idly by and allow these valuable instruments for community development and economic recovery to be lost."

DISTINGUISHED NEBRASKAN AWARD TO PETER KIEWIT

Mr. HRUSKA. Mr. President, on October 22, the Nebraska Society of Washington bestowed upon Mr. Peter Kiewit of Omaha the "Distinguished Nebraskan Award." This is an honor that is made annually to a Nebraskan who has contributed much to his country and his State. No one deserves the award more than Mr. Kiewit.

He sits on the board of many corporations, charities and civic improvement organizations. His construction company—headquartered in Omaha—is one of the largest in the world. He is the principal owner of the Omaha World-Herald—the local daily—and he has established an innovative plan to turn the ownership of that newspaper over to the employees.

Peter Kiewit has been quoted as saying that "publicity never landed us any jobs" when asked about the lack of public knowledge about his businesses. This is a philosophy he has followed in his private life, as well. I can think of few people who have contributed more than Peter Kiewit to the betterment of the city of Omaha and the State of Nebraska. Yet, he has gone about his work—not in the headlines—but behind the scenes. Those of us fortunate enough to call Pete "friend" are very much aware of his dedication and loyalty to his home city and State.

I think the circumstances surrounding his purchase of the Omaha World-Herald illustrate this point to a great degree. The World-Herald was almost sold to an out-of-State newspaper chain until at the last minute—an appeal was made to Pete Kiewit to buy the paper and preserve its long tradition of local ownership. Pete Kiewit responded to the call and "saved" the World-Herald. Omaha and the State of Nebraska are better for his actions.

Mr. President, Mr. Kiewit's address to his fellow Nebraskans was an inspiration to all of us. It describes from his unique perspective the growth of our Nation from the depths of the depression to the wonderful period we live in today. Mr. Kiewit's career has spanned many years and his successes should be lessons for all of us. So that my colleagues and others may enjoy Mr. Kiewit's remarks, I ask unanimous consent that a copy of his address to the Nebraska Society on October 22, a brief biography of Mr. Kiewit and a list of the previous "Distinguished Nebraskan Award" recipients be printed in the RECORD.

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

REMARKS OF PETER KIEWIT AT THE DISTINGUISHED NEBRASKAN AWARD CEREMONIES

In accepting this award, I do so with genuine pleasure and humility. I must, in candor, say that the accomplishments you are recognizing were made possible only through the efforts of many loyal associates and employees, some of whom are here this evening. I'd like to suggest that they stand for a moment so you can see who they are—and, hopefully, you will have an opportunity to visit with them before the evening is over.

I'm sorry that Mrs. Kiewit's health would not permit her to be with us this evening—but I should like to take this opportunity to introduce my son and his wife.

I cherish highly the esteem of Nebraskans—and I am proud to share your Great Plains heritage. I am even prouder to share with all of you an even greater tradition as Americans.

Next year, we celebrate the 200th anniversary of the Declaration of Independence. During this period a great many changes have occurred. Among them: changes in our government, in our life style, and in our economy.

In spite of a fifty-fold increase in population, our people have achieved a standard of living undreamed of in the 18th century and unknown in most of today's world. It has not been a continuous upward trend. There have been many interruptions in our economic progress.

In 1876, as the nation observed its first centennial, it has already experienced three years of depression. Failing banks, falling wages, and rising unemployment foreshadowed even darker days ahead. That was the year that Joseph Hruska left Czechoslovakia and founded in Nebraska the family which produced 11 children—including a United States senator.

World-wide financial panics occurred again in 1893, 1907 and 1914.

In the spring of 1919, following the first World War, I became one of the early college dropouts—and also a full-time employee of our family's construction business.

Two years later, in 1921, we were again in the midst of a severe economic depression. Ten percent of our people were unemployed—Liberty bonds were selling in the low 80's—the Dow Jones industrials were down 40%—and the volume of construction work available was at an unprecedented low level.

About this time, I was in New York and saw Ziegfeld's "Midnight Frolics." The hit of the show was a song called "Rose of Washington Square." I heard it again recently at the Omaha Community Playhouse. In that song, Rose sings, "I ain't got no future—but, oh what a past."

In my case, the reverse was true. My past accomplishments, at best, were insignificant—but my future, and that of the nation, held far greater things than any of us imagined.

I would like to tell you a little of our company's experience and to point out some of the opportunities that came our way during and following subsequent periods of national and personal adversity.

The stock market crash of 1929 precipitated the longest and most severe depression our country has ever experienced. Unemployment reached a level that had never been equaled before or since. Nebraska farmers were selling corn on the farm for a dime a bushel—and the World-Herald carried stories of farmers burning their corn in heating stoves because they didn't have money to buy coal. The United States had a large surplus of almost everything except money.

I recall the events of this period with particular vividness—first, because I spent most of 1930 seriously ill in hospitals in four different cities—and, secondly, because it was in 1931 that I took over the management of our family business. Looking back on it, I was long on enthusiasm—but short on experience.

We began to expand our relatively small Omaha building business. In addition to some small, state and county bridge contracts, we took on a 25-mile stretch of grading and concrete paving between Lexington and Cozad, Nebraska.

At that time, all state highway contracts involving federal funds were designed to reduce unemployment. They specified the minimum number of manhours that the contractor would have to use in building the work—with a deduction in contract payments for any underrun in the manhours used at a penalty several times the hourly rate.

The maximum number of hours that any employee could work in one week was 30. There was a surplus of people willing to work at the minimum wage of 30 cent per hour—or a weekly paycheck of $9.00. By comparison, today's laborer—male or female—makes about $1,000 for a 70-hour week, with free board and room, working for us and other contractors on the Alaska pipeline.

As we neared completion of this Nebraska work, we became involved in a joint venture on two highway contracts in Texas. Down there, over a period of some 15 months, we lost half of our working capital. I learned then that the only thing worse than taking a bad contract is to take two of them.

By 1934, as we were licking our Texas wounds, President Roosevelt had succeeded in obtaining legislation for unemployment relief programs.

One such program, known as the WPA, was headed by Harry Hopkins. In the "Walton Family" TV show, the grandfather recently referred to the WPA (as many have before) as a "boondoggle." He explained to his grandson that a "boondoggle" is an effort to give jobs to people who don't want to work. It was truly the adoption by us of a program the British government had initiated in 1918 to benefit unemployed workers, which was called a dole. It provided no work for contractors—but it succeeded in building, among other things, 43,000 modern, improved one-hole privies in Nebraska. One of the improvements was putting fly screen over the vent holes. There is at least one of these in Wyoming that I know of—up in the mountains on Mrs. Kiewit's ranch. I had occasion to visit it recently and although it doesn't comply with all the modern pollution requirements, there weren't any flies or hornets in it and it is still entirely serviceable. This program spawned the expression "one coming, one going and one working."

The second relief effort, the PWA, headed by Harold Ickes, was a program for the construction of power plants, water storage reservoirs, water treatment plants, sewage disposal plants, and other types of public works—all within the competitive contracting, private enterprise system. Most of the plants built under that program have paid for themselves several times, and are still performing a valuable service to the communities in which they are located. Among those projects, were storage reservoirs and power plants which we built at North Platte and Columbus, Nebraska, between 1934 and 1939.

In connection with this work, we had borrowed money from The Omaha National Bank to buy three LeTourneau rubber-tired, self-loading, earthmoving scrapers, never before used outside of California. Bob LeTourneau was a contractor who went broke building the highway from Las Vegas to Boulder City in 1929. He then started building this equipment which he had originated in his own backyard shop in Stockton, California, with a handful of employees.

I'd like to digress for a moment and tell you a little about Bob LeTourneau. He was better than a greenhand as a salesman—and he was very innovative and very religious as well. By 1940, his business had grown dramatically. When he came to Omaha, he was met at the airport by Dale Clark and was escorted to the Omaha Gospel Tabernacle at 20th and Douglas, where he delivered an inspiring sermon from the pulpit. He subsequently gave the Tabernacle $100,000 for the privilege of appearing in their pulpit, with the provision that these funds were to be used for foreign missions only.

Now back to my story: We were pulling these scrapers with the first experimental, diesel-powered, crawler tractors the Caterpillar Tractor Company had built.

Dale Clark, our banker, naturally somewhat worried about our expansion into new types of construction, asked one of the bank's customers his opinion of our efforts. The customer was George Condon, a successful cattle breeder and grading contractor. George told him, as he had previously said to me (and I won't quote him exactly)—those G.D. scrapers are a cross between a railroad gondola and an airplane—and he predicted we would go broke if we didn't quit using them. I think this bothered Dale more than it bothered me—but I must admit our first year's experience with them almost proved George was right.

The Caterpillar Tractor Company and others have built and are building improved models of this type of equipment which, to a large degree, have revolutionized the earthmoving industry throughout the world.

In the late 30's, the threat of involvement in the second World War stimulated a program of industrial expansion for the production of war material, as well as the construction of military installations throughout the United States, a program in which we were active.

When the bombs started falling on Pearl Harbor on Sunday, December 7, 1941, we were nearing completion of a cantonment at Ft. Lewis, Washington—which including 1500 buildings, streets and utilities. There were several dozen similar projects going on all over the country. Many of them were being built on a cost-plus basis, and there was considerable suspicion and criticism involved in the program. A special military investigation committee headed by then Senator Harry Truman looked into the matter. In their final report, the committee determined that the Ft. Lewis job, which we were building on a competitively bid, firm price contract, was completed at the lowest cost per man of any of the new cantonments. We didn't make much money on that job—in fact, as I recall, I carried it back in one pants pocket. However, the report of the investigating committee had a far-reaching effect on our company's future standing with government officials who were awarding contracts.

During the next three years, in more than a dozen western states, we built airfields, shell loading plants, ammunition storage depots and additional cantonments. It was during this period that we converted the Ft. Crook, Nebraska, cavalry base into the Martin bomber airplane manufacturing facility, including an airfield which is now the headquarters of the Strategic Air Command. We were hiring women for truck drivers, women for laying sewer and water pipe in trenches in the ground, women for welding, and many other things that we never thought women could do.

With the end of the second World War in 1945, the country embarked on a post-war construction boom. We were active in military work in Alaska, Hawaii, Guam and elsewhere in the Pacific. We went into the tunnel business for the first time, building an underground, atomic bomb assembly and storage facility near Albuquerque, New Mexico.

In 1947, the Corps of Engineers started a series of multipurpose dams on the Missouri River, known as the Pick-Sloan Plan, to store water—to eliminate flooding—to stabilize navigation—and what is most important today, to generate large quantities of low-cost power, which has been a major factor in the industrial development of Nebraska and many other Midwest states. For the next several years, our company participated in a major way in the construction of most of those projects.

Early in the Korean War, America's relations with Russia began to deteriorate—and as a result of this situation, in 1951 we were selected to sponsor a joint venture to build an air base at Thule, Greenland. That project required the hiring, training and transporting of more than 5,000 men and untold shiploads of equipment, food and material high above the Arctic Circle, where we worked for nearly 10 years on major military installations of several different types.

In the summer of 1951, we were awarded a contract to build a $1,200,000,000 uranium enrichment plant at Portsmouth, Ohio, for the Atomic Energy Commission. Within two years, we were employing 21,000 people on that one contract.

This pattern has continued, and at the present time our volume of uncompleted work throughout the United States including Alaska, and in Canada, is at an all-time high.

As I look back on it, I think we were right about half the time in recognizing opportunities that came our way in times of adversity. We were also fortunate in being prepared to take advantage of them. Similarly, our nation has experienced prosperity and, indeed greatness, by its reactions to "hard times."

I am confident that America will solve its current problems and emerge stronger than ever before. I'm glad to have played a small part in its second century—and I am content to trust its course to those, in this room and elsewhere, who, I am confident, will be even more successful in meeting the challenges of the next 100 years—if the American free enterprise system is encourged to function normally, and not thwarted.

Thank you—and good night.

BRIEF BIOGRAPHY OF PETER KIEWIT

In 1960, when Fortune magazine noted that his company led all construction firms in volume of business for that year, Peter Kiewit said: "That's fine, but we don't want to be known as the biggest, just the best."

Peter Kiewit has spent a lifetime building toward that goal. He started with the then small family construction company in 1919 as a bricklayer. In 1931, when one brother died and another retired from the business, he became president of Peter Kiewit Sons' Inc., of which Peter Kiewit Sons' Co. is the construction arm.

In the ensuing years, the firm built hydroelectric plants, highways, dams, office buildings, missile sites, canals, subway tunnels and atomic energy plants. It became the largest builder of Interstate highways in the United States. The firm has been in the coal mining business since 1940. Last year it was the nation's tenth largest coal producer. Although the firm has had contracts in all 50 states, the Omaha area is still its hub.

In 1969, Mr. Kiewit moved to chairman of the board and chief executive officer. Robert D. Wilson became president.

In 1962, Peter Kiewit Sons' Inc. became the principal owner of The World-Herald and KETV. This year a procedure was set up

whereby employees will eventually own a majority of the newspaper's stock.

He has been a director of the Omaha National Bank, Northern Natural Gas Company, Rock Island Railroad and Northwestern Bell Telephone Company.

Peter Kiewit was born in Omaha on September 12, 1900. He attended Central High School and Dartmouth College. His wife is the former Evelyn Stotts Newton. A son, Peter Kiewit, Jr., an attorney, resides in Phoenix, Arizona.

Mr. and Mrs. Kiewit live in an apartment in the Kiewit Plaza. They own a ranch in Wyoming, a ranch near North Platte, and have a home at Palm Springs, California.

His civic activities have been numerous. He has served on the governing boards of the University of Omaha, Creighton University, Hastings College, the Omaha Airport Authority, Clarkson Hospital, Joslyn Art Museum and many other organizations. His philanthropies include gifts to Clarkson Hospital, Creighton University, Hastings College, Dartsmouth College, the Eisenhower Medical Center in Palm Springs, and other institutions. In 1959 he was King of Ak-Sar-Ben.

The Beavers, an organization of heavy construction men, once said of him: "Obviously Peter Kiewit does more than build lasting monuments of masonry, concrete and steel. He also builds men and good things for a better, more meaningful world."

DISTINGUISHED NEBRASKAN AWARD

1963—Clair M. Roddewig, President, The Association of Western Railways.

1964—His Excellency, The Most Reverend Gerald T. Bergan, D.D., Archbishop of Omaha.

1965—Robert S. Devaney, Head Football Coach, University of Nebraska; Bob Gibson, St. Louis Cardinals.

1966—General Alfred M. Gruenther, USA (Ret.).

1967—V. J. Skutt, Chairman of the Board and Chief Executive Officer, Mutual of Omaha Insurance Company.

1968—Arjay Miller, Vice Chairman of the Board of Directors, Ford Motor Company.

1969—Edd H. Bailey, President, Union Pacific Railroad.

1970—General Albert C. Wedemeyer, USA (Ret.)

1971—Mrs. A. Bromley Sheldon, Sheldon Memorial Art Gallery, University of Nebraska.

1972—James Keogh, Author.

1973—Leo A. Daly, President, Leo A. Daly Company.

1974—Loren C. Eiseley, Professor of Anthropology and the History of Science, University of Pennsylvania.

MINNESOTA'S UNCERTAIN ENERGY FUTURE

Mr. HUMPHREY. Mr. President, Canada now apparently intends to cease essentially all oil exports to America in 1980. The northern tier from Washington to New York—and especially Minnesota, Washington, Montana, North Dakota, Michigan, and Wisconsin—will bear the brunt of this cutoff. Some 750,000 barrels of Canadian oil daily—12 percent of our imports—must be replaced with other oil. I see no hope for such a massive replacement being effected in so short a time by the private sector alone. In fact, it is doubtful that a complete replacement can occur in so short a period—only 5 years—even with extensive public sector direction or assistance.

The impact of the Canadian oil policy, as well as other energy issues, was explored at a Joint Economic Committee field hearing in Minneapolis on Tuesday, October 14. I want to share with my colleagues portions of the testimony at that hearing, which have national as well as regional significance.

Mr. President, I ask unanimous consent that my opening remarks at that hearing be printed in the RECORD.

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

OPENING STATEMENT BY SENATOR HUBERT H. HUMPHREY, JOINT ECONOMIC COMMITTEE HEARING, OCTOBER 14, 1975

I think that my colleague Congressman Karth here will agree that our State—and Nation—have never before faced such uncertainty about the supply and price of oil, gasoline and natural gas.

Washington has simply been unable to settle on one national energy policy. President Ford wants to decontrol oil prices—a step which Congress fears will push us into another recession. Studies by the Joint Economic Committee, the Library of Congress and the Congressional Budget Office reveal that decontrol now—letting the OPEC oil cartel set our domestic American oil and gasoline prices—will allow oil prices to rise almost 30 percent. It will rob consumers of spending power—rob them enough to cause as many as 500,000 jobs to be lost.

In addition to the possibility of decontrol, Minnesota's energy outlook this winter is clouded by the likelihood of natural gas shortages—shortages of 5 percent or even more if our winter is unusually cold. While this shortage is modest compared to situations in some other areas, it will still cost us $7 million or more to find and buy substitute fuels.

One of these substitute fuels for natural gas is propane. Propane supplies may be extremely tight this winter, but no shortages will occur if, and I emphasize if, oil controls are continued. Those controls contain an allocation component vitally necessary to ensure that smaller propane users—our farmers and food processors, for example—receive adequate supplies.

So, in addition to the dangers of oil decontrols and a natural gas shortage, Minnesota may encounter a propane shortage too if oil is decontrolled.

Yet to my mind, the real danger to Minnesota's energy supply lies with the Canadian decision to stop selling us their oil and natural gas.

It is their oil and gas—and we should and will respect their right to use it in any way they see fit. At the same time, we must recognize that the Canadian policy has a special—and a severe—impact on Minnesota and the Northern Tier.

It will cost Minnesota some $100 million each and every year in higher fuel prices to bring oil from Texas and Oklahoma to replace Canadian oil. That means gasoline prices 2–3 cents per gallon higher. It also means higher unemployment as our oil refineries shut down without Canadian oil.

And it means a sharp downturn in our effort to attract industry and jobs—to grow economically.

These effects will be serious and widespread—but they will be spread evenly across the State.

The likely Canadian natural gas cutoff will affect only the 10 percent of Minnesota along the Canadian border. While it will not affect most of us at all directly, its impact in Northern Minnesota will be far, far worse than the oil cutback.

The life of entire communities will be jeopardized. Homes, factories, stores—everyone will be forced to pay for new heating and cooking systems. Factories must find and use other sources of fuel adaptable to their unique processes. For some, the cost will be too much. They may just close up shop and move away.

New plants and the vital jobs they bring will go elsewhere—where gas is abundant and cheap.

The Canadian policy has created special energy problems for Minnesota—and they require special solutions.

In the case of oil, for example, I've offered legislation requiring the President to facilitate a Canadian-American energy swap—an exchange of American oil elsewhere for continued flows of Canadian oil to Minnesota. I intend to explore this possibility this afternoon with Mr. Priddle of the Canadian Energy Department.

It is important also that our Government seek to allocate Canadian oil among American refineries to ensure that ours in Minnesota are not cut off before other permanent oil sources can be developed.

To discuss these and other features of the energy outlook in Minnesota and the Northern Tier, I welcome a distinguished official from Washington: Mr. John Hill, Deputy Administrator of the Federal Energy Administration.

He will be joined on our first panel by the leading Minnesota energy officials:

Governor Karl Rolvaag, now Chairman of the Public Service Commission, and

Mr. John Millhone, Director, Minnesota Energy Agency.

Next we will hear from another panel, representing a cross-section of municipalities, businesses and organizations vitally concerned with our energy situation. On this panel will be:

Mr. Jack Murray, Chairman of the International Falls City Council;

Mr. James Williams, General Manager with Boise-Cascade in International Falls;

Mr. Gordon Severa, President of Northern Natural Gas;

Mr. John Roper, Vice-President of Koch Refineries;

Mr. Cy Carpenter, President of the Minnesota Farmer's Union, and

Mr. Norman Dyer, President of Q Petroleum Corporation, Minnesota's largest chain of independent gas stations.

Mr. HUMPHREY. Mr. President, Mr. John Hill, Deputy Administrator of the Federal Energy Administration was the first witness. His review of the natural gas and oil situation in Minnesota and the northern tier reflects the latest data and information available to our Federal Government.

I ask unanimous consent that Mr. Hill's summary be printed in the RECORD.

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

COMMENTS BY MR. JOHN HILL, BEFORE THE JOINT ECONOMIC COMMITTEE, OCTOBER 14, 1975

GAS SITUATION

Since the early 1960's, U.S. importers of Canadian natural gas have known that no new exports would be approved by the National Energy Board (NEB) after 1970. The NEB took this action when Canadian gas reserves were judged inadequate to meet the needs of Canada.

This summer the NEB released a report on the Canadian Natural Gas Situation which suggested the likelihood of export curtailments. There is no question that the NEB has not only the authority to limit exports, but also the responsibility in Canada to ensure that energy exports are permitted only when such supplies are in excess of reasonably foreseeable requirements for use in Canada.

The attached schedule (Table I) highlights the Canadian natural gas situation vis-a-vis the authorized exports to the U.S. As one can see, Canadian natural gas is in short

supply and those shortages will increase with time. Shortages may be felt in the export market during the 1976–77 heating season.

Former Canadian Energy Minister Macdonald, in a July meeting with Mr. Zarb, stated that Canada would make every effort to meet natural gas contracts for the 1975–76 heating season. Mr. Macdonald further stated that the Government of Canada would like U.S. assistance in determining how to implement the possible future cutbacks in Canadian natural gas exports. Consultation between our two governments will take place later this year.

FEA's Natural Gas Task Force will be addressing Minister Macdonald's request in an interagency effort. It should be noted that no U.S. natural gas allocation authority presently exists. We, in FEA, believe that we have the responsibility to address the Canadian request despite uncertainties concerning our future allocation authority so as to prepare for the shortages and seek alternative energy for affected areas.

OIL SITUATION

The Oil Embargo of 1973–74 highlighted the Canadian need for a change in oil policy. The continued high level of Canadian oil exports to the U.S. market had become understandably worrisome to Canada in face of their own declining supplies and rising domestic demand.

The NEB recommended to the Government a gradual curtailment of oil exports from a 1973 high of 1.1 MBD to a completed cutoff by 1983. The attached schedule (Table II) shows the current level of Canadian exports allowed to the U.S. Currently, the U.S. refiners are not importing the full allowance of Canadian crude oils. This has been due to a variety of reasons which include costs, FEA's entitlement program and the state of the U.S. economy.

FEA'S AUTHORITY FOR PREFERENTIAL ALLOCATION OF CANADIAN OIL

FEA has evaluated the various alternative possibilities for instituting an allocation system for oil imports from Canada. It is clear that if the EPAA is extended there would be sufficient authority for the establishment of a separate preferential Canadian allocation system. It is uncertain, however, that an extension will be adopted, or if adopted, for what period it will be effective.

If no allocation authority exists because of failure to reach agreement on extension of the EPAA, there are two additional methods which FEA has evaluated with respect to allocation of Canadian imports. The first of these involves use of the Oil Import Program authority under Section 232 of the Trade Expansion Act of 1962. However, since a system for allocation of Canadian imports would not be designed to limit such imports, but rather as a means for domestic allocation, there are serious questions as to whether such a system would survive a court challenge.

Since the Administration does not support a lengthy extension of the EPAA, it would support special specific legislation for authority to allocate exports of oil from Canada.

FEA is currently in the process of putting the finishing touches on a proposed allocation program for imports from Canada that could be implemented under either the EPAA or other specific statutory authority for this purpose.

FEDERAL PROGRAMS TO ALLEVIATE THE IMPENDING CURTAILMENT OF CANADIAN OIL

The Federal Energy Administration has been aware for sometime of the need to develop an allocation program for imported Canadian crude oil. On April 22, 1975, a notice was published in the Federal Register inviting refiners to describe their present degree of independence on crude oil imported from Canada, their projected future dependence and the current availability, if any, of alternative feedstock and energy sources. Public hearings were held on May 12, 1975. Thirty-one written comments were received and oral testimony was presented by nineteen interested parties.

A review of this commentary indicates a preferential allocation program is clearly required. Such a plan is now under development and will provide a first level of protection to landlocked Northern Tier refiners. Allocations to all refiners will be based upon an evaluation of their demonstrable reliance on Canadian crude and on their access to alternative crude oil distribution systems. This system will be reviewed with the National Energy Board and will be subject to further hearings in the U.S. in November.

In addition to a regulated allocation program, certain other possibilities exist to alleviate the situation. The Federal Energy Administration participated in the establishment of a bilateral Canadian/U.S. Working Party in Ottawa on March 17, 1975. Subsequent meetings of the Working Party were held in Ottawa on April 2 and in Washington, D.C. on June 13, 1975.

The Working Party made a comprehensive review of alternatives available to Northern Tier refineries affected by the anticipated decline in Canadian export availability. The review covered the legal, fiscal and administrative factors which might bear on alternative solutions to the problems. The review also developed and analyzed the possibilities for the exchange of oil between Canadian and U.S. refiners within the framework of existing policies affecting them. The Working Party concluded that commercial exchanges between Canadian and U.S. companies, if consistent with broad energy policy guidelines, should not be precluded by government measures. It was also determined that governments would not be parties to exchanges, but would maintain a favorable environment within which exchanges could take place. Both U.S. and Canadian officials agreed to consider modifying or removing any legal, fiscal or administrative impediments to commercially workable and mutually beneficial oil exchanges consistent with our respective national policies.

IMPACT OF NATURAL GAS CURTAILMENTS

None of the northern states use significant volumes of propane as a natural gas replacement. Industries in these states typically are able to convert to residual or distillate fuel, and typically have done so rather than rely on the limited supply of propane. Therefore, FEA does not expect that propane availability in these states will be substantially affected by natural gas curtailments this winter.

In the long term, supplies of propane to the Northern Tier could be substantially affected by natural gas curtailments unless there are continued controls on the distribution of propane. As curtailments increase, industrial firms in the Middle Atlantic, Mid-West and Southeast could divert substantial volumes away from the traditional propane market in their efforts to replace their source of gaseous fuel. The gas utility industry could also bid away the available supplies as it attempts to meet the requirements of its customers for gas.

AVAILABILITY OF DOMESTIC PROPANE—HEATING SEASON 1975–76

In recent weeks, FEA has contacted the major suppliers in each state to obtain forecasts of propane supplies for the coming winter. The results of this survey indicate that supplies will generally be adequate this winter to meet traditional demand. This holds true for the northern states as well. In these states, as in all other states, there are a few suppliers who are predicting shortfalls, as a result of decreased refinery or gas plant production, but most suppliers expect to be able to meet their obligations. Where there are shortages, FEA will use its allocation authority to alleviate difficulties. If the control program ends, we have asked for new authority to take care of the special needs of propane users. Domestic inventories of propane are at record high levels, and barring an unusually severe winter, the combination of current production and drawdowns of inventory should be sufficient to meet demand.

SUMMARY

Propane availability in the northern tier is not expected to be a problem for this winter. Although supplies are declining, there is no reason to expect extensive shortages in the short-term. In the long-term, legislation which the Administration has already proposed will be important to assure adequate propane supplies for agricultural and other small consumers in Minnesota and other northern states.

CONCLUSION

In summation, the Federal Energy Administration is taking all actions commensurate with its current authorities to avoid adverse impacts in Minnesota and other Northern Tier states which might otherwise result from decreasing Canadian exports. Enabling legislation to allow the allocation of Canadian crude oil is essential and rapid Congressional action on natural gas and propane authorities already proposed by the Administration will be essential to this program.

CANADIAN NATURAL GAS SITUATION

[Billion cubic feet]

Year	Deliverability	Canadian domestic demand	Exports			
			Maximum	Authorized	Shortfall	Percentage
1974	2,566	1,539	1,027	1,000	0	0.0
1975	2,651	1,714	937	1,074	137	12.8
1976	2,788	1,846	942	1,044	102	9.8
1977	2,909	2,026	883	1,044	161	15.4
1978	2,967	2,243	724	1,039	315	30.3
1979	2,970	2,370	600	1,032	432	41.9
1980	3,043	2,523	520	1,002	482	48.1
1981	3,041	2,651	390	951	561	59.0
1982	2,986	2,748	238	905	667	73.7
1983	2,985	2,831	154	899	747	82.9
1984	2,992	2,929	63	897	834	93.0
1985	2,927	3,047	−120	894	(1)	100.0
1986	2,810	3,116	−306	825	(1)	100.0
1987	2,697	3,224	−527	658	(1)	100.0
1988	2,594	3,334	−740	652	(1)	100.0
1989	2,480	3,444	−964	587	(1)	100.0
1990	2,325	3,568	−1,243	232	(1)	100.0
1991	2,226	3,679	−1,453	135	(1)	100.0
1992	2,095	3,800	−1,705	53	(1)	100.0
1993	1,986	3,918	−1,932	50	(1)	100.0
1994	1,855	4,037	−2,182	8	(1)	100.0
1995	1,746	4,170	−2,424	0	(1)	100.0

[1] All.

Source: NEB's natural gas tables with their reservations on Arctic, OCS, and frontier sources
Exports are from existing contracts.

CANADIAN OIL SITUATION

Year	Domestic demand	Imports	Producibility	Exports available to United States: Maximum	Exports available to United States: Authorize
1975	1,910	955	2,100	1,145	755
1976	1,950	975	2,070	1,095	550
1977	2,070	787	2,005	720	410
1978	2,220	860	1,885	525	290
1979	2,300	900	1,790	390	210
1980	2,380	940	1,710	270	140
1981	2,470	985	1,615	130	80
1982	2,560	1,030	1,510	0	30
1983	2,660	1,080	1,385	0	5
1984	2,750	1,125	1,390	0	0

Mr. HUMPHREY. Mr. President, there are two Minnesota State agencies dealing with energy—the Minnesota Energy Agency, and the Minnesota Public Service Commission.

Mr. John Millhone, director of the State Energy Agency testified specifically on Minnesota's oil situation. I would like to share a portion of this testimony, including his comments on the impact of oil decontrol, with my colleagues. Ex-Governor Karl Rolvaag, chairman of the State Public Service Commission, also testified. His comments, especially dealing with the impact in northern Minnesota of a Canadian natural gas curtailment, were of great interest to me—they too should be shared with my colleagues. In particular, I direct the attention of my colleagues from the west coast, Montana, and New York, to the Rolvaag testimony. These areas, like Minnesota, are heavy users of Canadian natural gas.

Mr. President, I ask unanimous consent that excerpts of testimony by Mr. Millhone and Ex-Governor Rolvaak be printed in the RECORD.

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

TESTIMONY BY JOHN P. MILLHONE

GENTLEMEN: My name is John Millhone. I am the director of the Minnesota Energy Agency, an office which I assumed September 1 of this year. Governor Wendell Anderson named me to head this agency, which has responsibility for Minnesota's State energy programs.

My purpose today is to bring to your attention a most acute and serious situation as it affects the refiners and the public in our State. My remarks are responsive to four questions.

First, what will be the impact of the expected phase out of Canadian oil exports to Minnesota?

If the phase out occurs as announced without immediate offsetting actions the impact on Minnesota would be disastrous to its business, agricultural and social life.

Minnesota relies more on Canadian crude oil than any other State. Petroleum products provide 46 per cent of the energy consumed in Minnesota. About 60 per cent of these petroleum products come from the three refineries located in the State and a nearby refinery in Superior, Wisconsin. The other 50 per cent comes from products pipelines entering Minnesota from the south.

More than 80 per cent of the crude used by the four Minnesota area refineries comes from Canada. These refineries and refineries in Montana, are part of the northern landlocked area which now have no practical alternative source of crude.

The proposed export levels set by Canada for crude and condensate moved into the United States was 800,000 barrels per day the first half of this year and 650,000 barrels per day the second half of this year. The proposed export schedule drops to 560,000 barrels per day in 1976, 400,000 barrels per day in 1977, 290,000 barrels per day in 1978 and then by smaller steps until exports would cease in 1983.

The reduction in Canadian crude exports and the high price set on this Canadian crude already has affected the operation of the Minnesota area refineries. The agency recently surveyed the operation of the refineries and their operating plans for the coming winter.

The four refineries have a capacity of 235,000 barrels per day. They currently are operating at the level of about 215,000 barrels per day and this is expected to drop down to an average of about 190,000 barrels per day this winter, with most of this decline due to limits on Canadian exports.

If the reduction in Canadian crude exports continues as scheduled and the share allocated the Minnesota area refineries is not changed, the Canadian crude available to the four refineries would decline to about 170,000 barrels per day in 1976, to about 135,000 barrels per day in 1977 and about 100,000 barrels per day in 1978. The refineries undoubtedly would be squeezed out of business. They could not afford to continue operations when forced down to half their capacity and with only further reductions in sight.

If this were to happen, the State's economy would be crippled. We would lose about one-fourth of the energy now used in the State. There would be a ripple effect, or perhaps what might more appropriately be called a tidal effect. The impact would first affect the refineries, but as inventories were depleted, every segment of the State's economy would be harmed. There would be widespread unemployment, economic strife and social unrest. Quite obviously, something must be done.

The second question is: please describe and evaluate the costs and benefits of the different ways that Canadian oil can be replaced by other oil—either oil or finished products—as Canadian exports are phased out over the next few years.

The alternatives include:

First, a preferential allotment of available Canadian crude to U.S. refineries which have no alternative source of crude oil. The impact of the Canadian curtailments is far more severe on those refineries which have no alternative crude oil sources. These refineries should be given top priority. This would not be a long-term substitute for Canadian crude, but it would give our refineries time to find a substitute.

Second, the use of U.S. Canadian oil swapping agreements. For example, offshore crude could move up the capline system to the lakehead pipeline and then into Canada in exchange for Canadian crude being delivered back into the U.S. to plants that do not have a pipeline connection with the gulf coast.

Third, the shipment of Alaskan crude into the upper midwest by off-loading it in the Puget Sound area and reversing the flow in the trans-mountain pipeline and interprovincial pipeline. A study by the Koch Refining Co. has estimated the cost of reversing these flows at $20 million and of expanding the dock facilities in the Puget sound area from $65 million to $175 million. An intermediary measure, the "Yo-Yoing" of sweet crude from Edmonton to Vancouver refineries and then reversing the flow to bring sour crude into the upper Midwest would cost an estimated $30 million.

These alternatives have several features in common. They would continue to make use of the large investment already made in the Minnesota area refineries. They would not upset existing market patterns. They *would* require negotiations and agreements between the U.S. and Canadian governments. They would not have serious environmental repercussions. They are complimentary.

They offer in combination a course through which the Minnesota refineries could continue to be supplied with crude oil.

There are other alternatives.

A new 1,500-mile pipeline from Puget Sound through Washington, Idaho, Montana, North Dakota and Minnesota, terminating at Clearbrook, Minnesota, has been proposed by Michael Curran & Associates of Great Falls, Montana. The pipeline would provide an all-American route for Alaskan crude into the upper midwest, but at an estimated cost of $1 billion it would be far more expensive than the other alternatives, would have more severe environmental impacts and would take longer to achieve.

Another possible alternative would be to serve the Minnesota market through an increase in the capacity of refineries in States south of us and to increase the number of product pipelines coming into the State. This also would be an expensive option. Although I know of no estimate of the cost of the new product lines, they would be relatively expensive, moreover, the capital investment in the Minnesota area refineries would be lost. It also would mean that there would be no residual fuel oil available in Minnesota. Residual oil cannot be transported by pipeline because of this viscosity. This heavier oil is the primary fuel used here in heating hospitals and schools and they would bear the cost of converting to other fuels.

The third question is, please assess the impact of oil decontrol on employment, on the price level for oil jobbers, and on the solvency of independent oil refiners, jobbers, and retailers.

The energy agency has undertaken no independent analysis of the impact of oil decontrol on employment. In this area, the national study whose assumptions appear to me to be most valid is that of the congressional budget office. Applying its assumptions to Minnesota, the immediate decontrol of oil prices would add 1.5 per cent to prices and .5 per cent to unemployment.

The abandonment of the entitlements program would have a severe impact on Minnesota area refiners and on the jobbers and retailers who use their products.

The entitlements program provides a partial offset for the high prices paid for Canadian crude. If entitlements lapse, the Minnesota refiners would have to bear the full brunt of these higher costs. They would have to compete against the major refiners who owe a high portion of their own crude and would experience no increase in these crude oil costs.

It is imperative to the public health, safety and well-being of Minnesota and the region that our independent refiners be kept operating competitively. The lapse of the entitlements program would be another blow to their independence and solvency.

The fourth question is, please evaluate the adequacy of propane supplies for meeting this winter's needs of Minnesota users.

There is a danger of dislocations in traditional propane marketing patterns. Propane is the only fuel that can be directly substituted for natural gas. With declining natural gas supplies propane has a new and valuable use for natural gas users facing curtailments and seeking to avoid or postpone conversion costs.

Propane supplies are limited, however, and there is not enough propane available for this new use. If propane is diverted as a natural gas substitute, propane supplies will not be adequate to meet its traditional farm and household uses.

The energy agency currently is undertaking a survey to determine whether and to what extent this diversion is occurring. Our early findings are not conclusive. In southeastern Minnesota where the corn crop is relatively wet, some propane shortages are reported. Other parts of the States do not appear to have problems.

The propane allocation to Minnesota this October is 10.7 per cent below last year's Oc-

tober allocation, but this one month variation is not conclusive. Our study is expected to be completed by early November and I would appreciate an opportunity to file a copy of it with the committee at that time.

EXCERPTS OF TESTIMONY BY MR. KARL ROLVAAG, CHAIRMAN, MINNESOTA PUBLIC SERVICE COMMISSION, BEFORE THE JOINT ECONOMIC COMMITTEE, OCTOBER 14, 1975.

Senator, we're losing control and there is need for a national energy policy that will reassure the people that our governments have the capabilities to represent their interests in the face of this energy dilemma.

As an example, there is the plight of about 100-thousand good Minnesotans who are already victims without alternatives. I'm referring to the folks in 26 Minnesota communities wholly dependent upon Canadian Natural Gas Supplies, facing supply/price implications that could virtually destroy the economic virility of those communities.

While we are talking about 10 per cent of Minnesota gas users who must rely on Canadian gas as compared to the 90 per cent who are customers of gas companies supplied by Northern Natural Gas, the impact is substantial and will impose severe economic hardships on both individual-residents and commercial consumers.

For example, those Minnesotans being served by Canadian gas will face an increase of 40 per cent from the end of the 1975 heating season to the end of the 1976 heating season. Based on already established costs differences, this means that the average resident heating his home on Canadian gas this winter will be paying 498.45 as compared to 316.91 to the average Minnesotan heating his home on domestic gas—a difference of 57.2 per cent.

For the average commercial user supplied by Canadian gas, the cost will be $1,514.96 as compared to $909.79 for the user of domestic gas—a difference of 66.5 per cent.

I know, Senator that you are familar with the multitude of studies and programs designed to slow-down the out-migration of people from rural communities into the overcrowed metropolitan centers. I'm sure you are also aware that any one single factor ranging from fuel cost differentials to the availability of adequate transportation services can make or break a given community in providing the necessary opportunities to halt the out-migration from any given rural area to the big cities.

The loss of a single job opportunity in a small rural community can often mark the start of an exodus, particularly on the young people, so desperately needed to keep our Minnesota rural areas growing and vibrant.

A creamery handling milk or processing dairy products; a grain elevator drying grain or manufacturing livestock feeds; a confined poultry feeding operation or a poultry processing plant; a potato warehouse; a small cannery; or any small local business . . . they all work on such a narrow margin that pennies often determine the extent of the plant's operation; or whether it will operate at all. These operations are small by some standards, but they are the lifeblood of the 26 communities that are in the unfortunate competitive position because they must carry the brunt of the imported gas price increase and still try to compete with their neighboring communities where the increase is considerably less.

Right there Senator, you have 100-thousand reasons why we need a national energy policy!

This extends beyond the economics of price. We're concerned about the survival and social impact on these 26 communities that must remain competitive with their neighboring towns if they are to maintain a population base, sufficient business volume and competitive merchandising for their residents and continue to provide essential services to the agricultural community in the surrounding areas.

The question is often raised, what about alternate fuel sources? In terms of cost per million BTU output, Canadian natural gas costs $4.09; U.S. natural gas, $1.88; No. 2 fuel oil $3.71; northern propane (Canadian) $4.84; southern propane $3.52; and coal $6.06.

Domestic propane may at the surface, look to be a viable alternative. The cost to convert heating facilities from natural gas to propane would be minimal. But propane is produced from 40 per cent natural gas and 60 per cent crude oil meaning that greater propane production would create increased shortages of natural gas and oil. Even if production could be increased, greater consumption would make a more scarce commodity, inevitably resulting in more price increases.

In terms of converting from natural gas to oil for residential use, even if the supply were available, it would be nearly impossible to convert gas burning units to oil burning without prohibitive reconstruction costs. Most houses built since 1950 for natural gas have flues rather than ceramic chimneys which oil furnaces require because of higher vent gas temperatures.

Coal as you can see does not provide a reasonable economic alternative.

Another question is what are the possibilities of linking pipelines from the present domestic sources to serve those communities facing curtailment of Canadian supply. As all gas is transported into Minnesota this becomes an interstate jurisdictional matter, beyond state regulatory authority and in the realm of the FPC or FEA.

Still, regardless of whose authority it would be to order such linking of supply, the construction costs would be huge and the gas would have to come from the major Minnesota domestic supplier which has already announced a 2.45 per cent curtailment for this heating season and in all probability will be implementing more curtailments in the future.

The overall economic impact of the gas shortage will run into the millions in Minnesota alone. Increases in prices of $1.00 to $2.00 per thousand cubic feet, will result in 1% rise in the inflation factor. If the price of natural gas (imported or domestic) should rise at the rate of $4.00 per thousand cubic feet on as little as 10% of the old $2.00 natural gas, it would contribute 2% to our inflation each year. Thus the rate payer gets it twice . . . once in his own rates, and again in the higher costs in purchases of goods and service affected by the higher rates.

BUSINESS WORLD AND ADMINISTRATION OF JUSTICE

Mr. HRUSKA. Mr. President, the criminal justice system in the United States is of concern to every citizen and every segment of our society. This concern, however, is expressed in different ways. One of the most effective and productive expressions has been by the Economic Development Council of New York City. This fine organization is headed by Mr. George Champion.

The EDC is an independent, nonprofit organization of businessmen, established in 1965, to help bring the capabilities of the business community to bear on vital urban problems.

One of those problems—in New York City and throughout the country—is the effective, timely administration of justice. Toward this end, the EDC has contributed greatly and should be commended.

In the EDC's ninth annual report, entitled, "Business, the City and the Crisis," is contained an excellent article, "Business Lends a Hand in the Administration of Justice." The article outlines the role of an EDC task force in the solution of several problems plaguing New York's judicial system, including New York City's criminal court system.

The EDC task force was instrumental in the reorganization of the city criminal court system and its merger with the criminal branch of the State Supreme Court.

This was the result, according to the EDC article:

Growing professional interest in the Task Force concept is evidenced by several thousand inquiries received by EDC from court administrators, judges, and leading lawyers throughout the country. New York's example has been singled out as worthy of national attention by legal journals and institutions, including the 40,000 member American Judicature Society. In a national survey of cities over 100,000 in population, the New York City Criminal Court system was rated as "the most innovative in the country."

The task force concept utilizes the know-how of business executives "on loan" and corporate funding.

The EDC article explains the purpose of task force involvement:

Certain guiding principles, based in experience to date, are emphasized by Task Force Chairman (Richard F.) Coyne. He points out that the Task Forces make no attempt to judge or evaluate the legal decision-making of judges. Instead, they concentrate on problems of organization and administration.

"The EDC Task Force approach has been low-keyed," he says. "We simply ask what we can do to help the courts and we have no 'axe to grind.' Second, we focus primarily on changes which can be implemented readily by administrative, as opposed to legislative, action. Third, from the outset, it has been agreed that EDC would assist in implementing any approved recommendations. These studies were not meant to gather dust on the shelf."

This streamlining and reorganization of the court systems has saved taxpayers hundreds of thousands of dollars each year in addition to the improvement in the administration of justice.

Clearly then, as the following statement points out, business can contribute in many ways to the improvement of American life:

Perhaps the most significant of all "returns" is this: The EDC experience has demonstrated what is no longer a theory but a fact—business can help effectively to revitalize governmental services to citizens in the area closest to home.

The EDC of New York City is to be congratulated for its innovative program to improve the administration of justice. It is an example that can be emulated throughout the entire country. So that my colleagues and others interested in this very effective program may benefit from more details, I ask unanimous consent that the article, "Business Lends a Hand in the Administration of Justice," be printed in the RECORD.

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

BUSINESS LENDS A HAND IN THE ADMINISTRATION OF JUSTICE

REVIEW OF THE RECORD

When, in 1970, EDC began to pioneer in business assistance to government, a number of alternatives were examined. Certainly one of New York's most vital problems was the administration of justice. And, at the heart of that problem, lay the City's 98-judge Criminal Court system where delay in the handling of some 200,000 arrest cases annually was building an unwieldy backlog, dangerously impeding the whole judicial process, and clogging the jails.

Criminal court reorganization

EDC's first Task Force, composed of ten management specialists "on loan" from three major insurance companies, went to work in July, 1970, on an in-depth analysis of the organization, structure, systems, and procedures of the Criminal Court system. The study was made at the request of Presiding Justice Harold A. Stevens of the Appellate Division, First Department. EDC Vice Chairman Joseph A. Grazier gave general direction to the Task Force.

In less than three years, the Criminal Court backlog of unfinished cases was reduced from 59,000 to 13,500 while the number of defendants in detention awaiting trial decreased from 4,200 to 1,250. Court calendars are still "current" and backlogs have remained minimal ever since. These gains were based on specific Task Force recommendations for Court reorganization and the breaking of bottlenecks in case processing, records management, and work measurement. Administrative Judge David Ross and a team of top court administrators, gave vigorous implementation to the program from the start.

This "landmark" example of business-government cooperation set several important precedents. It had been widely supposed, for example, that the answer to the problem lay in more courts, more judges, more manpower, and more money. Instead, the turnaround was accomplished without any increase in these areas—and, in fact, at a saving to the City of $6.7 million a year. Moreover, a onetime saving of $48.5 million was effected, largely by eliminating the cost of constructing new detentional facilities.

The Supreme Court—State Court Administration

The Task Force experience also showed that the great majority of civil servants are dedicated people who want to take pride in their work. Once they understood the role of the Task Force, the court administrators and their aides welcomed its help in overcoming the frustrations and delays caused by organizational confusion and obsolete systems and procedures.

New Task Force assignments soon followed the first. Under the chairmanship of EDC Vice President Richard F. Coyne, the Task Force was called upon to meet other challenges in the judicial area.

Although a unified, statewide court system had long been mandated by the State Constitution, much remained to be done. In New York City, for example, the Criminal Court deals only with misdemeanor cases while the Criminal Branch of the Supreme Court handles the disposition of felony cases after indictment. Thus the reorganization of the Criminal Court did not touch the operations of the "criminal side" of the Supreme Court.

Early in 1972, an EDC Task Force of eight members began a new study leading to unification of the two systems. The Task Force recommended a common management structure, under a single Administrative Judge, for the Criminal Court system and the Criminal Branch of the Supreme Court in New York City. In March, 1973, Justice Ross was designated to direct the implementation of the plan, starting first in New York and Bronx Counties.

Duplicative units were consolidated, a new organizational structure was adopted, and modern management procedures were installed. Between the end of 1972 and the end of 1973, the number of Supreme Court defendants in detention awaiting trial or sentence decreased by 25 percent. The "bench time" of judges meanwhile increased.

Attention also turned, during 1973, to the Civil Branch of the Supreme Court. A third Task Force of eight members, also directed by Mr. Coyne, made a report with recommendations for the improved organization and operation of civil proceedings in the Supreme Court. This report was submitted to the then Presiding Justice Owen McGivern of the Appellate Division, First Department, and its implementation was assigned to Administrative Judge Edward R. Dudley.

In mid-1973, a third EDC Task Force of five members embarked on a complete study of the State Office of Court Administration at the highest level of the entire state court system. This was begun at the request of the then Chief Judge Stanley H. Fuld and continued with the support and leadership of his successor, Justice Charles D. Breitel.

Major objectives of the Task Force study were: (1) Increased use of the State Office's authority to manage the court system, set standards, define policies, and monitor performance, and (2) a modernized budgetary system. Chief Judge Breitel welcomed the report and gave strong impetus to its implementation under the direction of State Administrative Judge Richard J. Bartlett.

Lessons and national significance of the Task Force Reports

Growing professional interest in the Task Force concept is evidenced by several thousand inquiries received by EDC from court administrators, judges, and leading lawyers throughout the country. New York's example has been singled out as worthy of national attention by legal journals and institutions, including the 40,000 member American Judicature Society. In a national survey of cites over 100,000 in population, the New York City Criminal Court system was rated as "the most innovative in the country."

Task Force documents, supplemental to the studies, are giving guidance to those in other areas who seek to modernize court clerical procedures, records management, and systems. One example is the 104-page "Procedures Manual" which details the steps needed to process and register all cases in the Civil Division of the Supreme Court. Another is the 68-page report on the New York County Clerk's office entitled "Documentation of Procedures for Supreme Court-Related Functions."

While corporate contributions of "on loan" executive time and funds continue to sustain the bulk of the Task Force effort, grants from governmental and foundation sources are also utilized. This is perhaps another sign of the growing national significance of the program.

Certain guiding principles, based on experience to date, are emphasized by Task Force Chairman Coyne. He points out that the Task Forces make no attempt to judge or evaluate the legal decision-making of judges. Instead, they concentrate on problems of organization and administration.

"The EDC Task Force approach has been low-keyed," he says. "We simply ask what we can do to help the courts and we have no 'axe to grind.' Second, we focus primarily on changes which can be implemented readily by administrative, as opposed to legislative, action. Third, from the outset, it has been agreed that EDC would assist in implementing any approved recommendations. These studies were not meant to gather dust on the shelf."

DEVELOPMENTS OF 1974

New court assignments came to EDC while ongoing projects moved closer to fruition during 1974. As one example, on EDC's recommendation, the citywide Criminal Court and the Criminal Branch of the Supreme Court in Manhattan and the Bronx had been administratively merged under Administrative Judge Ross in 1973.

Early in 1974, Justice Ross was designated New York City Administrative Judge in charge of all Supreme, Criminal, Civil, and Family Courts—establishing, for the first time, a single administrative structure for the largest urban court system in the country (over 400 judges and 6,000 employees). This move further exemplifies the qualities of leadership and initiative which EDC considers so essential to successful governmental reorganization.

In the State Office of Court Administration, EDC had recommended a more coherent, effective management framework at the highest level in the State court structure. In 1974, State Administrative Judge Bartlett began the reorganization process. This included the design, adoption, and successful implementation of a modern, "purpose" judiciary budget for the new fiscal year.

A new EDC Task Force began work in late 1974 on a study of the New York City Family Court. This troubled court, which has the high priority of State Administrative Judge Bartlett, may make the difference, in particular cases, between a successfully rehabilitated juvenile and a future criminal defendant.

Also in 1974, EDC launched a study of the New York City Criminal Justice Coordinating Council which administers the City's share of Federal crime-fighting funds. EDC's first report finds that the Council was not properly set up to fulfill its functions. EDC recommended the appointment of an official who could speak and act for the Mayor and mobilize all the City's resources—including a reorganized Council—in the proper planning and coordination of New York's vast and costly network of criminal justice agencies which has a total net operating budget of more than $1.4 billion a year.

FOR THE FUTURE

Between ongoing and possible new programs, EDC faces a crowded agenda for 1975 and beyond. For one thing, further Task Force assistance has been requested in the implementation of recommendations on the management problems affecting the backlog of felony cases in the Supreme Court.

While the Task Force study of the New York City Family Court continues, a federally funded EDC study of Family Courts in New York State is scheduled to begin in 1975 with a grant of $138,000. Implementation will continue on the Task Force recommendations concerning the State Office of Court Administration.

New challenges will be posed in the implementation of the report on the Criminal Justice Coordinating Council. This is a highly critical issue in these times of rising crime rates and budgetary cutbacks. EDC's experience in the criminal courts should provide special insights in helping to determine the most effective use of public funds for purposes of public safety.

Between 1970 and 1974, EDC's court studies have utilized 25.3 person-years of "on loan" executive services valued at $632,500 and contributed, without cost to the City, by member companies. Ongoing studies and new projects will require substantial additional manpower in 1975. Most of this must come from corporate sources although "outside grants" will bear some share of the cost.

What have been the "returns on investment" to date? These can be stated in fiscal terms but only to a limited extent. A special

study, made as a public service by Peat, Marwick, Mitchell & Co. in 1973, documented budgetary savings of $6.7 million a year in Criminal Court operations and a one-time saving of $48.5 million. Additional savings have doubtless occurred since then not only in the Criminal Court system but in other courts where EDC recommendations have been implemented. But these have not been "priced out."

In any case, the "returns" can well be stated in other-than-dollar terms—in beneficial effect on the community, increased "job satisfaction for court employees, and renewed public confidence in the judicial system.

Commenting on the Criminal Court program in 1972, *Reader's Digest* defined it as "what may well be the most significant reform of the past decade in municipal government." Chief Judge Breitel has said that: "EDC has been one of the brightest lights I have seen for the courts during the past 25 years." Administrative Judge Ross noted that: "Their (EDC's) support was absolutely invaluable in implementing the plan." And Presiding Justice Stevens termed the EDC program "a landmark in pointing out to the entire nation how the private and public sectors can work together for the common good and join in seeking reform in the court."

Perhaps the most significant of all "returns" is this: The EDC experience has demonstrated what is no longer a theory but a fact—business can help effectively to revitalize governmental services to citizens in the area closest to home.

CORRECTION OF FALSE REPORTING CONCERNING THE CITIZEN'S RIGHT TO PROTECT HIMSELF IN HIS OWN HOME

Mr. McCLELLAN. Mr. President, on September 19, I brought to the attention of the Senators a very distorted and misleading, but widely circulated, article by Jack Landau of the Newhouse News Service concerning the self-defense provisions of S. 1, the Criminal Justice Reform Act of 1975. The inaccuracies of that article had caused—and continue to cause—great concern on the part of its readers—and the readers of later articles by reporters who relied upon Landau's column as stating the truth—that the bill was attempting to limit the right of each citizen to protect himself and his family in his own home. I stated then, and restate now, that the bill attempts no such limitation.

Mr. President, I brought the Landau article to the attention of the Senate because the fears it created needed to be calmed. Those fears serve as an excellent example of the great power of the press and the equally great damage careless, false, and irresponsible reporting can cause.

Mr. President, just as there is bad reporting, there is also good reporting—reporting that is truthful and accurate. I am pleased to note today that the Landau news story, although false, has been the catalyst for some goood reporting on the same subject. Gradually, as some members of the press become aware that they and their readers have been misled, attempts are being made by some to correct and remove the erroneous and damaging information the article created. One such attempt is an article by Mr. Bob Schulman that appeared in the Louisville Times on October 6, 1975, which was recently brought to my attention. It represents an effort by the Times to provide its readers with the truth even though it was the Times itself that misled them by printing the Landau article. I believe that such an effort—representative of journalism at its best—should be commended and publicly acknowledged.

I therefore ask unanimous consent that Mr. Schulman's column, appropriately entitled "In All Fairness," be printed in the RECORD.

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

IN ALL FAIRNESS—IT WASN'T A "DINKY STORY" TO CONCERNED HOMEOWNERS

(By Bob Schulman)

Washington lawmakers and bureaucrats don't aim to curtail a citizen's right to shoot or bash an intruder who's busted into the house.

Kentuckiana people got that reassurance in a Courier-Journal editorial Sept. 19. In The Louisville Times they received it even more pointedly on the same day in a signed opinion by editorial writer David DeJean and in a lengthy news report Sept. 25 by Times Washington reporter Berl Schwartz.

Yet, to judge from newspaper and congressional mail, it may be weeks or months (or never) before some Americans are relieved of the mistaken notion that the federal government has designs on limiting protection of man's castle, the home.

It's all because Washington reporter Jack C. Landau wrote a thoughtlessly misleading story that the Newhouse chain's news service distributed to many client papers, including The Louisville Times.

Landau walked into a buzz saw with his story because he unwisely took it for granted that millions of readers around the nation understand unmentioned, legalistic nuances that are second-nature for those on the capital beat.

As one reader, also upset by school busing, wrote to The Times: "To deny our rights to defend our loved ones, and to choose the upbringing or teaching of our children—what is left?"

Landau set out on a slow news day to do a report about a tiny facet of the huge, 20-year congressional effort to bring order to the willy-nilly accumulation of 200 years of federal law and court-case rulings. The legislation is called S–1—Senate Bill 1.

"Proposed curb on killing prowlers in the home faces Congress debate," said the headline over Landau's story as published Sept. 2 in The Louisville Times. His opening paragraph said the bill "would make it a federal crime in some instances to shoot a nighttime prowler on the spot."

Landau failed to make it clear that, according to the Justice Department, the proposal would change nothing: technically, federal law already forbids using "deadly force" when an intruder's threat is to property only. Coming home to find a burglar exiting from the house would be an example.

Landau's story also did not put enough stress on the fact that few householders ever are held guilty for clobbering an intruder. As Supreme Court Justice Oliver Wendell Holmes said long ago: "Detached reflection cannot be demanded in the presence of an uplifted knife."

But yet another of reporter-lawyer Landau's errors was his worst. His story failed to mention that what was being "debated" would affect only military posts and other federal property. For the average American householder, it was a nothing story.

Richard Des Ruisseaux, Louisville Times

funnybone, was one of the earliest suckers. In a column the day after Landau's report ran in The Times, Des Ruisseaux lampooned Washington for aiming to turn a man's castle into a supply depot for burglars.

In the following weeks, hundreds of protesting letters were received by congressmen from Kentucky and other states. Several senators took the floor to reproach Landau.

Aside from the editorials here, Times reporter Schwartz' story of how Landau's report had created a furor was the first such effort by any paper to redress the mess.

"My face is red," says Landau. He shows contrition you might not find in a doctor or lawyer trapped in a similar error. But Landau adds, with astonishing naivete, "I didn't realize people would think the bit covered in the story had nationwide implications."

It saddened him that such a "dinky story" would arouse so much attention when, he says, little response came to a four-part, 10,000-word series he wrote on the danger that other parts of S–1 would deepen government secrecy.

Sad or not, defense of the home and family and resistance to government encroachments are where most Americans now get their dander up.

"Now that I have the accurate picture of the law on defending the home, I'd like to get Landau into my house as an intruder," says Des Ruisseaux with a wicked grin. But then Des Ruisseaux can say that, being a wag.

PETER FOSCO—PRESIDENT, LABORERS INTERNATIONAL UNION

Mr. JAVITS. Mr. President, I wish to join in Senator WILLIAMS' comments in mourning the death of one of the Nation's foremost labor leaders, Mr. Peter Fosco, president of the Laborers International Union of North America and vice president of AFL–CIO. Mr. Fosco spent his entire adult life in the labor movement, having been elected to his first union post in 1916. After his election as president of the Laborers International Union in 1968 Mr. Fosco worked to improve its organizing activities and educational and training programs. In the forefront of legislative initiatives Mr. Fosco was active in the fight for Federal construction and safety legislation as well as the Pension Reform Act of 1974—where he worked actively with me. Mr. Fosco's substantial contributions to the labor movement in the United States as well as to the enactment of protective labor legislation will be missed by all who knew and worked with him.

COOPERATIVES UNDER ATTACK

Mr. HUMPHREY. Mr. President, the Capper-Volstead Act of 1922 was enacted because Congress thought that farmers needed cooperatives to compete with and be protected from big business. The act permits farmers to market their products collectively. It also allows groups of producers to collectively act as a common marketing agency. Under the antitrust laws, cooperatives are subject to certain restrictions.

In recent years, co-ops have been subject to numerous criticisms that they have violated these restrictions by "unduly enhancing" prices. The critics have cited rising food prices as an example of violations.

In response to these criticisms, the

Federal Trade Commission conducted a study on agricultural cooperatives which seem to dominate certain agricultural commodities. In the September 30, 1975, issue of the Farmland News, Jay Richter's article, "Co-ops Brace for 'Less Friendly' Watch," claims that "there's nothing much in such reports to disturb co-op leaders, and yet they remain uneasy."

The cooperatives are disturbed because their views were ignored in the preparation of FTC reports. According to Kenneth D. Naden, president of the National Council of Farmer Cooperatives, 50 of the large agricultural marketing cooperatives gave the FTC extensive materials from their business records.

Recently, President Ford established a Government task force headed by Thomas E. Kauper, Assistant Attorney General for antitrust of the Justice Department, and including representatives of other Government agencies. One purpose of the task force is to examine the usefulness of the Capper-Volstead Act.

However, the administration's intentions are not known. According to A. E. Jaenke, in an article "Government and Cooperative Enemies Ready Attack on Capper-Volstead," in the October 1975 issue of the Land O'Lakes Mirror, it is uncertain "how this may fit into the President's overall deemphasis of Government regulation of business."

I would hope that the administration would clarify its intentions in relation to cooperatives. It is hardly fair in today's world to cite the economic assets of cooperatives when they compete with firms many times their size.

Cooperatives should be encouraged to stimulate competition, and this is a declared administration goal. I also am somewhat disturbed that the cooperatives were not given an opportunity to be heard before these reports were completed.

Mr. President, in order to further discussion of this matter, I ask unanimous consent that the aforementioned articles and a letter from the National Council of Cooperatives be printed in the RECORD.

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

[From the Land O'Lakes Mirror, Oct. 1975]

GOVERNMENT AND COOPERATIVE ENEMIES READY ATTACK ON CAPPER-VOLSTEAD ACT

(By E. A. Jaenke)

Strangely enough, today's arguments that cooperatives can get too large and too powerful are the same ones that Senator Arthur Capper and Representative Andrew Volstead—with President Warren Harding's support—argued down in 1922. They convinced their fellow members of Congress that farmers needed large, effective cooperatives to compete with and protect them from big business. They are now probably turning over in their graves. Attacks upon, inquiries into, and suggestions for revisions to their 53 year old Act are coming "hot and heavy."

The Capper-Volstead has been appropriately labeled the "Magna Charta of Cooperation.." It gave farmers the right to lawfully band together to collectively market their products. It did for the individual farmer what Congress had done for the individual worker years earlier in the Clayton Act of 1914. It gave them the right to organize and operate without being cited for violation of the Antitrust Acts.

Another key provision of Capper-Volstead allowed a group of producers to act together through their association in joining with other associations of producers to have a common marketing agency. This provision allowed a local cooperative to join with others to form regional cooperatives like Land O'Lakes. But the Act does not give co-ops a total exemption from antitrust law. It does set up specific requirements, such as one man, one vote, or an 8% limit on dividends. More importantly, the secretary of agriculture is directed to prohibit co-ops from "unduly enhancing" prices.

The Capper-Volstead Act gives farmers the right to organize and operate cooperatives, but in their dealing with others, cooperatives are subject to the same restrictions on their activities as other types of business under the antitrust laws, as several cases that have gone to the Supreme Court amply demonstrate.

Why, after all these years, is Capper-Volstead coming under such intense fire? The main reason seems to be food prices. A lot of people in this country think that food prices have been unduly enhanced—and that cooperatives may have had something to do with it. Another reason seems to be the adverse publicity generated by improper political contributions by a few cooperatives. The fact that scores of non-co-ops also made improper contributions seems to have been forgotten.

Cooperatives have been under attack before, but what is significant now is the broad base from which these attacks are coming. The list of groups now focusing on antitrust legislation includes some very prominent ones.

First is the Federal Trade Commission, enforcing anti-trust laws. FTC Chairman Engman has stated that his agency is gathering information, making studies, and preparing a staff report—all of which purport to show Capper-Volstead is out-of-date and needs revisions.

The antitrust division of the Justice Department is also suggesting that amendments may be needed for Capper-Volstead.

There is a special White House task force, first mentioned in President Ford's budget message, trying to determine if Capper-Volstead has outlived its usefulness. Just how this may fit into the President's overall deemphasis of government regulation of businesses, no one knows for sure.

There are Senator Philip Hart's Senate Judiciary Antitrust and Monopoly Subcommittee and Congressman Peter Rodino's House Judiciary Monopolies and Commercial Law Subcommittee, both of which have files and staff poised and ready to open up Capper-Volstead for major revision.

The Department of Agriculture is looking at cooperatives in what appears to be an effort to show a more strict enforcement of Capper-Volstead.

In addition, the many traditional opponents of cooperatives still haven't given up. They include groups with economic axes to grind who would like to see cooperatives brought to their collective knees. Some of them want to levy a double tax whammy on farmers and their cooperatives, and others would like to see co-ops lose their exemption from federal securities laws.

If you believe that the individual farmer, working through his cooperative, rather than the corporate farmer is the most efficient and least expensive means of supplying America and a hungry world with the food it needs (this fact is documented by USDA statistics), then you have to believe in the necessity of preserving that farmer's right to join a true cooperative and market his product legally under Capper-Volstead. But you will have to be ready to fight for that view. The battle to preserve Capper-Volstead and the effectiveness of cooperatives is about to begin.

[From the Farmland News, Sept. 30, 1975]

IS JUSTICE DEPARTMENT "PREJUDICED"?: CO-OPS BRACE FOR "LESS FRIENDLY" WATCH

(By Jay Richter)

The investigators of farmer cooperatives—who are they? For the most part, lawyers and economists in government, people who are paid with your taxes to help keep the economy turning those corners. They include specialists hired to ferret out monopolists, price-fixers, tax dodgers, profiteers.

Their principal habitats are the Justice Department (Antitrust Division), the Federal Trade Commission (Bureau of Competition and Bureau of Economics), and the Internal Revenue Service. Others occupy chairs in the President's Office of Management and Budget, his Council of Economic Advisers, and in the General Accounting Office, an investigative arm of Congress. Some are scattered about the USDA.

None of the investigators admits to anything but friendly feelings toward farmer cooperatives in general. Their unfriendly concern, they tell you, is directed only at those few co-ops that may get out of line and mess things up for the rest.

Not all the investigators agree upon how to straighten out erring cooperatives, but most of them apparently believe there ought to be changes of one sort or another in the co-ops' basic charter, the Capper-Volstead law of 1922 that provides farmers "may act together" in marketing their products. Government lawyers think it is strange that in the long course of more than a half-century of Capper-Volstead, not a single farmer co-op has been found guilty of "undue enhancement of prices."

Such enhancement is forbiddden under Section 2 of Capper-Volstead, a provision of the law designed to prevent misuse of monopoly power on restraint of trade. The Secretary of Agriculture is empowered to determine whether or not a co-op has enhanced prices unduly which—as Justice Department lawyers see it—is like putting Exxon in charge of government energy policy.

There's little justice for co-ops at the Justice Department, in the eyes of co-op leaders. As they see it, Justice has an almost ineradicable prejudice against them. There is a "hidden hospitality to Capper-Volstead . . . at the Justice Department," said a spokesman for the National Council of Farmer Cooperatives.

Justice Department lawyers deny this charge, but believe it is their responsibility, if not their mission, to probe the legal foundations that support the co-ops. If any one person can be said to be point man for the task, he is Thomas E. Kauper (pronounced KOY-per), Assistant Attorney General for antitrust, 40 years old, a native of Brooklyn, who took his law at the University of Michigan, served as law clerk to U.S. Supreme Court Justice Potter Stewart, and with a law firm in Chicago before joining Justice.

Noting that he had been named by President Ford to head a government task force "to examine the entire range of antitrust exemptions," Kauper added: ". . . we will be examining a number of difficult issues (including) the justifications, if any, for agricultural marketing orders and the Caper-Volstead exemption for farm cooperatives."

Examination of the co-op issue has the blessing and support of government at the highest level. Some antitrust exemptions, such as Capper-Volstead, said President Ford, "were enacted in response to various economic difficulties, real or imagined, with little or no thought to the long-run effect. . . . The time has come to reconsider these exemptions and discontinue those not justified."

Serving on the task force with Kauper are representatives of the elite among government agencies, the Council of Economic Advisers, Council on Wage & Price Stability,

the Office of Management & Budget (OMB) which supervises government spending, and the White House staff itself. The men who head these executive agencies—James Lynn of OMB, Donald Rumsfeld of the White House staff, wage-price acting director George Eads, and Chairman Alan Greenspan of the economic advisers—are responsible only to the President.

The economists, lawyers, and just plain investigators employed in this presidential network are obscure, but their influence on the economy is powerful. Nearly all are subject to call for service on Kauper's antitrust task force whose individual members are unidentified by the government.

"The program is not formalized to the extent of having a single representative from each of the executive agencies concerned," explained a Justice Department spokesman.

Antitrust investigation is being heavily funded. Kauper noted that his Antitrust Division had received a "truly substantial budget increase," permitting a number of new investigations. That increased budget, in turn, was scheduled to be doubled in the next three years through agreement of the White House and Congress.

"While our friends may be reaching the point of being almost too friendly for us to keep up with them," exulted Kauper, "it is a nice kind of problem to be concerned about."

The general lines of Justice Department investigation into co-op behavior were perhaps laid down most plainly by Keith I. Clearwaters, until recently Kauper's deputy in the Antitrust Division, and now with a private law firm in Washington where he continues to specialize in antitrust matters. Clearwaters' proposals, now in the hands of former Division colleagues, call for co-ops to

Limit mergers;

Get licenses to operate;

Renew the licenses every five years;

Get the Agriculture Secretary's approval for any substantial expansion;

Drop co-op rules that appear to limit the freedom of individual farmer members, such as long-term membership clauses, supply contracts, base plans. (". . . predatory conduct on the part of cooperatives designed to intimidate or eliminate non-members or other competitive entities is not sheltered by the Capper-Volstead Act," Clearwaters told a farm audience).

Justice lawyers would also divest the Agriculture Secretary of the sole right to determine when a co-op develops and misuses monopoly power to enhance prices unduly. Never has a co-op been found guilty of such practices, although USDA has processed numerous complaints to that effect.

Congressional sympathy for Justice's position is visible in a pending bill on Capitol Hill, H.R. 6029, introduced by Rep. Robert McClory (R.-Ill.). A key section of the measure reads as follows: "whenever the Attorney General has reason to believe that the price of any product in commerce is unduly enhanced by reason of a monopoly or an attempt to monopolize by a labor, agricultural, or horticultural organization, he may institute a civil action on behalf of the United States against such organizations in the appropriate U.S. district court, and the court, upon a finding that the price of the product in commerce is unduly enhanced by a monopoly or attempt to monopolize by that organization, shall grant appropriate injunctive and other relief, notwithstanding any provision of law."

Justice lawyers, in short, would like to be able to take farmer co-ops to court whenever they conclude commodity prices may be out of line.

Introducing his bill, McClory said, "I merely propose to restore sanity to the marketplace by holding in check the excesses of privilege. It does not remove the privilege . . . farmer cooperatives enjoy, but merely prohibits them from using their monopoly position to enhance unduly the price of articles in commerce . . . The Attorney General is better suited (than the Agriculture Secretary) to perceive violations . . ."

Changes in co-op structure, "particularly in today's context of rising food prices," Justice Department people testified before the House Judiciary Committee, "suggest the need for congressional re-evaluation of antitrust immunity . . . to determine the degree to which the activities of cooperatives enhance food prices . . ."

Food prices are one of the two major issues of public concern—the other being energy—on which the Federal Trade Commission has chosen to focus its investigative lights. For many months, the FTC has been conducting a broad and "ongoing" investigation of the food industry, and the causes of high food prices. Among other things an official said the agency wants to know is whether "anything is going on . . . beyond the reach of law enforcement because co-ops are exempted from antitrust laws."

Numerous interim staff reports concerned with price-and-profit trends in the food industry have been issued by the agency. A recent report on meat packing, fluid milk products, bread baking, and beer brewing concluded that general profit levels in the four industries "did not show a marked increase."

The rate of food price inflation, the report said, had lagged behind the rate for all consumer goods in the past year.

"Little evidence was found that the explosion of raw sugar prices in 1974 was due to anything other than natural market forces," said another FTC report.

There's nothing much in such reports to disturb co-op leaders, and yet they remain uneasy. They note that FTC staff findings were carefully qualified by the agency in public releases which pointed out—for example—that the sugar investigators "made no extensive inquiry into the possibility of collusive activity," and that "the inability to use data from highly diversified firms . . . resulted in the exclusion of industry leaders" in the conduct of the bread and milk industry studies.

The FTC public releases also said that the Commission itself "has not adopted" the staff reports. Their final approval apparently awaits additional results from the "ongoing" investigation, and further Commission review.

Meanwhile . . . nothing yet from FTC about the co-ops. "When are they going to drop the other shoe?" asked a co-op spokesman. Many yards of co-op material had been gathered by the agency in about 60 questionnaires that presumably went to about 60 cooperatives. In responding to the questionnaire, Land O'Lakes required 22 pages simply to index its replies to FTC's long list of detailed inquiries.

Contributing to the uneasiness of farmer cooperatives is the relative youth and inexperience in agriculture of FTC's top people. They are ambitious, eager for change, bright and quick, highly educated products of prestige schools who have studied and worked in environments remote from the country's farms and rural institutions.

Lewis A. Engman, 37, is the youngest ever to head the agency. A native of Grand Rapids, Mich., President Ford's home town, Engman was graduated from the University of Michigan with high honors in economics, studied in England, received a law degree at Harvard. He left a Grand Rapids law firm in 1970 to counsel the Nixon White House on such matters as consumer affairs, tax matters, and antitrust policy.

Engman is reported to have an eye on the Senate seat of Philip A. Hart, who has said he will retire from Congress after next year.

Assistant to Chairman Engman at the FTC is a woman lawyer, Margery Waxman Smith, 32, who joined the regulatory agency early this year, following service in the Office of Economic Stabilization, on the Cost of Living Council, at the White House, and in Covington & Burling, a private Washington law firm. Ms. Smith is an honors graduate of the George Washington University law school and has a degree from Smith College.

General Counsel for FTC is Robert J. Lewis, 33, native of Lansing, Mich., honor graduate in law of the University of Michigan. Prior to joining FTC in April of this year, Lewis was staff assistant to the President, assigned to the Domestic Council at the White House. He went to the Council from a job on Capitol Hill as legislative assistant to Sen. Robert P. Griffin (R.-Mich.).

Though Lewis is bright and wants to do right, said a co-op spokesman, "it scares you how little he knows of cooperatives and the co-op philosophy."

FTC scrutiny of dairy marketing practices is perhaps scaring the cooperatives as much as anything the agency is up to. Officials frequently have complained to newsmen of state laws they claim are keeping wholesale and retail milk prices at artificially high levels. A staff report asserted that milk price fixing in 17 states had cost consumers an extra $712 million over 10 years.

Price effects of federal milk marketing orders are also troubling FTC officials. Their peers and superiors in the Ford Administration have been telling them, in effect, that federal order programs for milk (and other commodities as well) enhance prices unduly. The President's Council of Economic Advisers, for example, observed that milk marketing orders "institutionalize a higher price of milk for fluid consumption than for processing, and they restrict the free movement of raw milk."

In the long run, the President's Council advised, both dairymen and consumers would be better off without the order program.

Meanwhile, over at the USDA, Agriculture Secretary Butz has taken an unprecedented step that has unsettled some of the co-ops. He has established a 3-member committee of officials, outside the Department's Farmer Cooperative Service, to keep constant watch on co-op pricing.

Theirs is the responsibility to determine whether or not a co-op is guilty of "undue enhancement of price" under Section 2 of Capper-Volstead, and make final recommendations to the Secretary on what to do about it. Veteran leader of three is Dr. Don Paarlberg, 63, chief USDA economist, a friend and confidant of the Secretary's through their years of official service, work with agribusiness, academic study and teaching at Purdue University.

Paarlberg's distinguished career began on a family farm near Crown Point, Ind. He was assistant secretary of Agriculture when Ezra Taft Benson headed the department, then special assistant to President Eisenhower and food-for-peace coordinator at the White House. Dr. Paarlberg has served as a agricultural adviser to foundations and industry. His academic credentials include degrees from Purdue and Cornell; he has written extensively about agricultural marketing and pricing.

The Paarlberg manner is thoughtful and low-key, in contrast to the rambunctious, free-wheeling, and sometimes contentious Butz style. Paarlberg is generally credited with having a more liberal philosophy than Butz. Although co-op people do not see Paarlberg as a special friend, they believe he is more open minded about their problems than Butz, who told congressional investigators the tendency of co-ops toward monopoly was greater than that of non-co-ops, and that "the special privileges granted to farmer cooperatives" need to be re-examined.

"This is not a witch hunt," Paarlberg told Farmland News, in explaining the task of the three appointed by the Secretary to keep an eye on co-op pricing. "It is surveillance."

The public is more concerned than at any time within his memory about practices that may raise prices unnecessarily, Paarlberg went on, and the Department must enforce the terms of Capper-Volstead, or somebody else will be given the job, the Justice Department for instance. In an obvious reference to the fact that Section 2 of the law prohibiting undue price enhancement had never been invoked against a co-op, Paarlberg observed: "It's something like biology . . . if you don't use one of your physical members, it atrophies."

White House concern that competition is being stifled by antitrust exemptions and excessive government regulation—is this putting extra steam behind the surveillance effort? "Yes," said Paarlberg, "definitely." Others of the three are Richard L. Feltner, 37, Assistant Secretary of Agriculture for Marketing and Consumer Services, and James D. Keast, 45, recently appointed General Counsel, or chief USDA legal officer.

A native of Macedonia, Ia., Keast got his law degree from the University of Iowa. Prior to coming to the Department in 1971, he was general counsel of Doane Agricultural Service, before that partner in a law firm. He is a colonel in the U.S. Marines. Feltner, from New Ross, Ind., directed work in ag economics at the University of Illinois before coming to USDA early last year. He has degrees from Purdue and North Carolina State University.

Of their work in general, Paarlberg said, "We are looking at the structure of various commodity areas."

Rules of the game prevent him from revealing details on the progress of specific commodity investigations, but Paarlberg confirmed reports that they are loking into current camplaints abotu co-op pricing of sugar and milk. Inquiries elsewhere by *Farmland News* yielded some interesting comment on sugar, little or nothing on milk.

A special report on sugar pricing, prepared by Department economists, is said to be in the hands of the three and also those of a congressional committee. Although the report concludes that sugar prices have not been unduly enhanced, it also implies that the industry's complicated base point pricing system provide the means for controlling price. Sugar companies "may get called some day on base point pricing," said a source in USDA's Farmer Cooperative Service.

Pleas of no contest to charges of price fixing were recently entered by a co-op, the American Crystal Sugar Co., and four private refiners. They were fined the maximum total of $300,000 in federal district court at San Francisco. Another co-op, the California & Hawaiian Sugar Co. (C&H), chose to fight the charges in court. All six refiners had been indicted last December.

A no-contest plea is not an admission of guilt. The companies that entered the plea, said their lawyer, could have offered a defense, but chose to avoid a long and expensive trial. Nor is there necessarily any legal connection between these price-fixing charges and the question of whether prices may have been enhanced unduly in violation of Section 2.

But the case of sugar "is very interesting," observed Ron Knutson, who recently quit as head of the Farmer Cooperative Service to teach at Texas A&M. "What if a private company jacks up its price excessively?" he asked. "What then is the responsibility of a cooperative dealing in the same commodity, in terms of the public, and in terms of the co-op philosophy?"

In the case of milk, Knutson plainly doubts that overpricing has occurred, or can be proved. "If there's enhancement, why don't we have milk running out of our ears?" he asked. "There's no production controls. Today, with co-op premiums, the dairyman has more problems than he had yesterday without premiums."

Or, as a co-op leader asked, "If milk prices are being enhanced unduly, why aren't dairymen rich?"

Appointment of the USDA threesome to run surveillance on co-op pricing was a "good defensive move," said Knutson, who is credited with being a true believer in the co-op philosophy. If he'd had his way while running the Farmer Cooperative Service, he said, "we'd have had continuous staff monitoring of prices, going beyond simple response to complaints—not because enhancement is occurring, but because Capper-Volstead is so important we need to demonstrate constantly that co-ops are doing their job."

In outlining his ideas on co-op policy for the June 1975 issue of USDA's *News for Farmer Cooperatives*, Knutson wrote that cooperatives are vulnerable on the issue of undue price enhancement, and went on: "Without diligent Department of Agriculture concern for Section 2 enforcement, efforts to transfer enforcement to the Department of Justice or the Federal Trade Commission could receive wide support."

NATIONAL COUNCIL OF
FARMER COOPERATIVES,
Washington, D.C., October 15, 1975.

Mr. LEWIS A. ENGMAN,
Chairman, Federal Trade Commission,
Washington, D.C.

DEAR MR. ENGMAN: After a careful study of the Federal Trade Commission staff report on agricultural cooperatives issued September 30, we regret to conclude that it does not achieve its announced objective of "contributing to an understanding of the issues related to agricultural cooperatives." Because of the bias and preconceived conclusions of the authors, it shows a fundamental lack of insight and knowledge of farm price formation, marketing costs and margins, and market power as it is used in the food industry. In its effort to boost the importance of the Federal Trade Commission in antitrust matters, it impugns the integrity of another government agency with statutory responsibility in this field.

Altogether, the report fails to achieve the standards of competence in economic analysis for which the FTC is generally known, and we can only conclude that:

1. Farmers Are Getting a Raw Deal.

By the issuance of this report at this time, farmers and their marketing cooperatives are victims of an act of deception and bad faith by the FTC staff.

In early February, Mr. Frank Lipson of the Bureau of Competition, FTC, wrote to the 50 largest agricultural marketing cooperatives of the country, requesting numerous items of information and written records of business activities for the years 1970 to date. Upon hearing of this, my staff and I consulted personally with the FTC staff and were assured that the material would be the major resource for a comprehensive analysis of agricultural cooperatives and their role in marketing farm products. Numerous other inquiries from marketing cooperative officials to the FTC received this same response. Every effort was made by the 50 marketing cooperatives to comply with the request, despite the great cost in time and manpower needed to collect, collate and deliver the material.

We do not find any evidence that any of the material furnished by these organizations was used by the authors in preparing the report issued on September 30. One cooperative official learned on October 2 that the package of material he sent to the FTC had not yet been opened. Indeed, it would have been impossible for even the most cursory examination of the volumes of material which were furnished to have been completed in time to be incorporated in this report.

This series of events leads us only to one conclusion—that the authors had their preconceived conclusions established before the material from the marketing cooperatives was received. This material was not used to arrive at a fair and balanced viewpoint of cooperatives' role in the food production and marketing system of the country. There is no other way to describe this situation than to say that farmers and their cooperatives were given a raw deal—they are the victims of an act of bad faith and deceit.

2. The Analysis of Market Power Is Incomplete and Misleading.

The report concentrates on symptoms of market power rather than fundamental results. Despite an early denial, most of the report accepts the false premise that a high share of the market automatically bestows substantial market power; it assumes that any price-raising is evil and harmful; it ignores a staggering accumulation of research studies and data from the government, universities and the National Commission on Food Marketing, most of which draw strikingly different conclusions about this subject. Furthermore, there is little analysis of farm prices before and after the establishment of a cooperative or a marketing order, and no analysis of the fundamental conditions of competition existing in retail food markets among 250 closely competing farm commodities.

The staff report seems to assume that the proper level for farm prices is that which would exist if farmers operated without any private or governmental group marketing programs and were in a state of complete independence and individuality in the sale of their products. This premise is invalid and unacceptable. It represents a double-standard which assumes that pure atomistic competition is the proper economic state for farmers, but concentration of all different degrees in labor, manufacturing, service industries, and other parts of the economy is quite acceptable.

Lastly, the conclusions about market power and the effects of marketing orders are copied largely from a Stanford University report prepared by John A. Jamison. This study is cited ten times, more than any other single reference in the entire staff report. In the absence of analyses of its own, the staff seems to have accepted the Jamison report as its bible, with no criticism and no evaluation of its conclusions. The staff apparently was not aware that this Jamison report has been analyzed and was effectively refuted in statements to the House Agriculture Committee on April 25, 1969.

The best way to expose the false premises and weak analysis of alleged cooperative market power is to describe the factual situation regarding prices for fresh cranberries marketed by Ocean Spray, Inc. This organization is cited frequently and held up by the staff to be the epitome of harmful action and excessive market power because it markets a large share of the U.S. crop of cranberries and has used federal marketing orders.

The current supply of fresh cranberries for the 1975 crop season was placed on the market recently. The retail price which I paid at a local supermarket on October 4 was 39¢ a pound—about the same as I have paid for the past five years. The actual wholesale price per case of 24 packages charged by Ocean Spray to wholesale and retail distributors for this variety for those five years were as follows: 1971—$4.50; 1972—$4.75; 1973—$5.10; 1974—$5.50; 1975—$5.50.

Hence one can say that despite wide variations in crop quantity produced each year, the cooperative, with or without the marketing order provision, has been able to get modest increases in wholesale prices for this one product. However, the increase at wholesale was not sufficient even to cover increased marketing and packaging costs. During that

same five-year period, general farm production costs rose about 50%, so the net return to farmers has declined.

One might reasonably ask: "What is the practical effect of this alleged excessive market power in terms of benefits to producers or harm to consumers?" The facts of the matter are that I as a consumer have not paid an increased price for this product, and farmers in turn have received lower net income because their production costs have risen dramatically.

This example exposes the basic weakness of the FTC economic analysis of cooperative market power—it fails to distinguish between the trappings of market power and the substance of market power. Substantial market power must demonstrate its existence through increased prices to consumers or the ability to pass along increases in production costs or rising profit-per-unit to the basic producer. By these tests, the charge that agricultural marketing cooperatives have and wield excessive market power is an empty charge.

3. The Authors Acted Irresponsibly in Impugning the Integrity of the Officials of the Department of Agriculture Who Have Statutory Responsibility for Administration of Laws Pertaining to Marketing Orders and Cooperative Marketing.

The section of the report beginning on page 85 is an unseemly attempt by the authors to aggrandize the jurisdiction and authority of the Federal Trade Commission and to downgrade the authority and responsibility of the Secretary of Agriculture in matters pertaining to agricultural cooperatives. The authors greatly exaggerate claims of authority alleged to have been made by the Secretary of Agriculture. In their attempts to puff up their own agency by demeaning another agency, they go far beyond the bounds of propriety and impugn the integrity of the officials of the Department of Agriculture in administering the marketing order and Capper-Volstead statutes. By saying, on page 117, that the USDA "has an incentive to artificially inflate milk prices," they imply that USDA officials are not obeying the law, which sets careful standards for protection of public and consumer interest.

I urge you, as Chairman of the Commission, to conduct an inquiry among the staff to determine why no use was made of the data furnished by cooperatives and why the report was rushed into print at this time.

Altogether, instead of making a contribution to understanding of the role of agricultural cooperatives in the food marketing system, the report will mislead readers and will inflame the misunderstandings and prejudices of those who are anxiously looking for a scapegoat to blame for rising food prices.

Very truly yours,

KENNETH D. NADEN,
President.

J. CLAY SMITH, JR. ON FEDERAL BAR ASSOCIATION

Mr. HRUSKA. Mr. President, the Federal lawyer has always been an important personage in our Government. Federal lawyers act as key advisers in all branches of our Government. The Federal Bar Association, founded 55 years ago, provides Government lawyers with an opportunity to participate in continuing legal education courses which supplement and greatly enhance their effectiveness as Government legal advisers.

I believe it is the highest duty, of utmost importance, that Federal attorneys should continue to provide the best of legal services to the public whom they serve, in accord with their long-standing tradition to do so. Because I believe the Federal Bar Association is materially aiding in that function, I ask unanimous consent that a speech given by J. Clay Smith, Jr., entitled "Professional Organizations: The Federal Bar Association and the Federal Attorney" be printed in the RECORD.

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

PROFESSIONAL ORGANIZATIONS: THE FEDERAL BAR ASSOCIATION AND THE FEDERAL ATTORNEY

(By J. Clay Smith, Jr.*)

As a lawyer in the Federal service, I am delighted to have this opportunity to speak to you during this, the U.S. Civil Service Commission's Institute for New Government Attorneys. I understand that each of you come to government with diverse backgrounds; that each of you have already achieved legal skills or academic honors in non-government status. Further, it is my understanding that some of you have worked in private law firms, private industry jobs prior to applying to work for the government. On the other hand, for some of you, this is your first gainful employment since being graduated from law school.

My topic for discussion today is "Professional Organizations: The Federal Bar Association and the Federal Attorney". Before getting into the functional explanation of your participation in professional organizations, I would like to share my thoughts with you on a few issues that all of us as Federal lawyers should be mindful.

The image of lawyers at the bar is very important because of the trust that is placed in us by the collective state bar associations to which we belong. Likewise, the image of the Federal lawyer is highly important because we are employed by the public to act in its interest. The Federal lawyer is viewed by some members of the public, some of whom are fellow brothers at the bar, as being lazy, 9 to 5 dull savants. Our critics say that the government sucks the motivation out of energetic, intelligent and highly motivated people, including the Federal lawyer.

I have been out of law school for eight years. Five of those eight years have been spent in the Federal service as a lawyer. During those five years, I have seen bright, energetic, ambitious attorneys lose sight of their professional calling to the bar by abandoning or failing to participate in any activities which they could gain no favor with their supervisors. In short, active participation in professional organizations did not become a pressing priority for job promotion; hence, the attorney declined to join, support or participate in any bar association activity.

As a result, the private bar has reacted negatively to the Federal lawyer labelling him or her as drones; as lawyers who do not keep abreast of the law, except in their various areas of expertise.

The Federal lawyer does have many blind sides because he or she tends to specialize in a particular area, therefore, it is difficult to keep up with all the changes in the law. To some extent, all lawyers face this problem. But, generally the private bar supplements its knowledge through local bar association activities. The Federal lawyer must do the same thing. You are entering the Federal service as a Federal lawyer; you are beginning a new career. I urge you to seriously consider joining the Federal Bar Association or any other bar association for which you may qualify in the geographical areas of your employment. The Federal Bar Association is set up to provide you with a professional body in which you can meet and associate with other Federal lawyers and the private bar; in which to meet and to exchange professional ideas, and in which to participate in current continuing legal educational programs and seminars.

The Federal Bar Association is the trade association for the Federal lawyer. The Association has approximately 15,000 members located in the 50 states of the Union as well as in foreign countries. The Association is 55 years old. It was organized in 1920 and has been serving the Federal lawyer's interest since that time.

Lawyers in Federal service find membership of a special value because:

a. As attorneys first, and government employees second, they realize their special talents, interest, and responsibilities, and that the Federal Bar Association is dedicated to serving the profession of federal attorneys.

b. The national, regional and local Chapter structure of the Association helps them assume their responsibilities to their profession, their agencies, and to the public to take part in the understanding and development of federal law through educational programs and substantive law committee activities.

c. They can easily particiapte in meaningful expressions of professionalism through public service and social activities for the mutual benefit of government, profession, and public.

To facilitate these objectives the Federal Bar Association has a wide range of committee activities. There are some 75 substantive committees in which a Federal lawyer may choose to participate, e.g., the Urban Mass Transportation, Administrative Law, Labor Law, Civil Rights, Antitrust and Environmental Pollution Committees. There are a sufficient number of committees to cover the general interest of most Federal lawyers.

In addition, there is a very active Younger Lawyers Section of the Federal Bar Association. All Association members under the age of 36 are automatically members of the Council on Younger Lawyers. The Younger Lawyers have all kinds of interesting substantive and social events throughout the year.

When one joins any organization, the question arises—how can I get involved? If you want to participate on a committee, let the Chairman of that committee know. Send he or she a letter or call them up. Some of the Chairmen of these committees may be high level people in your agencies—all the better. Let them know that you want to participate in the Association's activities. Whatever you do—don't stand back and feel that you are not wanted or needed. Before you do that—call the Association's office and talk with Tom Rouland, the Executive Director of the Federal Bar Association, and tell him of your willingness to participate. Each of you have, and are acquiring or will shortly acquire an expertise which other Federal lawyers outside of your agency will want to learn about. We will want to learn from you; you will want to learn from others. This, and all of this is a *sine qua non* for professional growth and maturation.

There are other advantages of belonging to the Federal Bar Association. All members of the Association find the following advantages of membership:

a. Active participation in substantive committee programs, nationally and through Chapters.

b. Local programs of over a hundred Chapters, including 11 overseas Chapters, enabling meaningful activity in locality of practice.

c. Valuable group insurance programs

* Before the U.S. Civil Service Institute for New Government Lawyers, Washington, D.C. on September 5, 1975. Mr. Smith, a Federal lawyer, is the Deputy Chief, Cable Television Bureau of the Federal Communications Commission, Washington, D.C. He is presently alternate Delegate of the Federal Bar Association to the American Bar Association House of Delegates.

available for income protection, accident and disability, life and extra hospital money.

d. Attractive, sensible tours of foreign countries which offer professional interchange with members of the bar and bench of other nations.

e. Cordial and friendly relations between judges, leading government officials, staff attorneys, and private practitioners.

Lower rates for the famous National Lawyers Club and for the many national and regional briefing conferences.

g. Automatic receipt of the monthly Federal Bar News and the quarterly Federal Bar Journal.

h. Use of the outstanding Federal Bar Library in the Federal Bar Building.

i. Effective placement services committee.

j. Stimulation and recognition of professional excellence through national and local Chapter awards.

In addition, members are justly proud of such recent Association accomplishments as the following:

a. Testimony and presentations to Congressional committees supporting pay comparability and sensible career standards for federal attorneys, civilian and military.

b. Effective presentations of testimony and research to the Congress on important legislation.

Speaking personally, since I have been a member of the Federal Bar Association, I have had an opportunity to serve as a National Committee Chairman, a Council Chairman, testify before a subcommittee of the Judiciary of the House of Representatives, serve as a member of the Federal Bar Journal as well as publish articles in the Journal. You can do the same thing, and more.

The Federal service needs outstanding lawyers. We Federal lawyers; we supervisors; we staff attorneys; we department heads and especially non-lawyer supervisors, who have Federal attorneys working for them *must* encourage, not only the young but the seasoned Federal lawyer to participate in professional legal organizations whether it is the Federal Bar Association or not.

You must not be discouraged if you do not find a high level of interest in bar activities in the Federal service. You must not, however, reach the point that you do not feel a professional need to participate in a professional organization. If you do, that is a sign that working for the Federal service is becoming a bore. It is a feeling which you must carefully monitor.

Being a lawyer in the Federal service should be one of the most cherished callings of a lawyer. To the extent that it is not, you must swing the pendulum towards a more enlightened Federal bar. You can assist in raising the level of esteem of the collective bar for the Federal lawyer by your participation in a professional organization, such as the Federal Bar Association.

In conclusion, I wish each of you great success in your respective jobs and whether you join the Federal Bar Association or not—do participate in some professional legal organization. You, and the agency for which you work will benefit.

In addition, I commend the directors of this institute for their foresight in identifying the subject of professional organizations as a substantive priority in this program. It is a step in the right direction.

Mr. HRUSKA. Mr. President, this speech was given before the U.S. Civil Service Institute for new Government lawyers on September 5, 1975. It outlines the many services provided by the Federal Bar Association that help the Government attorney to fully carry out the trust reposed in him as a public servant and as an attorney.

Mr. Smith, the author, a member of the Nebraska and District of Columbia bars, grew up in Nebraska and attended South High School—1960—and the Creighton University—A.B. 1964—in Omaha. He was subsequently graduated from the Howard University School of Law in Washington, D.C.—J.D. 1967.

In 1960, Mr. Smith, at the age of 18, was asked by former Nebraska Gov. Ralph Brooks to personally represent him at President Eisenhower's White House Conference on Children and Youth which was held in Washington, D.C. He is believed to be the first black citizen of Nebraska to be so honored. He is now Deputy Chief of the Cable Television Bureau at the Federal Communications Commission in Washington, D.C.

ENERGY CONSERVATION FAILURE

Mr. NUNN. Mr. President, in April of this year I chaired hearings in the Government Operations Committee on voluntary energy conservation in order to examine closely ways in which both the public and private sectors of our society can work to prevent energy wastefulness.

Subsequently, I wrote to President Ford and the leaders of Congress to urge them to appear jointly on national television and launch an all-out national campaign to persuade Americans to become serious about energy conservation and to act daily to avoid energy waste.

Voluntary energy conservation is the one immediately available method to help solve our energy problems, and it was my hope that this appeal to the public would stimulate voluntary energy conservation on a scale that would reduce the country's overall energy consumption. Unfortunately, the President has not seen fit to engage in such a campaign.

According to a report recently issued by the International Energy Agency, the United States ranks fourth from last in conservation efforts among the major oil-importing nations. Only Belgium, Austria and Norway—which is an oil exporter—have done less to conserve energy since the 1973 Arab oil embargo.

The International Energy Agency was established as an "energy action group" to counter pressure from OPEC, the oil producing nations' cartel.

The United States has failed to lead or to follow the program the Agency initiated. We have become an underachiever in terms of energy conservation goals established by this agency.

"The American program must overcome an extremely high per capita historical energy consumption pattern and as such must be comprehensive and strong to be effective. At the present time it is neither," the Agency says.

Most Americans seem reluctant to begin conserving energy themselves when there is no articulated national policy for energy conservation. In the absence of a national policy, State energy programs are an excellent beginning. Gov. George Busbee of my State has given the people of Georgia a starting time by proclaiming October as "Energy Conservation Month."

The Georgia State Energy Office is educating the people of the State in energy use and effective energy management by making them aware of ways to voluntarily conserve energy. Organized projects and presentations by State and local government officials are underway emphasizing measures to prevent energy waste.

The public must be convinced that their individual contributions to energy conservation—driving slower, turning down thermostats, insulating homes and offices, and using less natural gas—are essential steps in reaching a 5-percent reduction in energy consumption, which is the immediate goal for Energy Conservation Month in Georgia.

If every State would follow Georgia's example, our Nation could begin to overtake the efforts of Great Britain and Sweden, the two countries which have accomplished more than the other 18 member nations of the International Energy Agency.

The United States depends upon foreign nations for 40 percent of its oil, and it consumes two to three times as much oil as the other industrial countries. The energy conservation efforts in the United States must be improved. Change in patterns of energy use will probably come slowly, but leadership is urgently needed and immediate action is required. The United States has neglected its responsibility as the greatest energy-consuming nation and should take steps now to make up for all the wasted time and wasted energy.

Mr. President, I ask unanimous consent that two articles which recently appeared in the New York Times regarding the IEA's recent report be printed in the RECORD.

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

[From the New York Times, Oct. 2, 1975]

UNITED STATES IS RATED LOW ON ENERGY SAVING; OPEC IS WARNED ON LOSS OF CONFIDENCE; AGENCY REVIEWS EFFORTS MADE BY 18 NATIONS

WASHINGTON, October 1.—The United States ranks near the bottom of a list of oil-consuming nations' energy conservation efforts since the 1973 Arab oil embargo, the 18-nation International Energy Agency says.

Ironically, the agency was conceived by Secretary of State Kissinger as a consumer solidarity "energy action group" to counter economic pressure from the oil-producing nations' cartel. And his philosophy, stated several times, is that the agency's success depends upon the United States leading the way in reducing worldwide demand for oil.

The United States' poor report card is contained in the first review of conservation programs by member nations between the time of the oil embargo, imposed in the wake of the 1973 Arab-Israeli war, and last June 30.

This review is circulating among several Government agencies, including the State Department and Treasury Department. It also is being reviewed at International Energy Agency headquarters in Paris for a presentation at a meeting scheduled later this month.

Summing up its opinion of American conservation efforts to date, the I.E.A. says: "The American program must overcome an extremely high per capita historical energy consumption pattern and as such must be comprehensive and strong to be effective. At the present time, it is neither."

Current United States efforts, the agency review group complains, "depends almost en-

tirely on voluntary programs, research and development and public education."

The final public version of the report is expected to avoid an explicit ranking of the 18 nations' conservation performance. But the draft review lists countries in the order that the agency believes their conservation programs have been successful.

The United States ranks fourth from last, above Belgium, Norway and Austria. At the top of the list for best performance are Britain and Sweden.

In its analysis of American performance so far, the agency says the best program has been President Ford's $2-a-barrel tariff on imported oil "which has the effect of raising all petroleum prices by 10 per cent."

The agency says that the executive branch "has proposed a fairly comprehensive conservation program" but that it has not yet been passed by Congress.

The analysis goes on to list major deficiencies in the "current U.S. situation" which, it says, include almost no taxes on gasoline or other energy products to curb use, no incentives or standards to reduce auto miles traveled and electricity rates that are lower for consumers using more power, such as industries.

In general the analysis favors the White House program and blames Congress for inaction.

The review committee, made up of members from each of the International Energy Agency countries, apparently follows the Kissinger (and White House) theme that higher prices are the best way to curb consumption.

While staying away from specific recommendations for conservation, it recommends some general measures for "serious consideration."

[From the New York Times, Oct. 5, 1975]

CONSERVATION FAILURE

The failure of the United States to establish anything like an adequate energy-conservation program and to reduce waste has now been confirmed by the International Energy Agency. In the agency's first review of the individual programs of its 18 member countries, the United States is shown to be fourth from last in conservation efforts among the major oil-importing nations. Only Belgium, Austria and Norway—the last an oil exporter—have done more poorly since the 1973 Arab oil embargo. Britain and Sweden have done the best.

The United States took the lead in organizing the major consumer countries in the I.E.A. for united action to reduce imports from the oil cartel and to develop more secure energy supplies. As the world's most profligate energy users, Americans consume two to three times as much oil per capita as the other industrial countries. The whole effort of the advanced countries to combat extortionate price increases by the oil cartel and to reduce dependence on vulnerable imports will be condemned to failure if the United States does not succeed in matching the efforts of its allies in conserving energy.

In the constructive efforts to shape a comprehensive energy program, conservation has been central for one obvious reason: it is the only way quickly to reduce dependence on oil imports. While efforts to increase domestic energy supplies ultimately will play a more important role, much research, heavy investment and a long period of effort will be needed before major alternative energy sources can be brought in.

The I.E.A. study shows that the United States, virtually alone among the member nations, has failed to act since the embargo to discourage consumption by raising taxes on gasoline and other forms of energy, except for the disputed tariff President Ford has temporarily imposed on imported oil; nor has it introduced mandatory measures to reduce auto miles traveled. American conservation efforts depend, the I.E.A. reports, "almost entirely on voluntary programs," which are failing to produce results.

A steep gasoline tax seems to be politically impossible at this time. Both the Congress and the Administration also reject rationing. Oil conservation therefore has to be achieved by decontrol measures that let prices rise, combined with windfall profits taxes and plowback provisions to encourage energy investment. The Congress would be wise to acquiesce in the compromise decontrol plan the Administration now is proposing, extending over 39 months or more, rather than to force the overnight decontrol that would be the only alternative.

THE NATIONAL ENDOWMENT FOR THE ARTS

Mr. PERCY. Mr. President, as we approach the celebration of our Bicentennial, we should reflect on what has been and is the total texture of life in America. The arts, in all expressions, have not only exerted a profound influence on American society, but they have become part of our cultural development as a great country. The arts are not a luxury. They are a necessity for improving the quality of life in America.

On September 30, 1975, the National Endowment for the Arts celebrated its 10th anniversary. Since their creation, the National Endowment for the Arts and the Humanities have established an outstanding record in expanding the scope and effectiveness of funds they provide for the arts and the humanities in virtually every State. The success of the National Endowment for the Arts has been in large part due to the gifted leadership of its Chairman, Nancy Hanks, and her deputy, Michael Straight. Through their efforts, and the efforts of the members of the National Council on the Arts, a record of excellence has been built for the Arts Endowment. It is my belief that Federal financial assistance can help provide meaningful cultural growth and development for all Americans. This program has and will continue to have my constant support.

Recently, on the editorial page of the Christian Science Monitor, the question was raised "Are the arts worth two-hundredths of 1 percent of the national budget?" I believe they are.

Mr. President, I ask unanimous consent that the Christian Science Monitor's editorial on funds for the arts be printed in the RECORD.

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

[From the Christian Science Monitor, Sept. 30, 1975]

TWO-HUNDREDTHS OF 1 PERCENT FOR THE ARTS?

The National Endowment for the Arts celebrated its 10th anniversary yesterday in the midst of artistic cutbacks around the country that make its funding—and its generation of matching funds—all the more necessary. As state and city budgets are tightened in the inflation-recession squeeze, museum hours get shortened and anything that smacks of luxury is challenged. In Massachusetts, for example, with all its cultural heritage, struggling arts organizations are rightly concerned because of a threatened two-thirds cut in the state arts council's budget.

But the arts and the whole quality of life they exemplify are not a luxury. Salty Harry Truman in the current play and movie about him is shown taking time to emphasize the importance of beauty to the human spirit—acknowledging how it refreshed him for the affairs of state. So do all members of society need the enrichment of the arts. When they turn to these resources, the resources must be there, not reserved for the elite, not allowed to wither to the disadvantage of all.

The United States took most of its 200 years to recognize the need for federal support of the nation's artistic enterprise. But the commitment to the arts endowment over the past decade has grown from $2.5 million to $74 million this year (with similar amounts for the companion National Endowment for the Humanities). For the coming year President Ford is at least going in the right direction by asking for an increase to $82 million (though $126 million was authorized under the last legislation). Surely no less should be appropriated in a budget of $375 billion.

For the arts endowment's 10 years have provided, despite some merited criticism, what chairman Nancy Hanks calls the "confirmation of an idea"—that federal support of the arts is an essential part of the system. Since it still amounts to less than 50 cents per capita, it is clearly not displacing private support and commercial maintenance of the arts. Indeed, many business patrons of the arts are not yet in recessionary retreat.

What the arts endowment can do—and has been doing—is to use its leverage to pry funding from other sources. As Miss Hanks has said, "Our most fundamental purpose is to draw national attention to major problems and opportunities in the arts, and then use our limited funds to mobilize non-federal resources to deal with them."

The needs she sees now range from better use of the potential of broadcasting for wide dissemination of the arts—to helping the little magazines in their task of discovering literary talent.

Are the arts worth two-hundredths of 1 percent of the national budget? That's all the President is asking for.

THE SECOND GREAT GRAIN ROBBERY

Mr. STEVENSON. Mr. President, the grain agreement with the Soviet Union is of doubtful enforceability against the Soviets. It masks fundamental problems, and has adverse implications for U.S. agriculture.

First, there appears to be no requirement that the Soviet Union furnish crop information of the kind readily available in the United States. This is a serious impediment to orderly world marketing by the United States and continues the Soviet Union's unique advantages in influencing prices downward up to the moment of its purchases. Without Soviet crop projections it is impossible for the United States to effectively monitor world food supply and demand and then make sensible market decisions.

Second, there is no requirement that the Soviet Union maintain national grain reserves to cushion the effects of drought and flood in the world. The grain agreement provides that wheat and corn grown in the United States shall be supplied for "consumption" in the U.S.S.R. But this provision is rendered meaningless by the absence of any

Soviet commitment regarding exports of its homegrown grain. U.S. grain could go in one elevator and Soviet grain out another at a higher price.

Third, I see no protection of our major traditional customers, such as Japan, which could be cut short for the benefit of the Soviet Union in the event of inadequate harvests here.

The agreement is unenforceable, except for the benefit of the Soviets. It can require 6 to 8 million tons of U.S. corn and wheat a year for the Soviets. But they can sell their own grain if purchases of U.S. grain create surpluses. The Soviet Union can also purchase U.S. grain from other nations in excess of its allotments, as it has done, reportedly, during the recent embargo. And the agreement applies only to corn and wheat. It is probable that the Soviet Union will soon meet a part of its livestock protein requirements with soybeans. Any Soviet grain requirements in excess of its wheat and corn quotas could be met with soybean purchases to the detriment of other U.S. customers. So, if the quotas are too low, or too high, for the Soviets, they can be evaded.

If the agreement were enforceable, it could restrict marketing opportunities for U.S. farmers, not only in Japan, but also in the Soviet Union. In 1972, the U.S.S.R. purchased 19 million tons of grain in the United States. Its 1975 requirements from the United States have been estimated in the U.S. intelligence community to be as high as 29 million tons. In 1976 this agreement would limit the Soviet Union to 6 million tons, or if the U.S. crop exceeds 225 million tons, to 8 million tons, without further agreement by the United States.

Were these the only features of this agreement, it could safely be considered to contain so many conflicting and unenforceable provisions as to be meaningless, just another little deceit intended to satisfy farmers and consumers without doing any of them any serious harm. But this agreement demonstrates the extreme difficulty to allocating U.S. food exports country by country over a long term. It establishes a precedent of quotas for other countries. If the Soviet Union is entitled to such a quota, why not our better customer, Japan? It also deprives the United States of one means, perhaps the only, by which it could rationally market its food abroad with a minimum of government interference and a maximization of U.S. authority in the world.

With Soviet crop information, the United States could monitor world food supplies and periodically determine amounts available for export. By a system of export license fees it could establish a higher world price than the domestic price for grains, permitting the world price to allocate grains abroad according to demand, without resort to quotas or embargoes. The United States could then recycle the license fees to the domestic agricultural sector to increase production and to the poor countries in order to help them pay their food bills. In much the way the United States is urging the oil producers to recycle petro dollars, it could recycle agridollars.

Such an enforceable, profitable and humane system would be rendered impossible by this agreement for 6 years. The United States does not obtain Soviet crop information. And it commits to sell at a market price and explicitly agrees to exercise no export control authority with respect to the Soviet Union. Thus, the United States fritters away its potential control of world food supplies and prices with no concomitant concession by the Soviet Union. Indeed, the Soviet Union refuses to enter an oil supply agreement at any given price and seems to condition any such agreement on the supply of U.S. technology for energy development in the Soviet Union. Exports of capital or technology to the Soviet Union are not consistent with the requirements of the United States for its own energy development and of more friendly countries also seeking energy independence.

The last grain deal with the Soviet Union was for 1 year, but its inflationary consequences are still being felt. This grain deal is not likely to cause the same degree of immediate hardship, but its potential for future hardship to the American farmer, for the erosion of U.S. relations with friendly customers—especially Japan—and its forfeiture of American control over the supply and price of food in the world is serious.

I have supported a grain purchase agreement with the Soviet Union as a means of curbing the destabilizing effects of Soviet grain purchases. But such agreements should be short term—and for no longer than it takes to devise better means than embargoes and quotas for allocating U.S. food to the Soviet Union and others in times of shortage.

I also question the abandonment—for 6 years—of leverage with the Soviet Union. My amendment last December to the Export-Import Bank Act was designed to condition concessionary commercial relations with the Soviet Union upon a continuous evaluation of Soviet international behavior. With our commanding position in the world food trade, we should make grain deals contingent upon a continuous evaluation of Soviet actions in the world, and not commit our grain supplies regardless of Soviet actions with respect to the United States in the Middle East, at the strategic arms bargaining table or elsewhere.

It may be that the Congress has been presented with another fait accompli—like the last grain deal—but I intend to hold hearings on the bill I introduced to subject long-term grain deals to congressional review, and in so doing to give this deal a healthy airing. If the need for that bill was not obvious to all when it was introduced, it must be now, especially to those in American agriculture.

THE ENACTMENT OF THE JAPAN-UNITED STATES FRIENDSHIP ACT

Mr. JAVITS. On the evening of Monday, October 20, the President signed into law the Japan-United States Friendship Act. I originally introduced the Japan-United States Friendship Act in August 1972, and was later joined in its sponsorship by Congressman WAYNE HAYS of Ohio. It is a most gratifying culmination of 3 years of work to see the enactment of this very significant legislation. I believe the new law will enhance and strengthen very materially the bonds of friendship and channels of meaningful communication between Japan and the United States and between our respective peoples. While it is unfortunate that this legislation could not be signed during the visit of Their Majesties the Emperor and Empress of Japan in this country, I believe that it is a fitting tribute to the Japanese people to have enacted with President Ford's signature, the Japan-United States Friendship Act so close upon the return of Their Majesties to Japan.

Preparatory to the President's signature of the bill, the question arose in the executive branch regarding the intention of the legislation as to whether or not Members of Congress serving on the Japan-United States Friendship Commission, established by the bill, would have a vote on the Commission. This question, which involves article I, section 6 and article II, section 2 of the Constitution, was discussed during the House-Senate conference on the bill, and as it was clear that the mandate of the Constitution would be binding, the staff was directed to act accordingly in filing the conference report.

To clarify the point, Acting Assistant Secretary of State for Congressional Relations, Kempton B. Jenkins, wrote to the two chairmen of the conference, Senator SPARKMAN and Representative MORGAN, and the sponsors of the Senate and House bills, myself and Representative WAYNE HAYS. In my response of October 17, I stated that the requirements of the Constitution having been determined, it was clear that Members of Congress serving on the Japan-United States Friendship Commission would serve in a nonvoting, advisory capacity. Senator SPARKMAN and Representatives MORGAN and HAYS responded similarly. To add to the official record of this legislation, I ask unanimous consent that the exchange of letters between Acting Assistant Secretary Jenkins, Senator SPARKMAN, Representative MORGAN, Representative HAYS and myself be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JAVITS. Mr. President, I now look forward to the vesting of the Japan-United States Friendship Trust Fund through the appropriations process and the establishment of the new institutional mechanism created by this significant legislation.

EXHIBIT 1

DEPARTMENT OF STATE,
Washington, D.C.

HON. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: I am enclosing copies of letters I have written to Senator Sparkman and Congressman Morgan concerning the Japan-United States Friendship Act.

Please accept my best wishes.

Sincerely,

KEMPTON B. JENKINS,
Acting Assistant Secretary for Congressional Relations.

DEPARTMENT OF STATE,
Washington, D.C.

Hon. THOMAS E. MORGAN,
Chairman, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Executive Branch is now considering the Japan-United States Friendship Act which was approved by Congress on October 7.

As you know, the Administration fully supports the purposes of this Act. However, a question has arisen concerning Section 4 (a), which stipulates that the Commission established by the Act shall be composed of, among others, two members of the House of Representatives and two members of the Senate, to be appointed by the Speaker of the House and the President pro tempore of the Senate respectively. The language of the Act is not specific as to whether these four Congressional members of the Commission are to be voting members or non-voting, advisory members. It is the opinion of the Department of Justice that the Constitution precludes members of Congress from holding any office under the United States. There are, however, numerous examples of members of Congress serving in an advisory capacity on various commissions.

We would be most grateful if you could confirm that the members of Congress on the Commission are intended to serve in a non-voting capacity.

Since this is a matter of considerable urgency, I would be most grateful if your staff would alert my office when a response has been prepared.

Sincerely,

KEMPTON B. JENKINS,
Acting Assistant Secretary for Congressional Relations.

DEPARTMENT OF STATE,
Washington, D.C.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Executive Branch is now considering the Japan-United States Friendship Act which was approved by Congress on October 7.

As you know, the Administration fully supports the purposes of this Act. However, a question has arisen concerning Section 4 (a), which stipulates that the Commission established by the Act shall be composed of, among others, two members of the House of Representatives and two members of the Senate, to be appointed by the Speaker of the House and the President pro tempore of the Senate respectively. The language of the Act is not specific as to whether these four Congressional members of the Commission are to be voting members or non-voting, advisory members. It is the opinion of the Department of Justice that the Constitution precludes members of Congress from holding any office under the United States. There are, however, numerous examples of members of Congress serving in an advisory capacity on various commissions.

We would be most grateful if you could confirm that the members of Congress on the Commission are intended to serve in a non-voting capacity.

Since this is a matter of considerable urgency, I would be most grateful if your staff would alert my office when a response has been prepared.

Sincerely,

KEMPTON B. JENKINS,
Acting Assistant Secretary for Congressional Relations.

OCTOBER 17, 1975.

Mr. KEMPTON B. JENKINS,
Acting Assistant Secretary for Congressional Relations, Department of State, Washington, D.C.

DEAR MR. JENKINS: This will acknowledge your undated letter received October 6 concerning the Japan-United States Friendship Act and specifically Section 4(a).

The bill as passed does not deal with the question of whether Congressional members of the Commission are to be voting or non-voting members, but it seems clear that under the Constitution they would be non-voting.

Sincerely,

JOHN SPARKMAN,
Chairman.

U.S. SENATE,
Washington, D.C., October 17, 1975.

Mr. KEMPTON JENKINS,
Acting Assistant Secretary for Congressional Relations, Department of State, Washington, D.C.

DEAR MR. JENKINS: This letter will acknowledge your undated letter to me enclosing your letter to Senator Sparkman concerning the Japan-United States Friendship Act.

As you know, the version of the Japan-United States Friendship Act as passed by the House of Representatives provided in section 4(a) that the Members of Congress serving on the Japan-United States Friendship Commission would have no vote in the Commission. In deciding to delete this wording from the Conference Report of the Japan-United States Friendship Act, it was the view of the House Senate Conferees that the mandate of the Constitution would be binding and the staff was directed to act accordingly in filing the Conference Report. As it is now clear that Members of Congress cannot vote on such a commission, the Members of Congress serving on the Japan-United States Friendship Commission shall act in a non-voting, advisory capacity.

With best wishes,

Sincerely,

JACOB K. JAVITS.

COMMITTEE ON INTERNATIONAL RELATIONS,
October 20, 1975.

Mr. KEMPTON B. JENKINS,
Deputy Assistant Secretary, Congressional Relations, Department of State, Washington, D.C.

DEAR MR. JENKINS: This is in reply to your undated letter in which you express concern over section 4(a) of the Japan-United States Friendship Act.

Although the matter of voting by congressional members of the Commission is not addressed in the bill, it was the intention of the conferees that the provisions of the Constitution would, of course, be paramount over any act of Congress.

With best wishes, I am

Sincerely yours,

THOMAS E. MORGAN,
Chairman.

OCTOBER 20, 1975.

Mr. KEMPTON JENKINS,
Acting Assistant Secretary for Congressional Relations, Department of State, Washington, D.C.

DEAR MR. JENKINS: This is in reply to your undated letter in which you express concern over section 4(a) of the Japan-United States Friendship Act.

Although the matter of voting by congressional members of the Commission is not addressed in the bill, it was the intention of the conferees that the provisions of the Constitution would, of course, be paramount over any act of Congress.

With kind regards, I am

Very sincerely yours,

WAYNE L. HAYS,
U.S. Congressman.

THE CRISIS IN ANGOLA

Mr. KENNEDY. Mr. President, the complex situation in Angola today clearly poses significant difficulties, not only for the people of that nation, but also for America's position throughout black Africa. As a result, we need to take a close look at what is happening in that country, and at our response to a crisis that is threatening the lives of many people and Angola's orderly transition to independence.

Angola, twice the size of Texas, is strategically located on the southern Atlantic coast of Africa, and has vast oil, mineral, and agricultural resources—many not even fully explored. It has the potential of one day becoming a major political and economic force on the African continent.

However, Angola's future now hangs in precarious balance. Portuguese colonial rule is scheduled to end on November 11. Angola's three regional and basically ethnic political parties—the Popular Movement for the Liberation of Angola, MPLA; the National Front for the Liberation of Angola, FNLA, and the National Union for the Total Independence of Angola, UNITA—are engaged in a tragic, fratricidal military struggle for control of its destiny, while foreign interests maneuver to fulfill their own designs.

In the face of this crisis the Ford administration has apparently decided to pursue a policy of covert intervention in Angola. Widespread press reports, including a story in the New York Times on September 25, indicate that the United States is covertly supporting one, maybe two, of the three Angolan parties. The New York Times article, which I shall ask unanimous consent to have printed in the RECORD following my statement quotes administration sources as saying that the CIA is channeling money and arms to the FNLA, which is led by Holden Roberto, the brother-in-law of Zaire's President Mobutu, and that our Government is also considering the feasibility of providing assistance to UNITA.

What is clear is that either the administration does not know or does not sufficiently understand the Angolan situation and, therefore, appears to have followed Zaire's attempt to insure influence over a future Angolan Government by helping to put FNLA in power through covert support. Yet the administration has not given the Congress or the American public any information, or attempted to involve the Congress in formulating policy, although what we do in Angola will have a vital impact on our relations with black Africa. It is, therefore, imperative for the Senate to assert itself at this time and strongly urge the administration to provide information we need to play our proper constitutional role in developing policy toward Angola which protect and promote U.S. interests.

Because of a conflict between reports of covert U.S. military support for the FNLA and administration statements denying any involvement, I am asking the Senate Subcommittee on Refugees, which I chair, to ascertain the nature and degrees of our Government's involvement in Angola, and to seek precise information on report of covert activities there.

The provisional government set up last

January in Angola, with the Portuguese and the three Angolan parties, has collapsed. That agreement had divided the functions of the provisional government among the three parties, with a limited role for Portuguese officials in certain sectors. After conflicts arose among the representatives of the Angolan parties in the provisional government, the parties met on two successive occasions in Kenya to resolve their differences—to no avail.

Military clashes between the armies of the parties began occurring in Luanda and in other parts of Angola with increasing frequency, followed by truces of short duration. The intensity of the fighting increased in May and June, with heavier weapons being used in each successive encounter, until in early July full-scale civil war broke out in Luanda and throughout the country. The MPLA forces promptly drove the FNLA and UNITA armies out of Luanda and took de facto control of the provisional government. The major battles pitted MPLA and FNLA forces against each other, with UNITA's weaker army declaring war on MPLA in the southern parts of the country.

Portuguese troops have, for the most part, stood helplessly by, although they have occasionally aided and protected victims and refugees of the conflict, and assisted some surrounded units of defeated armies to escape to secure areas. Portugal's ability to influence the situation is limited. Even if it were disposed to act with the forces at its command—and this role were welcomed by Angolans, themselves. The Portuguese garrison includes only 24,000 men as compared with armies of approximately 14,000 for MPLA, 20,000 for FNLA, and 8,000 for UNITA. Portugal is also restricted because of its commitment to depart from Angola, and because of the natural reluctance of Portuguese troops to intervene.

At the present time, reports indicate that MPLA forces are on the offensive, having won battles which give them control of Luanda, the oil-rich enclave of Cabinda—which is separated geographically from the rest of Angola by a 40-mile corridor of Zaire—the central region from the coast of the Zambian border, all the major seaports, and parts of the southern region. The New York Times credits MPLA with controlling 11 of 16 provinces. FNLA has consolidated its forces in the area of the Zaire border in the north, with some units operating in the south along with UNITA. FNLA predictions of a major drive by its forces from the north to overrun the MPLA in Luanda have not materialized. The momentum clearly appears to be on MPLA's side, and, according to the Times, the administration predicts an MPLA victory.

Foreign governments—including our own—have been widely reported to be heavily involved in supporting the respective Angolan parties with military assistance, hoping that the conflict will work to further their aims for influence over the future direction of the country. The New York Times article of September 25 cites "official sources in Washington" as reliably reporting that—

The Soviet Union and its East European allies have poured . . . hundreds of tons of military equipment into Angola since March.

And that—

About 200 Chinese military advisers were operating from bases in Zaire to help at least one of the two liberation fronts being supported by Washington.

The article further states that these sources said that American funds earmarked for FNLA and UNITA have been dispersed mainly through President Mobuto of Zaire, and that—

In order to maintain good relations with Mr. Mobutu, the State Department has been seeking to arrange a refinancing of hundreds of millions of dollars in Zaire's short-term debt and to increase American aid to Zaire to about $60-million this year, from about $20-million.

This proposed aid package, which has been acknowledged by the State Department, represents a significant demonstration of support for Mr. Mobutu at a time when covert U.S. involvement in the Angolan conflict has been linked to him.

Other reports which have circulated in the international press claim that Zaire is heavily supporting FNLA by providing sanctuaries, military equipment, transportation, advisers, and even troops from its own army; that China is sending both arms and advisers to FNLA; that the United States has sent American weapons from bases in West Germany to FNLA bases in Angola and Zaire; that the Gulf Oil Corp., Zaire, Congo—Brazzaville—and the United States are encouraging and supporting the tiny Front for the Liberation of the Enclave of Cabinda—FLEC—whose factions are situated in Zaire and Congo—Brazzaville—to secede from Angola and establish an independent state; that South Africa has sent military forces into Angola in the region near the Namibian border; and that France is exploring ways to work with Zaire and Gabon to influence the situation with an eye on Cabinda's vast oil deposits.

However much truth there is in these various reports, there is clearly a need for the Congress to take a close look at what is happening, and to seek authoritative information from the administration.

In Angola, the cost in human lives and suffering has been high. Figures have been cited indicating that over 5,000 individuals—both combatants and civilians—have been killed, with an even greater number injured and homeless.

There are clearly no easy answers. Yet issues posed for U.S. policy have been addressed by the administration only in secret, leading many Members of Congress and segments of the American public to fear that we may again be locked into policies which the administration is reluctant to have tested in open debate. This means of making policy is not only antithetical to our open society, but, as recent experience elsewhere testifies, may not enable us to adopt sound policies in a difficult situation.

Certain principles must be laid down to govern our policy toward the Angolan crisis if we are to avoid a costly blow to U.S. interests.

First, the United States should respect the territorial integrity of Angola, as urged for that country by the three Angolan parties and the Organization of African Unity. All efforts to partition the country or separate Cabinda must be vigorously opposed.

Second, we must do what we can to halt all foreign involvement and intervention—including our own—so that the future of Angola can be decided upon by Angolans themselves.

Third, we should support efforts both within Angola, and on the part of third parties, to mediate between the rival groups in Angola, to hal the bloodshed, and to seize opportunity for a peaceful transition to independence. In particular, we should support the Conciliation Committee of the OAU in its attempt to bring a solution to the Angola crisis.

Fourth, we should demonstrate a willingness to work with any Angolan government that emerges after independence, as the people of that nation work out their own plans for self-development.

Finally, governments and international organizations should offer humanitarian assistance to victims of the fighting, wherever they are found, and, thereafter, give financial and technical assistance to Angola to help rebuild the country. I have supported the airlift of Portuguese returning to Europe, and the work of international relief agencies in Angola, itself. This help for the people of Angola must have our firm support.

It must be a sine qua non of U.S. policy not to supply any arms to be used in Angola. Support for FNLA or UNITA, for whatever reason, will almost certainly insure a longer civil war with its incumbent tragedy and loss of life from which no party stands to gain. Moreover, any such support could put us in the position of opposing the eventual rulers of Angola. Surely, a wider, long-term civil war will almost certainly create further instability which could spill over into other countries in that volatile area of the world.

Diplomatic channels should be aggressively employed to seek the neutrality of other foreign governments and isolation of the conflict. The State Department should reveal whether approaches have been made to any government supplying arms to any of the Angolan parties to cease such support. Also, I have asked the Subcommittee on Refugees to request the administration to supply information about "the interference of extra-continental powers who do not wish Africa well," which Secretary Kissinger referred to in his remarks at the dinner for the Organization of African Unity Foreign Ministers in New York on September 23.

Specifically, the Congress needs information concerning: First, the extent of Soviet bloc aid to MPLA; second, whether Zaire and China have actually terminated their aid to FNLA, as declared; third whether UNITA has received, or is receiving, military assistance for any source outside of Angola; fourth, and the extent of South Africa military intervention and political involvement.

I urge the administration to provide

the Congress with answers to these questions, with other information concerning the situation, and to work openly and constructively with the Congress in attempting to formulate an effective policy to deal with this problem.

Mr. President, I ask unanimous consent that the New York Times article previously referred to be printed in the RECORD.

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

UNITED STATES, SOVIET, CHINA REPORTED AIDING PORTUGAL, ANGOLA

(By Leslie H. Gelb)

WASHINGTON, September 24.—Millions of dollars are being poured covertly into Portugal and Angola by East and West, according to four official sources in Washington. The funneling of the funds is part of the continuing struggle for control of the Mediterranean and for influence and raw materials in Central Africa.

United States money for the Portuguese Socialist party and other parties is being funneled by the Central Intelligence Agency through West European Socialist parties and labor unions, the sources said. The C.I.A. involvement, the sources said, amounted to several million dollars a month over the last several months.

It is also reliably reported that the Soviet Union and its East European allies have poured $50-million to $100-million into Portugal since April, 1974, and hundreds of tons of military equipment into Angola since March alone.

CHINESE IN ZAIRE

The sources also said that about 200 Chinese military advisers were operating from bases in Zaire to help at least one of the two liberation fronts being supported by Washington.

Until the spring, most of the Western aid to anti-Communist forces in Portugal was being given secretly by the West German Social Democratic party and the Belgian Socialist party without any American involvement.

The sources said that the funds earmarked for two anti-Soviet liberation fronts in Angola had been dispersed mainly through President Mobutu Sese Seko of Zaire. In order to maintain good relations with Mr. Mobutu, the State Department has been seeking to arrange a refinancing of hundreds of millions of dollars in Zaire's short-term debts and to increase American aid to Zaire to about $60-million this year, from about $20 million.

In Angola and Portugal, the sources estimated, Soviet aid is far more than American aid, at least in the case of Angola, has included several direct shipments of arms.

It is reliably said that the Soviet Union and, to a lesser extent, East Germany and others have transferred the bulk of the funds going to the Portuguese Communist party through a bank in Lisbon and a bank in Zurich.

SOVIET AID OUTLINED

The following details were reliably supplied on Soviet aid to its supporters in Angola: In March, several Soviet planes landed in the Congo Republic, Zaire's neighbor, with arms and equipment that were then shipped to Angola; in April, about 100 tons of arms were delivered in southern Angola by chartered aircraft; in April, two Yugoslav vessels unloaded arms in Luanda, the capital of Angola; in May and June, four Soviet merchant ships unloaded vehicles, machine guns, bazookas, rifles and ammunition, off Angola, and two East German and one Algerian vessel delivered similar materials.

The Soviet-backed Popular Movement for the Liberation of Angola is reported close to controlling Angola, which is scheduled to become independent Nov. 11. In Portugal, the anti-Communist situation stabilized somewhat last week with the installation of a Government including members of the Socialist party.

The Washington sources said that C.I.A. operations in both countries had been approved by President Ford and were being carried out, as prescribed by law, with the knowledge of several congressional committees.

Both sides, first Moscow then Washington, were filling the coffers of their supporters in Portugal at the very time when President Ford and the Soviet party leader, Leonid I. Brezhnev, were signing a pledge in Helsinki, Finland, not to interfere in the internal affairs of other European nations.

KISSINGER VOICES ALARM

Secretary of State Kissinger, speaking to representatives of African countries last night and answering Soviet charges of Western involvement in Portugal, said: "We are most alarmed at the interference of extracontinental powers who do not wish Africa well, and whose involvement is inconsistent with the promise of true independence."

The C.I.A. cash-funneling operations to Portugal were said to have revived dormant but traditional connections between the agency and anti-Communist West European socialist and labor movements. And the operation in Angola, the sources said, led to the reactivation of Holden Roberto, head of the National Front for the Liberation of Angola, the man chosen in 1962 by President John F. Kennedy and the C.I.A. to forge a link between the United States and the indigenous groups that were expected to drive Portugal from Angola one day.

Two of the forces stressed that all odds now favored victory by the Soviet-backed Popular Movement in Angola, unless the United States and China rushed huge transfusions of aid, which is considered highly unlikely.

As described by these sources, the main purpose for the covert American effort in Angola was to underline the Administration's support for President Mobutu, the man on whom Secretary of State Kissinger is banking to oppose Moscow's interests in Africa and to further Washington's interests in various international forums.

The funds going to Portugal from the United States and Western Europe were said to be aimed at keeping non-Communist parties intact, in the streets, and in the business of competing with the Communists for the support of military leaders and soldiers.

One source said: "The President almost blew the whole Portugal thing last week in his interview with The Chicago Sun-Times. But nobody picked him up."

This was a reference to Mr. Ford's reply to a question about the absence of C.I.A. involvement in Portugal. He noted "our strong stand" along with NATO allies against a Communist government in Lisbon, then said: "I don't think the situation required us to have a major C.I.A. involvement, which we have not had."

The source was pointing to the fact that Mr. Ford was not denying that the C.I.A. had an involvement.

The sources maintained that William E. Colby the director of the agency, had notified members of six Congressional subcommittees several months ago of the covert operations, and that no serious objections had been raised. Mr. Colby gave the notifications after the operations were already under way, as he is permitted to do under the law.

An amendment to the Foreign Assistance Act of 1974 stipulated that no funds could be spent by or on behalf of the C.I.A. for covert operations "unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the Senate and House Appropriations and Armed Services committees, and to the Senate Foreign Relations Committee and the House Committee on International Relations."

In each case, the full committee delegated the duty of overseeing the C.I.A. to a subcommittee. With a few exceptions, the members of these subcommittees are regarded as conservative.

The sources either did not know or would not state when the covert operations began. But two of the sources indicated that the funds going to Portugual predated an interview given by Mr. Ford to U.S. News & World Report early last month when he talked of the virtual impossibility of CIA involvement in Lisbon.

FORD VOICES REGRETS

Speaking of aid going "quietly" from Moscow and Western Europe to warring factions in Portugal, he said:

"I think it's very tragic that, because of the C.I.A. investigation and all the limitations placed on us in the area of covert operation, we aren't able to participate with other Western European countries."

"The American people shouldn't handicap themselves from meeting the challenge, as we were handicapped in South Vietnam and as we are handicapped in trying to be a participant in Portugal."

One of the sources said that Mr. Ford and Mr. Kissinger made the decision some time after they went to Brussels for a NATO meeting in late May. It was after consultations with heads of state there, the source continued, that they saw how strongly the West European leaders felt about maintaining a non-Communist Portgual. The source then explained: "We wanted to show them that we would stand with them on this one, and also more money was needed."

Another source said that the West Europeans were already "giving plenty" and would have given more, but "it's just that we can't keep our hands out of anything."

Two of the sources said that West European trade unions that they would not identify were smuggling small arms and ammunition to the Portuguese Socialists. The Portuguese Communists, they said, had been previously armed by Moscow.

The decision to begin covertly financing these anti-Communist forces marked the latest step in a long process of reversing policy toward post-Salazar Portugal. For almost a year following the death of António deOliveira Salazar, the administration's policy was to lament privately but say nothing publicly about the leftward trend among the Portuguese military leaders. The theory was that more harm than good would come of any American involvement.

IN KEEPING WITH PAST POLICY

But the recent decision to take a strong anti-Communist stand in Portugal, including covert financing, was very much in keeping with the history of American policy toward the countries on the northern rim of the Mediterranean.

Beginning with the Communist-inspired instability in Greece and Turkey after World War II, and running through the threat of a Communist role in the Italian government in the early nineteen-sixties, the C.I.A. has been active in this region.

Much the same holds true for Africa, particularly beginning with Moscow's attempt to gain a foothold in Zaire, which was previously the Belgian Congo. From the time Patrice Lumumba was ousted, through the short career of Moise Tshombe, until General Mobutu came to power, a number of authoritative sources related, the C.I.A. has maintained its largest African station in Zaire.

At about the same time, in the early sixties, the sources said, President Kennedy determined that Portugal, an American ally in NATO, could not sustain control over her African colonies indefinitely and that contact must be made with future revolutionary leaders. In 1962, on the advice of the C.I.A. among others, Mr. Roberto, the brother-in-law of General Mobutu, was selected as a future leader for Angola.

ROBERTO 'DEACTIVATED'

The sources said that from 1962 to about 1969, the C.I.A. supplied Mr. Roberto with money and arms, but to little avail. At that point, they said he was deactivated and put on "retainer."

Mr. Roberto was reactivated this spring, according to the sources, at about the time it became clear that the then Communist-leaning government in Portugal ordered its armed forces in Angola to give active support to the Soviet-backed Popular Movement for the Liberation of Angola headed by Agostino Neto.

But the sources said that C.I.A. operatives and American diplomats judged that United States support should also be thrown behind Jonas Savimbi, the leader of the National Union for the Total Independence of Angola.

It could not be learned whether Chinese and American officials had ever discussed or ought to coordinate their efforts against Mr. Neto. What was learned was that American funds were being used to buy arms for both Mr. Roberto and Mr. Savimbi, and that the Chinese were providing military advisors for Mr. Roberto and perhaps for Mr. Savimbi as well.

It could not be learned whether any C.I.A. operatives were also acting as military advisers.

CABINDA A KEY FACTOR

At stakes in Angola, besides the enlargement of Soviet influence, is a region deemed rich in copper, industrial diamonds and oil. Of particular interest to the United States and to President Mobutu, the sources said, is Cabinda, an oil-rich area bordering on Zaire and separated from Angola by the Congo River. There, the sources related, the Gulf Oil Corporation continues to pump over 100,000 barrels a day. The sources said that the Administration believed that Mr. Mobutu would like to annex Cabinda in the likely event of a Communist take-over in Angola.

All the sources said, that it was Zaire that was of primary concern to the Administration. It is believed that Mr. Kissinger is about to select Sheldon B. Vance a former Ambassador to Zaire and a close friend of Mr. Mobutu, to be Assistant Secretary of State for African Affairs. He would replace Nathaniel Davis as Assistant Secretary. Mr. Davis was in charge of Deane R. Hinton, the ambassador who was ordered out of Zaire some months ago amid charges by President Mobutu that the C.I.A. had designs on the President's life.

It was Mr. Vance, two of the sources said, who this summer began to contact Zaire's many creditors in the United States and elsewhere to see if the millions in debts that were soon to come due could be refinanced. It could not be learned whether Mr. Vance had completed this task or had succeeded.

In the meantime, the State Department has approached several Congressmen with a view toward increasing American aid to about $15-million. This year, Zaire was to receive about $20-million, but the State Department is now aiming for $60-million. This would consist of $20-million in development aid, $20-million in Export-Import Bank loans, and $20-million in Food for Peace credit. Several officials said that so far, Congressional response had been decidedly negative.

THE 200-MILE FISHERIES CONSERVATION ZONE: OUR RESOURCE OF THE SEA IMPERATIVE

Mr. STEVENS. Mr. President, the freedom of the seas has been a pillar of customary international law since its development by the Dutch jurist Grotius in the early 17th century. Until recently, this traditional rule of international law, which included the concept of freedom of fishing on the high seas, well served both U.S. and international interests. Within the last several decades, however, the principle of freedom of fishing in particular has come under increasing criticism as fish resources, once thought to be inexhaustible, have been subjected to large-scale fishing efforts by increasing numbers of nations utilizing highly sophisticated and mechanized equipment.

As worldwide fish resources are depleted by such large-scale high seas fishing operations, many coastal nations, in an attempt to conserve and protect fish stocks that have traditionally been harvested by local fishermen, have extended seaward their jurisdiction over such resources. Today, nearly 40 nations have extended their exclusive fishery jurisdiction beyond the 12 nautical mile fisheries jurisdiction limit recognized by the United States.

The statistics concerning U.S. fish catches and imports are revealing. While world fish landings have tripled since 1938, from approximately 50 billion pounds to over 150 billion pounds, U.S. landings in the same period rose only slightly, from 4.3 billion pounds in 1938 to 4.7 billion pounds in 1973. The volume of fish harvested off the U.S. coast has increased dramatically from approximately 4.4 billion pounds in 1948 to 11.6 billion pounds in 1973. Here again, landings by U.S. vessels remained virtually constant throughout the 25-year timespan while the foreign catch in U.S. coastal waters increased to an annual level of 7.9 billion pounds, a figure that represents nearly 70 percent of the commercial U.S. coastal fish harvest.

In the same 25-year period, however, consumption of fish products in the United States has more than doubled, from 3.1 billion pounds in 1948 to 7 billion pounds in 1973. Under existing growth patterns, this figure could increase by an additional 3 billion pounds by 1985. Nearly the entire growth in U.S. fish consumption has been supplied by imports that are often harvested in U.S. coastal waters, processed in the home port of the foreign fishing vessel, and exported for sale in the United States.

Today, the United States imports over 60 percent of its fish product needs. In 1974 alone, the U.S. balance-of-trade deficit in fishery products alone amounted to nearly $1.5 billion. It has been estimated that if imports of foreign fisheries products were replaced by domestic production, the additional economic impact on the U.S. economy would approach $3 billion and result in an increase of 200,000 man-years in employment.

As a result of the significant increase in the level and intensity of foreign fishing operations in U.S. coastal waters, and the resultant decline in the abundance of economically important fish species, pressure for an extended U.S. fisheries zone has been mounting for several years. Currently, the United States has jurisdiction over fish resources seaward to a distance of 12 miles; with respect to living resources of the Continental Shelf, pursuant to the 1958 Convention on the Continental Shelf, coastal nation jurisdiction extends seaward as far as the species can be harvested.

S. 961, a bill that I cosponsored, would extend, on an interim basis, U.S. jurisdiction and management authority over fisheries resources to a distance of 200 nautical miles from the baseline of the U.S. territorial sea. In the case of anadromous species spawned in U.S. waters, such jurisdiction would extend throughout the migratory range of each applicable species. Such legislation is necessary to enable the United States to adequately protect and conserve fishery resources adjacent to our coasts. Existing domestic legislation and bilateral and multilateral international fisheries agreements are clearly inadequate to achieve this objective.

As a result of virtually unrestrained harvesting of such resources, particularly by large scale foreign fleet operations, at least 14 fish species of interest to U.S. fishermen have been overfished and their continued economic viability has been threatened.

The passage of S. 961 would enable the United States to effectively control foreign fishing activities within a 200-mile fishery zone and provide the basis for a revitalized and dynamic U.S. fishing industry.

Mr. President, I ask unanmious consent that a portion of the "Alaska Position on International Fisheries Management" outlining my State's stake in the sea be printed in the RECORD.

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

ALASKA'S STAKE IN THE SEA

It is sometimes difficult for "outsiders" to appreciate Alaska's ties to the sea. Those not familiar with Alaska typically perceive the State as a vast arctic subcontinent with a mixture of inland and coastal resources. Few realize the extent to which Alaska's resources and population centers are ocean oriented. The current boom arising from the pipeline construction and the expansion of Alaska's petroleum industry has drawn attention away from Alaska's fisheries industry, the mainstay of the Alaskan economy for almost a century. A closer examination of the Alaskan economy reveals in proper perspective Alaska's stake in the oceans.

Alaska is truly a coastal state. The great petroleum, fisheries, and timber resources line the coasts, as do the major population centers. While the lower 48 states thrive on a highly fertile and productive interior, Alaska does not enjoy such an advantage. The gold rush brought settlers into the interior during the nineteenth century, and some unexploited mineral deposits await development in the future, but for the most part Alaska remains dependent on its coastal resources. Even the Alaska pipeline represents only a temporary boom to the interior population centers that line its route.

Physically, the sheer size of the Alaskan coastline is even more impressive than the well-known size of the State. Aside from being the largest of the 50 states, Alaska has

a general coastline which is over 6,640 miles long and represents more than half (54 per cent) of the total general coastline of the U.S. The tidal shoreline is even longer, an estimated 47,300 miles, again more than half of the total tidal shoreline of the U.S.[1] No matter how it is measured, Alaska has most of the ocean frontage belonging to the U.S.

Even more impressive is the size of the Alaskan continental shelf. Encompassing a total area of approximately 830,000 square miles, the Alaskan shelf constitutes 74 per cent of the total U.S. continental shelf.[2] Historically important for its productive fisheries, the shelf is taking on additional import as petroleum deposits are discovered and exploited.

Not surprisingly, Alaska's population centers, both past and present, have been concentrated along the coast. Over 70 per cent of Alaskan Native villages lie in the coastal zone, as do Anchorage, the largest city, and Juneau, the State capital. Approximately 81 per cent of the State population lives in the coastal zone.

The Alaskan economy today thrives on the petroleum, fisheries, and timber industries. Rapid expansion of the petroleum industry in recent years has overshadowed the great marine fisheries. The scope and complexity of Alaskan fisheries is rarely appreciated. Although recently surpassed by the petroleum industry in terms of annual product value, fisheries has remained the most important of the primary industries in terms of employment (although this conclusion may be questionable today since construction work on the Alaska pipeline actually began last year). Alaskan fisheries directly employ ten per cent of the State work force and account for approximately four per cent of the State GP (gross product—a state measure of production similar to the familiar GNP, or Gross National Product). No other state's fisheries production approaches this percentage of gross product. California fisheries, for example, account for only .08 per cent of that state's gross product, even though California has the largest fisheries industry in terms of total annual catch. It is Alaska's combination of a small population and an extraordinarily large commercial fishing industry that result in Alaska having such an unusually high dependence on its marine fisheries. No other state depends on its fisheries for even as much as one per cent of its annual gross product.[3]

In terms of total yield, or weight of catch, Alaska accounts for a total of eight per cent of U.S. commercial landings. Since the Alaskan catch is relatively rich in more valuable species, such as salmon and crab, Alaskan landings account for a slightly higher percentage of the total value of U.S. commercial landings (10–12 per cent). Among the 50 states, Alaska currently ranks first in terms of value of output, and fourth in terms of total weight of catch.[4]

But domestic commercial fisheries yields are only part of the picture. Of the world's 150 billion pound annual fish harvest, more than 4.5 billion pounds (3 per cent) come from waters off Alaska. About 4.0 billion pounds of the Alaskan yield, or 81 per cent, are taken by the Japanese and Soviet fleets and consist largely of bottomfish not presently harvested by U.S. fishermen.[5] A substantial fraction of the Japanese catch eventfinds its way to the U.S. as imports of processed fish products.

The bulk statistical figures belie the complexity of Alaskan fisheries. From a historical viewpoint the various fisheries have been subject to highly variable production rates over both long-term and short-term periods of time. From the very beginning Alaska's living marine resources have been a measure of the economic potential of the State. In 1867 Alaska was purchased from Russia for a price that was considered to be the value of the fur seal resources of the Bering Sea. During the century since then, Alaska has progressed through a long period of heavy dependence on the salmon and halibut fisheries to arrive at the rather diversified fisheries base of today. The boom-or-bust nature of the salmon industry and improved markets for shellfish with the possibility of a year-round fishery has led to this diversification. Fisheries that barely existed in 1960 are flourishing today. Others have experienced long-term declines over several decades. To compound the long-term trends are annual variations which have contributed to the historically risky nature of the fishing business in Alaska. In retrospect, it is clear that Alaska has achieved an impressive success record in its monitoring and managing of such a complex natural resource. Although the fisheries industry is typically lumped together with timber and petroleum in descriptions of Alaskan resources, the relative complexity of the fisheries industry is rarely appreciated. Whereas timber resources are subject to accurate inventory and predictable replenishment rates, and petroleum can be inventoried once it has been discovered, fisheries are not subject to such simple evaluation. A brief overview of the various Alaskan fisheries reveals some of the complexities involved in managing this resource.

Pacific salmon have been the mainstay of the Alaskan fishing industry for almost one hundred years and still average roughly two-thirds of the value of the total Alaskan catch. The Alaskan harvest constitutes approximately 30 per cent of the worldwide and 90 per cent of the U.S. catch of Pacific salmon.[6] A subsistence catch of nearly one million salmon year year also illustrates the non-commercial dependence of many resident Alaskans on this resource for food.

Catches of the five species of salmon (pink, coho, chum, chinook, and sockeye) have generally declined since their peak in the 1930's. Large year-to-year variations, sometimes as much as 50 per cent, occur in the catch due primarily to variable survival occasioned by changing environmental conditions.[7] A major decrease in the size of the runs in the past few years resulting from the extremely harsh environmental conditions of 1970–71 and 1971–72 has been a source of economic hardship among salmon fishermen. Employment of proper management techniques to conserve these runs should result in recovery by the end of this decade.

Alaska's halibut fishery, begun in the 1880's, is another long-established fishery. The U.S. catch in Alaskan waters has gradually declined despite strict international regulation of U.S. and Canadian harvests to properly manage this resource. The decline is largely the result of nearly uncontrolled incidental harvest of juvenile halibut by Japanese and Soviet trawlers taking pollock, sole, and other species in waters off Alaska.

Other species of flatfish are taken almost entirely by Japanese and Soviet fleets, mostly in the Bering Sea. This fishery has been characterized by explosive increase in catch by the Japanese and Soviet fleets during the late 1950's and early 1960's and a relative decline in recent years. Except for a small per cent taken by U.S. and Canadian fleets, this fishery is still dominated by Japan and the USSR.

The pollock fishery is marked by the same trend—insignificant catches prior to the mid-1950's followed by rapid expansion of Soviet and Japanese activities. From a total pollock catch of 1.2 million pounds in the 5 years between 1950 and 1955, the combined Japanese and Soviet catch was approximately 3.2 *billion* pounds in 1969 alone![8]

Trends for Pacific cod, black cod, and Pacific Ocean perch follow similar courses. From small, relatively constant U.S. and Canadian yields over the past 70 years, increasing Japanese and Soviet efforts over the past 20 years have resulted in vastly larger yields.

Herring catches off Alaska have recently been dominated by Soviet travel fisheries in the Bering Sea. Alaskan herring catches peaker in the 1930's when the total U.S. catch (primarily Alaskan) was 250,000,000 pounds.[9] This harvest has declined in recent years due primarily to marketing difficulties to a few million pounds. The fishery is highly important to certain coastal communities and is expanding with the advent of new markets for roe, fillets, and meal.

The crab and shrimp industry in Alaska has experienced rapid growth since the early 1960's. Foreign effort on these species has been largely supplanted by United States fishermen with a major exception. Japanese tanner crab fleets in the Bering Sea are still allowed by bilateral agreement a 13,500,000 crabg catch per year. It has also been estimated that the Japanese incidental catch to tanner crab (primarily juveniles) in their Bering Sea travel fisheries exceeds 100,000,000 pounds in some years.

King crab catches in all areas, including the Bering Sea are dominated by U.S. fishermen. Peak production was reached in 1966 after several years of rapid expansion, declined and has stabilized at about 60,000,000 pounds in areas other than the Bering Sea in recent years.[10] Removal of most foreign effort on king crab through bilateral agreement from the Bering Sea and expansion of U.S. catches in that area has increased the total U.S. harvest in Alaska as of 1974 to nearly 100,000,000 pounds. U.S. shrimp and tanner crab harvests in Alaska increased three- or four-fold from 1970 to 1973. This expansion has been due, in the most part, to increased market demand for Alaskan shellfish. These resources are harvested under a strict management regime of quotas, size, and sex limits and seasons.

In 1973, the most recent year of final production statistics 77,000,000 pounds of king crab, 62,000,000 of tanner crab, and 120,000,000 pounds of shrimp were taken by U.S. fishermen in Alaska. The total value of this Alaskan shellfish product was $143,000,000. Fluctuating market demand for shellfish has been the primary cause for reduced production in 1974–75.

Although the total Alaskan catch of all species has fluctuated rather widely in weight during the past 25 years, the value of the catch has remained more constant. Despite variations of total catch of as much as 30 per cent, total value has increased except for a series of declines in the past few years. With proper management, Alaskan fisheries will undoubtedly remain a renewable resource indefinitely. Indeed, there may well come a time when Alaskan fisheries again become Alaska's most valuable resource. Even the most optimistic predictions of the lifetime

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[1] 1974 Statistical Abstract of the U.S., Table No. 289, p. 171.

[2] McRoy, *et al.*, Coastal Ecosystems of Alaska, Institute of Marine Science Univ. of North Carolina, pp. 1–2 (1969).

[3] 1974 Statistical Abstract of the U.S., Tables 11, 611, & 1110.

[4] National Marine Fisheries Service, Fisheries of the U.S., 1974, p. 18.

[5] 1972 Alaska Statistical Review, prepared by State of Alaska Dept. of Economic Development, Division of Economic Enterprise, p. 55.

[6] *Id.*, at 43.

[7] Buck, National Patterns & Trends of Fishery Development in the North Pacific, Alaska Sea Grant Report No. 73–4, Arctic Environmental Information and Data Center, University of Alaska, pp. 21–39.

[8] *Id.*, at 43.

[9] *Id.*, at 19.

[10] *Id.*, at 4–15.

of Alaska's non-renewable petroleum resources do not come close to the already established 100-year lifetime of Alaska's fisheries. This long-term durability of Alaska's marine fisheries must not be discounted in planning for the economic future of Alaska.

SOVIET MILITARY SPENDING

Mr. PROXMIRE. Mr. President, it is disappointing to find spokesmen for the Department of Defense once again exaggerating and inflating the official estimates about Soviet military spending at a time when Congress is considering appropriations for the Department of Defense.

ASSERTIONS BY THE SECRETARY OF DEFENSE

A statement was recently made by the Secretary of Defense that the Soviets "may" be spending 50 percent more than the United States for defense, if one strips away pensions and other considerations. He went on to support that American military power is deteriorating relative to the Soviet Union and that our security is being jeopardized because of the trends in defense spending.

I strongly disagree with such self-serving conclusions. The evidence does not support them.

JOINT ECONOMIC COMMITTEE HEARINGS

The Joint Economic Committee heard extensive testimony this year from the heads of the Central Intelligence Agency and the Defense Intelligence Agency on the allocation of resources to the defense sector in the Soviet Union and China.

I invite my colleagues to read the testimony, which has just been released, to examine the estimates and the known facts, and to draw conclusions about the relative strength of the United States and the Soviet Union on the basis of the evidence at hand and in the proper context.

UNITED STATES LEADS IN TECHNOLOGY

The United States leads the Soviet Union in virtually every area of advanced military technology, although the "dollar costs" of their defense budget appear to be higher than ours according to the estimating techniques used by the CIA.

Assertions of a massive Soviet military buildup are nonsense, unsupported by the facts.

Insinuations of a widening gap between Soviet and U.S. military power, to the advantage of the Soviet Union, are nonsense, unsupported by the facts.

The costs of the Soviet defense program have increased at an average annual growth rate of 3 percent per year over the past 10 years.

This fact alone demonstrates that the increase in Soviet military spending has been steady but not massive.

DIFFERENT KINDS OF DEFENSE PROGRAMS

It should also be understood that cost comparisons are not reliable measures of relative strength or effectiveness. There is evidence that substantial Soviet military resources are used inefficiently or in ways that do not threaten the United States. The missions assigned to Soviet forces are in important respects different from those assigned to our forces.

A large factor in the Soviet military program is the emphasis on defense against invasion. They have about 10,000 surface-to-air missiles around their borders.

Strategic defense costs the Soviet Union more than $5 billion annually compared to less than $1 billion spent by the United States, according to intelligence estimates.

William E. Colby, Director of Central Intelligence, testified, "The Soviets, of course, have a national historical fixation on the problem of invasion." Their fixation drives the Soviet defense budget in a way which does not necessarily threaten the United States.

THE "CHINESE THREAT"

A substantial portion of Soviet resources are devoted to the "Chinese threat."

The number of Russian divisions on the Sino-Soviet border has increased from about 13 to 40 in the past decade. There are also more than 1,000 Soviet tactical aircraft in that area.

THE "NATO THREAT"

The Russians appear to be greatly worried about the "NATO threat." Mr. Colby testified:

> They are concerned about air attacks from NATO too, very clearly. They are focused on the NATO threat, they discuss it in their literature, and their military people plan, and hold exercises against NATO. Their major forces are western oriented.

The Russians "have a long-term determination to at least match the Americans" in the area of strategic nuclear forces, according to the CIA.

The growth of the Soviet navy is viewed by U.S. intelligence experts as an effort by the Soviets to be considered on a par with the United States.

LIMITATIONS OF ESTIMATES

The fact that "dollar cost" estimates make it appear that Soviet defense expenditures are higher than our own must be seen in the context of the limitations of the estimates, the different missions assigned to each defense force, and the fact that the United States has a much larger and more highly advanced technological base.

Under the dollar cost approach Soviet manpower and weapons are priced at what it would cost the United States to purchase the same forces.

The effect is to "inflate" Russian pay to the higher U.S. pay levels. There is also a tendency to magnify the costs of Soviet weapons through the dollar cost approach because of the greater sophistication and costs of U.S. technology. There have been a few instances, however, when Soviet weapons have turned out to be more complex and costly when actually examined than was thought to be the case.

Gen. Daniel O. Graham, Director of the DIA, strongly criticizes the efforts to make dollar cost estimates of Soviet spending and asserts that the aggregation of such figures into a total budget number is highly suspect.

I encourage the CIA to continue doing the analysis and providing the results to Congress.

The dollar cost estimates, despite their limitations, provide us with valuable information about the trends of Soviet military expenditures and with useful benchmarks for further analysis.

Some of the shortcomings in the estimates can be corrected, but it will always be difficult to know precisely what the Russians are doing.

SUGGESTED IMPROVEMENTS

One improvement would be to make "ruble cost" estimates of the United States and Soviet budgets, as well as dollar cost estimates. The CIA concedes that such estimates would remove much of the inherent bias in the current approach.

It would improve our current understanding if much more information about Soviet defense spending was made public at regular intervals by the civilian side of the intelligence community.

It would also help avoid confusion if Pentagon officials would refrain from using the estimates of the intelligence agencies prematurely, selectively, or out of context.

Congress and the public know that the Soviet Union has a powerful military establishment and that the United States must remain powerful. Questions about the size of the Soviet military should be answered with hard facts and objective analyses, not exaggerations.

THE NEED FOR ORDERLY PROCEDURES

There ought to be orderly procedures for making the estimates of the intelligence community available to Congress and the public and these procedures should apply to the Pentagon.

Copies of the hearings containing testimony on the economies and budget allocations of China and the Soviet Union may be obtained from the Joint Economic Committee, room G-133, Dirksen Senate Office Building, Washington, D.C. 20510.

STATE LICENSING LAWS DO NOT PROTECT 14.5 MILLION HEARING-HANDICAPPED AMERICANS

Mr. PERCY. Mr. President, as part of the inquiry that the Permanent Subcommittee on Investigations has launched into hearing aid abuses and frauds, a staff study has been prepared and issued which raises serious questions about the licensing and training of hearing aid dealers.

I have long been concerned with problems in the hearing health care field beginning with disabilities developing by myself and many others in World War II. With more than 14.5 million Americans afflicted with some form of hearing handicap, professional care for these people is imperative.

The staff study points out that "the insistence by some in the industry that dealer licensing laws protect the hearing-impaired from abuses at the hands of dealers is wholly unsubstantiated."

The study is based on the responses from the 39 licensing States to a subcommittee questionnaire. An analysis of these responses showed that more than half the dealer licensing boards are controlled by dealers and that almost half of all licensed dealers were grandfathered into their permits. It also showed that licensing boards often fail

to properly follow up on user complaints against hearing aid dealers and that many States have no workable system for calibrating the audiometric equipment that dealers must use for measurement of hearing loss.

The report also noted that expert panels found that the training program for dealers—provided, for a fee, by the National Hearing Aid Society—is "inadequate," and in some cases, "potentially dangerous."

All of these findings suggest, as I have urged, that hearing aids need to be declared prescription devices by the Food and Drug Administration, that the Department of Health, Education, and Welfare should draft a model State licensing law with teeth, and that the National Hearing Aid Society should withdraw its 20-lesson home study course from the market in the interest of the hearing handicapped.

This well-documented and meticulously researched report was principally prepared by Jonathan Cottin, an investigator for the minority on the subcommittee. It reflects thoughtful analysis and painstaking investigative work, is thorough and balanced, and it not only raises problems but offers responsible solutions.

I also wish to commend the subcommittee chairman, Senator HENRY M. JACKSON, for his affirmative support of this project. Chairman JACKSON and I are as one on the issue of health care delivery. As he says in his memorandum to the subcommittee members:

> More than 14.5 million Americans are stricken with some form of hearing disorder, more than half of them over age 60. This is a significant number of elderly persons. They are entitled to the best health care available in the United States.

I am grateful also to Howard J. Feldman, the chief counsel to the subcommittee, and Stuart M. Statler, chief counsel to the minority, for overseeing this ongoing investigation and for seeing to it that the report was expeditiously printed and released. David P. Vienna, Jr., a subcommittee investigator who assisted in this project, and Roland L. Crandall, the subcommittee staff editor who carefully supervised its production, also deserve credit for their fine contributions.

Mr. President, I ask unanimous consent that the text of the subcommittee "Staff Study of the State Licensing Laws and Training Requirements for Hearing Aid Dealers," be printed in the RECORD.

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

STAFF STUDY OF THE STATE LICENSING LAWS AND TRAINING REQUIREMENTS FOR HEARING AID DEALERS

MEMORANDUM

To: Members of the Permanent Subcommittee on Investigations.

From: Henry M. Jackson, chairman.

Subject: Hearing aid report.

As part of its investigation into problems in health care delivery, the Subcommittee staff has been conducting a preliminary inquiry into the hearing aid industry.

More than 14.5 million Americans are stricken with some form of hearing disorder, more than half of them over age 60. This is a significant number of elderly persons. They are entitled to the best health care available in the United States.

Unfortunately, as this staff study indicates, the hearing-handicapped do not always enjoy professional treatment at the hands of hearing aid dealers.

The reason for this, in part, stems from the absence of universally adequate licensing laws for hearing aid dealers in the States—39 of which now have licensing boards. The Subcommittee staff has found that most boards are controlled by the dealers and about half the dealers were "grandfathered" into licenses, meaning that they never took a State-administered qualifying examination.

This study is based on responses to a Subcommittee questionnaire sent to the licensing States, plus contributions from various Federal agencies, the American Council on Otolaryngology and the American Speech and Hearing Association. To these agencies and groups, I wish to extend my thanks.

In addition, I wish to commend Senator Charles H. Percy, the ranking minority member, who requested this inquiry and minority staff which conducted the study and prepared this report.

INTRODUCTION

More than 14.5 million persons suffer from some kind of hearing problem in the United States—about five percent of the nation's population. Moreover, the incidence of deafness and milder forms of hearing disability are increasing; whereas the Census Bureau counted 47 deaf persons per 100,000 in 1930, the estimate in 1970 was 203 per 100,000 [1]—almost a five-fold increase.

In hundreds of thousands of cases, electronic amplification can help restore hearing. Hearing aids are useful and, in many cases, necessary communications tools.

The hearing aid business has grown, in a few short years, to over $150 million a year at retail, representing about 600,000 units sold. These devices, now more sophisticated with the development of the transistor, serve a demonstrated need.

Yet, as both the Federal Trade Commission and the Food and Drug Administration have demonstrated by their recent attention to the hearing aid industry, the delivery system for these devices is not without its flaws. These flaws are significant.

The FTC has brought antitrust actions against six manufacturers for allegedly engaging in exclusive dealing arrangements. The Commission has also filed complaints against six hearing aid producers for allegedly misleading advertisements.

On June 17, 1975, the FTC issued proposed trade regulations governing the marketing and sale of hearing aids that would give purchasers a 30-day trial period and limit house-to-house sales of the instruments.[2]

The Department of Health, Education and Welfare in May 1974 launched a study of the hearing aid delivery system. A final report on that study's findings issued in September 1975 suggested that the problems in the delivery system centered principally on the dealer.[3]

The HEW task force, created by then-Secretary Caspar W. Weinberger, declared that "misevaluation of a patient's need for a hearing aid and the subsequent sale of a hearing aid device which is ineffective, and possibly unsafe for its intended use, are the major problems of the hearing aid delivery system."

A Subcommittee staff review of several hundred complaints at the FTC, the FDA and in the files of Senator Charles H. Percy of Illinois, confirmed the task force finding. Complainants reported that they were sold aids they didn't actually need. Many dealers who were complained against appeared to lack a strong sense of ethics or a degree of competence sufficient to evaluate the causes of hearing loss, to provide the proper hearing aid if one was indicated, or to refer the client to a doctor specializing in diseases of the ear.

Most persons who purchase hearing aids first visit a hearing aid dealer. As many as two out of three persons with some form of hearing impairment stop at the dealer first, the HEW task force reported. This is because States do not ordinarily require adults to obtain a written recommendation from an otologist or audiologist that a hearing aid is necessary for a patient to achieve better hearing. Only Vermont, Hawaii and Minnesota require pre-clearance by a doctor or audiologist.

Since so many of the complaints reviewed by the Subcommittee staff had to do with alleged incompetence or an alleged lack of business ethics, a great deal of attention was facused on dealer training and State licensing laws.

Many of the 39 State dealer licensing boards have little or no staff or funds with which to operate, meet infrequently, and are, in most cases, controlled by the dealers. Some of these dealer-board members, by their actions, have demonstrated that they do not appear to have the interests of the consumer uppermost in their minds, giving the appearance, if not the reality, of a conflict of interest.

In terms of professional competence, a hearing aid dealer can be only as good as the quality of his training. The National Hearing Aid Society, the dealer's group, is the only organization offering a national program of instruction for dealers. Most of the licensed hearing aid salesmen in the United States have taken this industry course. To determine how complete the NHAS program is, the Subcommittee asked three expert panels to review the curriculum.

The experts reported that the NHAS training is inadequate, inaccurate and even dangerous.

Methodology

Since the most urgent issues in the inquiry were presented by complaints against dealers for incompetence and unethical behavior, the Subcommittee sought to determine the efficacy of the dealer-training program offered by NHAS and how well the State licensing boards functioned in exercising oversight for the profession.

The Subcommittee obtained from the NHAS copies of this training program and submitted them to expert panels in three organizations for evaluation.

Each of the panels was asked: Does the course equip a hearing aid dealer to properly evaluate hearing loss? Does the course equip a hearing aid dealer to detect and analyze hearing disorders requiring medical attention? Does the course equip the hearing aid dealer to make professional judgments on hearing loss and recommend corrective action?

The organizations selected to review the NHAS course material and the panel members were:

(i) The Veterans Administration, which has provided veterans with hearing aids since World War II. V.A. Administrator Richard L. Roudebush chose the following panel to evaluate the course: Lloyd Bowling, Ed.D., chairman of the Department of Speech and Drama at George Washington University; Dr. A. G. Di Biasio, director, Division of Otolaryngology, Georgetown University Medical Center; Dr. David N. F. Fairbanks, otolaryngology consultant, Department of Health and Mental Hygiene, State of Maryland; Dr. Harry W. McCurdy, executive director, the American Council of Otolaryngology; Hayes Newby, Ph.D., chairman, Department of Hearing and Speech Sciences, University of Maryland; and Philip Rosenberg, Ph.D., Professor of Audiology, Temple University Hospital.

(ii) The American Council of Otolaryngology,[4] whose hearing committee assigned the following to review the course: Dr. William Call, Denver, chairman of ACO's Council for Accreditation of Occupational Hearing Con-

Footnotes at end of article.

servation; Dr. Tom McDonald, Rochester, Minnesota, who practices at the Mayo Clinic; and Dr. Mansfield F. W. Smith, San Jose, California, Clinical Associate Professor of Surgery, Stanford Medical Center, director of the Ear Transplant Center of the Northern California Transplant Bank, and the chairman of the ACO's Hearing Committee.

(iii) The American Speech and Hearing Association,[5] which assigned to its reviewing panel Leo G. Doerfler, Ph.D., director of Audiology at Eye and Ear Hospital at the University of Pittsburgh Medical Center and past president of ASHA; James F. Jerger, professor of Audiology at Baylor College of Medicine in Houston; and Dr. Raymond E. Jordan, retired professor of Otolaryngology at the University of Pittsburgh, and past executive director of ACO.

To the 39 operating State dealers licensing boards, the Subcommittee directed a questionnaire designed to elicit information about board make-up, dealer licensing regulations, complaint evaluation systems and disciplinary activities. (See Exhibit 1, p. 15).

National Hearing Aid Society dealer training program

Many hearing aid salesmen in the United States belong to the National Hearing Aid Society, which provides them with the basic training course.

The program consists of 20 home-study lessons, the answers to which are completed by the applicant in his home. These responses are graded by a firm under contract with the NHAS. The 20 lessons consist of readings from three textbooks and a lesson summary prepared by the NHAS.

In May 1975, the NHAS announced availability of a new, more detailed educational program for its membership to be offered at colleges and universities throughout the United States. (See Exhibit 2, p. 15.) However, the NHAS lacks the authority to compel attendance at these classes and cannot expel from membership anyone who does not sign up. Therefore, the 20-lesson home study course is still the basic learning tool for NHAS members. It has not been terminated.

Persons who successfully complete the 20 lessons are considered noncertified members of the NHAS. Those who seek further recognition from the industry group must take a final proctored examination. The NHAS does not keep records of the pass-fail ratio for this test. The reason for this omission was not explained to the Subcommittee. A passing grade on the exam, plus approval from local dealers and other community leaders as to the character and credit rating of the applicant, makes the candidate eligible for an NHAS plaque, suitable for office hanging. The plaque declares the bearer to be a "certified hearing aid audiologist." Approximately 2,200 NHAS members are "certified hearing aid audiologists."[6]

The V.A. course analysis found "much of the specific information incorrect . . . (and) oversimplified." It also found some data "presented in a very complex manner . . . apt to be well beyond the ability of those taking the course to understand." (See Exhibit 4, p. 18.)

In one lesson, the panel found "inadequate and misleading" an ear pathology description relating to cholesteatoma. The NHAS "described (it) simply as a tumor of the middle ear which sometimes perforates the ear drum, invades the external auditory canal, and is accompanied by a constant discharge." The V.A. panel said the ear abnormality is "one of the most dangerous pathologic states of the temporal bone with potentially deadly complications . . . (A) patient complaining of a hearing loss due to a dry destructive cholesteatoma risks loss of life if diagnosis and treatment are delayed because his first contact for help was with someone interested only in the fitting of a hearing aid to improve the hearing."

Other lessons dealing with evaluation of hearing and interpretation of test results are "quite superficial" and in some cases "contrary to standard clinical procedure," the V.A. panel said.

It also found "scarcely a reference to reliance on physicians for treatment before fitting an aid." It found no reference at all to use of audiologists for the determination of need for amplification.

"Most remarkable" to the group was the "paucity of information" on hearing aids and their fitting. It called the data on this subject "meager, often incorrect, and very outdated. . . . The technical discussion of the fitting of hearing aids is simply wrong. The lesson on 'the Ear Mold' is 10 years behind the times and does not include any of the modern discoveries. . . ."

One V.A. panelist, Hayes Newby, is author of *Audiology*, one of the three NHAS-prescribed texts. Yet the V.A. panel was unanimous in its finding that the text reference material "is outdated and probably beyond the ability of an individual with less than a postgraduate education to understand." This finding is most relevant to the finding of the staff study that under state hearing aid licensing laws, although minimum dealer educational requirements are hardly uniform, only 27 of the 36 licensing States responding require dealers to have at least a high school education.

In sum, the panel found the home study course of the NHAS *"not only inadequate but potentially dangerous.* It is dangerous in the same way that 'quack' medicine is dangerous. . . . It postpones or prevents adequate evaluation, diagnosis, and treatment of hearing loss and its accompanying pathology. Some of these pathological entities are life-threatening and require immediate and aggressive medical or surgical treatment." (emphasis added)

The American Council of Otolaryngology panel asked the Subcommittee to obtain from the NHAS a model final examination and the pass-fail ratio on these tests. The NHAS refused to provide a final examination, maintaining that it was proprietary data. It also told the Subcommittee that it kept no pass-fail ratio statistics.

The NHAS did report the number of persons enrolled in the program and the number passing the final exam to become "certified hearing aid audiologists" from 1970–74. This data was turned over to ACO. It showed:

Year:	*Number enrolled*	*Number passing final exam*
1970	412	244
1971	597	305
1972	527	266
1973	411	318
1974	370	231

ACO said, after a review of the curriculum, that "the Basic Home Study Course of the National Hearing Aid Society . . . is far too technical and beyond the scope of the simple salesman to comprehend in any effective manner. Most of the material has been written for professionals with college and postgraduate education." (See Exhibit 5, p. 21.)

Lacking a copy of the final exam, which would show whether the test actually measures comprehension of the course materials, and not having any data on how many persons took the final exam, how many passed or failed it, the ACO panel said it was "unable to determine the adequacy and ability of the National Hearing Aid Society training program to equip their dealers as to the fitting and selling of hearing aids."

The American Speech and Hearing Association, the national audiologists' group, found the course did not equip a dealer to properly evaluate hearing loss, detect and analyze hearing disorders requiring medical attention, or make professional judgments on hearing loss and recommend corrective action. (See Exhibit 6, p. 22.)

ASHA's panel said hearing loss evaluation "is given extremely superficial treatment." It quoted from the NHAS lesson on hearing testing that recommended a "quiet room" for that purpose. "No reference is given," said ASHA, "to the American National Standards Institute standard that specifies acceptable ambient noise levels for testing hearing."

As for how well equipped a dealer who has completed the course is to detect and analyze hearing disorders requiring medical attention, ASHA's panel found:

"The student is told of the various medical conditions which may exist, but nowhere is he told how to recognize them in a client or what factors to consider in raising an index of suspicion. The very common perforations or ruptures of the tympanic membrane, for example, are covered in exactly eight lines. This important question of how to recognize or even suspect the existence of a perforation from visual or audiometric measurement is not even mentioned. Yet this is the most common medical problem that the hearing aid dealer is likely to encounter, and failure to recognize its presence in a particular client can have potentially serious consequences."

It said "a hearing aid dealer would not be competent, as a result of completing this course, to accurately evaluate hearing."

As did the V.A. panel, the ASHA group found some of the course material inaccurate:

"It is stated (in the NHAS lessons) that a sensory-neural hearing loss 'is more difficult (if not impossible) to treat medically.' Such an emphasis could easily be misinterpreted to mean that a medical evaluation is unnecessary. Quite the contrary, certain sensory-neural hearing impairments are amenable to medical treatment and some are indications of a life-threatening condition, requiring swift medical intervention."

As for the dealer's ability to make professional judgments on hearing loss and recommend corrective action, ASHA's evaluation team said that "because of its extremely superficial nature and because it approaches the subject in a purely descriptive rather than interpretative manner, the hearing aid dealer who completes the course would still be ill-prepared to make the kinds of objective professional judgments and recommendations necessary for the satisfactory and ethical rehabilitation of patients with hearing impairment."

State licensing laws and their enforcement

Hearing aid dealer licensing laws are relatively new. Oregon was the first State to enact a licensing law in 1960. Most of the 39 States with licensing provisions enacted them within the last five years.

There are slightly more than 5,700 licensed dealers in the United States. Nearly 50 percent, more than 2,500 of them, have never taken a licensing exam. They have been "grandfathered" into licenses by virtue of their dealer activity prior to the law's coming into being.

For the most part, control of the licensing board rests in the hands of the dealers. In effect, they regulate themselves. In 35 States, dealers either outnumber the other board members, or comprise at least one-half of the panel. In only four States are there more professional and lay members than there are dealers.

A detailed inquiry into how one State licensing board conducted its business, while controlled, 5–4, by dealers, illustrates some of the problems occurring in licensing States.

The Kentucky Experience

Documents obtained by the staff, as well as sworn affidavits provided to the Subcommittee, show that the Kentucky Board for licensing hearing aid dealers was and is plagued by internecine warfare.

Interest in the Kentucky board's operation

Footnotes at end of article.

first arose when staff learned that the Subcommittee questionnaire was officially rejected. Minutes of the November 16, 1974, board meeting show that it decided not to answer any of the questions. (See Exhibit 7, p. 26.)

The Subcommittee assigned staff to interview Kentucky officials regarding the board's operations.

A leading critic of the Kentucky board is Dr. Lilialyce Akers, associate professor of sociology at the University of Louisville, the consumer member of the board and one of the original architects of the law creating the board.

Dr. Akers, in a sworn affidavit describing her frustrations in working with the dealer-members who control the board, now believes the law is virtually useless. "Since the board tends to represent the association of hearing aid dealers more than it does any other segment, the board tends to do less in serving the people of Kentucky and is giving legitimacy to activities that are highly questionable," she said. (See Exhibit 8, p. 27.)

Dr. Akers noted that the board chairman, Charles N. Stone, permitted his son to be grandfathered into a license. According to an affidavit signed by his son, he was 14 when he began working in his father's store. (See Exhibit 9, p. 29.)

Dr. Akers also complained that the board chairman does not turn over to her consumer complaints received by the board. She said that Mr. Stone, the chairman, and Marion Roberts, the board's former secretary-treasurer, "repeatedly told me they took care of complaints amicably by telephone and they have never provided me with the complaints received by them."

Mr. Stone denied Dr. Akers' charge. He said that all complaints were "brought before the board and laid on the table" and that Dr. Akers was never denied any complaints.

She also told of an instance in which one board member, Marion Roberts, a Richmond, Kentucky, dealer, signed as a sponsor for a candidate who had applied to take the license examination. Dr. Akers said she asked Mr. Roberts if he had actually supervised the dealer's work for six months as required by law. "He replied that the man owed him $4,000 and he must get it back, so he was going to sign an affidavit swearing that he has sponsored the man for six months," she said.

Dr. Akers' recollection on this issue was confirmed by Mrs. Norma Jean Phillips, the representative from the Kentucky Bureau for Health Services on the Board. In an affidavit (see Exhibit 10, p. 31), Mrs. Phillips said that Mr. Roberts told her that the man he was sponsoring was "not of good moral character. But he said he had about $4,000 invested in him through a business relationship connected with a dealership. . . . As a result, in order to regain his money, he told me, he had no choice but to get him into the hearing aid business through the licensing procedure" so that the dealer could earn enough money to repay Mr. Roberts. (In an interview, Mr. Roberts denied having said this.)

In January 1974, Marion Roberts, Charles N. Stone, Arthur A. Azar, Larry J. Naiser and Frank E. Smith, all board members and dealers on the board, organized the Kentucky College of Otometry, later renamed the National College of Otometry. In its catalog, the institution offered a five-year program, successful passage of which would bring the student a "Doctor of Otometry" degree. Tuition charges were listed as $500 per semester, payable in advance. The college campus was listed in promotional literature as 205 Geri Lane in Richmond, Kentucky. That address is the same as a hearing aid dealership owned by Marion Roberts.

The dealer board members were listed in the catalog as "Regents" of the college and the 5-year courses offered at the campus included English, history, biology, physics, government, neurology, pharmacology, ethics and jurisprudence, and business management.

At its meeting on November 16, 1974, the board heard a suggestion from board member-dealer Naiser, one of the "regents" of the National College of Otometry, that the college be officially commended for its work. The minutes of the meeting say: "Larry Naiser made a strong complimentary statement regarding the College of Otometry at Richmond, Kentucky. He suggested that the Secretary send a letter to this College of Otometry wishing them good luck and Godspeed."

Shortly thereafter, Roberts, on stationery of the National College of Otometry, wrote several hearing aid dealers around the state inviting them to a three-day seminar on the campus at which "certified otometrist" wall plaques would be issued to those who paid the $60 fee for attendance. The letter began: "Our State licensing board *has approved* the 'National College of Otometry' and are (sic) in the process of writing the College of Otometry a commendation." (emphasis added)

The minutes of the meeting show that the board never did vote approval of the college. A formal motion to approve was neither offered nor voted upon.

The connection between the dealer-board members and the college was the subject of concern to an audiologist-board member. William W. Green, a director of the Clinic for Communicative Disorders at the University of Kentucky Medical School, in an affidavit to the Subcommittee, said: "I think the 'National College of Otometry' is an expeditious way to obtain some kind of status for hearing aid dealers and that use of the term, 'Certified Otometrist,' is of tremendous abuse to the consumer and misleading to the public." (See Exhibit 11, p. 32.)

On April 3, 1975, Kentucky Attorney General Ed W. Hancock brought a complaint against the National College of Otometry, including Roberts and Azar as co-defendant. (See Exhibit 12, p. 34.) In the complaint, it was charged that the college and its officers were engaged in "false, misleading or deceptive acts or practices in the conduct of any trade or commerce."

The complaint called for the school to cease offering degrees that it had no power to confer.

It said that if the college was permitted to continue its operations, it would "cause immediate and irreparable harm, loss and injury to the public in that those who are induced to participate in defendants' programs will part with substantial sums of money and obtain degrees and/or certificates which are worthless and misleading; and members of the public who seek advice or assistance from recipients of defendants' degrees and certificates, will part with substantial sums of money and risk serious and irreparable damage to their hearing health."

On May 23, 1975, the dealer-board members who ran the "college" agreed in Madison County Circuit Court to terminate all of the activities alleged in the state's complaint. (See Exhibit 13, p. 43.)

Roberts declined to comment on the court action. Azar said he had assumed the college's operation was legal but that after the suit was filed, "the publicity was bad." He said he wanted the suit settled quickly and therefore consented to the agreement.

Arkansas Abuse

Kentucky is not the only state with disaffected non-dealer board members.

In Arkansas, an audiologist member of the state's Board of Hearing Aid Dispensers provided the Subcommittee with her own views on the conduct of the board, separate and distinct from what was submitted by its secretary-treasurer (See Exhibits 14 and 15, pp. 45–47.)

Mrs. Sharon Graham, the board president, took issue with some of the answers provided by the board's secretary-treasurer. She asserted that although the law required that dealers must be high school graduates, "there are men in this State holding licenses who did not complete high school."

Mrs. Graham observed in her letter that the board "has been a very ineffective agency of the State." Mrs. Graham said it had been "very ineffectual in causing any change in the dispensing system for hearing aids and has in all practicality done nothing but mislead the public by allowing hearing aid dealers to state that they are now licensed by the state of Arkansas to fit and dispense hearing aids, therefore creating the image in the consumer's mind that they are especially or professionally trained to do so."

Budgeting

Based on responses to the State questionnaires, both the NHAS and the manufacturers rely on State licensing agencies to police the dealers. Yet, few of the States were found to employ full-time professional staff members to oversee the dealers. Most board budgets are miniscule and sometimes nonexistent. In most States, boards transact business only infrequently.

In all, only nine States employ full-time professional staff to serve the boards. Only seven States—Florida, Michigan, Mississippi, Ohio, Oregon, Texas, and California—spend more than $20,000 a year administering the dealer licensing laws. Eight States spend between $10,000 and $20,000; 15 spend between $5,000 and $10,000; seven spend less than $5,000 and six have no separate operating budget.

Even when a State licensing board has enough money for adequate dealer screening, there is no guarantee that the agency will use its staff to insure that only reputable persons are admitted to the profession.

In California, the licensing board granted a license to a man who had informed them that he had been convicted of sodomy with a sheep, as well as several more common crimes, including assault.

On February 6, 1975, the licensing board began proceedings to rescind this dealer's license. This was shortly after the board hired a new executive secretary.

Dealers and facilities

A basic tool of the hearing aid salesman is the audiometer, which measures hearing ability. Yet, in 14 States, there is no State system to check the calibration of these devices. In most States that provide for calibration, dealers are simply required to file an annual certificate with the board that their equipment has been calibrated. Just how well this voluntary reporting system works is unclear. Mrs. Graham, the Arkansas board member, in whose State an annual report is required, says:

"There are dealers in this State who still hold licenses and who have never had their equipment properly calibrated, so it is rather easy to see that this has not in the past been enforced by the board. Also, there is no system for approving those persons or agencies who are currently calibrating equipment in this state as it has been our experience that some are qualified while others are not. In addition, many dealers in this state are currently fitting hearing aids and do not have in their possession all of the instrumentation necessary for performing the tests which are required by law."

A principal concern of the Subcommittee inquiry was the expertise of the hearing aid dealer. State education and training requirements for dealers vary widely. Nevada, Washington and Iowa have no educational requirements at all. On the other hand, 27 States require high school graduation or its equivalent before issuance of a license. How carefully this is adhered to is subject to question. At least in Arkansas, says Mrs. Graham, the law is not always heeded.

Many dealers obtain whatever training they receive from dealers already licensed. In most States, a majority of the dealers who train their salesmen never themselves took a State qualifying examination. Only seven States require training other than apprenticeship under a licensed dealer. The additional training consists of the NHAS home study course or a program offered by a hearing aid manufacturer. Only Virginia required license applicants to take a college level course before conferring a license.

Dealers control most of the boards; many of these dealer-board members who designed the tests were themselves grandfathered into their licenses. In nine States, the qualifying examination is an industry exam, conceived and distributed by the industry group. In each of these States, the boards have low budgets, no full-time help and meet infrequently.

Complaint Handling

The complaint-filing procedures and complaint-handling procedures, and their adjudication vary widely among State licensing boards.

The procedure by which an aggrieved citizen brings a complaint against a dealer is, in many cases, quite complex. Of the 39 States, only 20 take grievances by telephone. The other 19 do not. Moreover, eight States require complaints to be submitted in writing on a special form. This means the hearing aid user may have to write the board twice before an investigation of his grievance can even begin.

Investigations, when commenced, are often cursory. Frequently, a dealer-board member will visit with the dealer complained against and attempt an informal settlement of the issue without prior discussion. In some cases, hearings will follow any failure to resolve the grievance by persuasion.

Seldom is a law enforcement agency called in to prosecute a dealer who is alleged to have acted fraudulently or otherwise illegally.

A more aggressive investigative effort is generally made by State boards with full-time staff members, who will often obtain documents and affidavits in following-up a complaint.

The number of complaints filed with a State board appears to be largely related to the aggressiveness with which a board is known publicly to pursue incompetent or unethical dealers. Florida, with an active board, has received 212 complaints since 1970. Louisiana, by contrast, has had only 10 in that same period.

In general, boards with the largest budgets, most frequent meetings, and fulltime staffs received more complaints than the rest.

Of the 2,500 complaints tallied amoug 29 States between 1970–74, most dealt with failure to refund or return deposits, dissatisfaction with service and repairs, misleading advertising, and misrepresentation of the product's ability to restore hearing.

Of 34 States answering the question about the number of dealer suspensions or revocations, 16 reported no suspensions or revocations of any kind. In all, there were 126 revocations and suspensions, of which 24 were for unethical behavior. Almost half—41—were simply failure to renew a license. Since 1970, only seven civil prosecutions by law enforcement authorities were brought against dealers, and these occurred in four States. During the same period, there were 16 criminal prosecutions in 7 States, 10 of which resulted in fines or imprisonment.

MEDICAL CLEARANCE

One suggested method of limiting the risk to hearing-impaired Americans is to require a hearing health professional—an otologist or audiologist—to make the initial determination as to whether an aid is indicated. Both the NHAS and the Hearing Aid Industry Conference in May 1975 announced support of a policy whereby hearing aid purchasers should obtain "medical clearance" before visiting a hearing aid dealer. However, anyone could avoid the necessity of visiting a medical specialist before purchasing an aid by signing a waiver, under the industry guideline. But, at the State level, only Minnesota, Vermont and Hawaii require an examination by a physician or audiologist before a hearing aid sale to anyone is legal.

Adults in most States are deemed able to take care of themselves when it comes to hearing aids, while in 26 States children are given some degree of protection. Nine States have no requirement of medical or audiological examination before sale of an aid, even to children.

Of the 26 States attempting to protect children against the purchase of an aid they may not need, 14 formally require a medical or audiological examination, while 12 require only a dealer recommendation that the child obtain such an examination. However, the definition of a child varies considerably. In Rhode Island, Mississippi and Alabama, the mandatory audiological or physician's work-up expires at age 11. In Washington, New Jersey, Montana, Missouri, Maine and Idaho, a child is protected until reaching 18, for purposes of hearing aid fitting.

Federal system

In contrast with the varying State requirements on prior professional examination of a hearing-impaired person before visiting a dealer, all Federal agencies involved in paying for hearing aids require a hearing health professional—an audiologist or doctor—to make an evaluation first.

The V.A., as well as the Social Rehabilitation Administration and Medical Services Administration, both within the Department of Health, Education and Welfare, provide funds for the purchase of hearing aids. But neither will allocate a penny until a physician or audiologist has examined the patient and determined that an aid is needed. (See Exhibits 16, 17, and 18, pp. 48–58.)

Most notable of the Federal agencies which provide funds for hearing aids is the Veterans Administration. Administrator Richard Roudebush, in a letter to Senator Percy, outlined his views on the need for medical involvment in the delivery of hearing aids:

"The medical treatment of hearing impairment should be conducted by physicians specializing in otolarygology, and the rehabilitative component should be the responsibility of the audiologists. Determination of the need for a hearing aid should be made by qualified objective professionals whose goal is rehabilitation, not the furtherance of a vested interest. A hearing aid is an electronic device which simply makes sound louder. It is used most effectively by a hearing-impaired person when it is regarded as part of the rehabilitation program. The treatment of impaired hearing, whether by surgical or prosthetic means, is best managed in a medical setting."

A compelling argument against Federal involvement in supporting hearing aid purchases today is made by the HEW unit responsible for administration of the Medicare program.

In a letter to the Subcommittee, Irwin Wolkstein, Deputy Director for Program Policy in the Bureau of Health Insurance, explained why Medicare does not allow funds to be used for hearing aids.

Wolkstein said that data gathered by Congress and by HEW's Hearing Aid Task Force suggests that "a significant portion of the costs of hearing aids and hearing health care is due to the nature of the hearing aid delivery system." (See Exhibit 19, p. 58.)

He noted that aids are sold through local dealers "and not through a system controlled by professionals that might be counted on for self-policing." Wolkstein said further:

"The dealers and distributors who have the proper equipment and formal training in audiology and hearing loss problems which are necessary to correctly evaluate the nature and extent of an individual's hearing impairment seem to be a minority of those in the business. The probable consequence is that some people who cannot be helped by hearing aids at all are fitted with them, others are not sold the type of aid that would be most beneficial to them and still others with ear diseases that should be treated by other means than a hearing aid are not appropriately referred when seen by a dealer."

Findings and Recommendations

The staff study set out to determine how well-trained hearing aid dealers are and how well state licensing units were doing their job.

But the inquiry turned up evidence which goes far beyond these two issues and suggests that immediate action should be taken by the responsible Federal agencies to remedy the problems uncovered.

The staff found that:

(1) Nearly 50 percent of the licensed hearing aid dealers in the United States have never taken a State-administered qualifying examination.

(2) Even those who have taken that examination are inadequately trained, since the educational program provided by the National Hearing Aid Society is viewed by hearing health professionals as incomplete, inaccurate and often incomprehensible to salesmen. These experts believe the NHAS home-study course is "potentially dangerous" to the hearing-impaired since dealers, lacking the expertise, can misinterpret a condition that requires urgent medical care and sell an aid, instead of referring the client to a doctor for treatment.

(3) Many hearing aid purchasers are dissatisfied with their dealers, charging errors in fitting and ethical lapses. The fact that there have been 2,383 complaints lodged with State licensing agencies in a universe of only 5,700 dealers over a five-year period, in view of the obstacles many boards have placed in the path of filing a grievance, suggests the extent and intensity of user unhappiness with many dealers. Moreover, the number of complaints filed with the 39 license States is hardly representative of the total, since hundreds more flow into the FDA, FTC, Congressional offices, local consumer protection offices and the industry-sponsored Better Hearing Institute from hearing aid purchasers who are not aware of or feel they cannot count on their state licensing boards.

(4) Follow-up user complaints by State boards is haphazard at best, since most of the licensing units have little or no money or resources to police dealers and only a handful have any professional staff to perform their legal responsibilities.

(5) Most State licensing agencies are controlled by dealers—many of whom have been grandfathered into licensure. These dealers are often responsible for the drafting of loophole-ridden laws in the first place. Once on the board, these dealers frequently band together to frustrate consumer members. Affidavits and other documents show that these dealer-board members sometimes act in ways that smack of cronyism and a profound lack of concern for the consumer.

(6) In nearly half the States, no system exists by which the licensing agency can check on the accuracy of hearing measurement instruments used by dealers. In most of the States requiring calibration, all the dealer need do is file an annual certificate stating that his equipment has been calibrated. This is hardly a guarantee of accuracy and no assurance whatever for many hearing-impaired Americans that the result of a dealer's test is a true reflection of hearing ability. A mistake by a machine could have serious medical consequences.

(7) Although only three States require a physician's or audiologist's written recommendation before sale of a hearing aid to anyone, no Federal agency that pays for aids

will spend a penny of taxpayer's money on an aid until it has such a professional recommendation specifying a patient's need for an aid.

(8) The insistence by some in the industry that dealer licensing laws protect the hearing-impaired from abuses at the hands of dealers is wholly unsubstantiated. In some cases, it lends a false sense of security to persons in need of professional care who confer unwarranted trust on a dealer.

(9) Efforts by industry officials to secure coverage for their product under any national health insurance law must be considered in the light of the present flaws in the delivery system. While hearing aids are important and medically indicated in many cases, for national health insurance to cover their purchase under the present delivery system could jeopardize the hearing health of millions.

In summary, the staff found that many hearing aid dealers are not properly trained and the States which license them have, for the most part, failed to pursue an aggressive effort to protect the 14.5 million hearing-impaired Americans.

In view of the absence of proper education and training for dealers and a less than half-hearted attempt by the States to police the more than 5,700 dealers under their jurisdiction, the Subcommittee staff urgently recommends that the Food and Drug Administration within the Department of Health, Education and Welfare, which has clearcut legislative authority in this area, prescription devices. This action is the only certain method available to the Federal Government to insure that hearing-impaired persons are protected from dealers who are neither adequately trained nor competent to diagnose disorders of the ear. Hearing-impaired persons are entitled to professional treatment.

Secondly, since many of the States have failed so badly in their task of policing the dealers in the interest of the hard-of-hearing, the Department of Health, Education and Welfare should quickly create an interdisciplinary panel, including lawyers, audiologists, otolaryngologists and hearing aid dealers, to draft a model State licensing law—devoid of "grandfather" loopholes which have been lobbied into law by dealers' groups—to undo the damage. Such a law should require for all dealers professional training programs that will satisfy the medical hearing health specialists and require that no licensing board is dominated by hearing aid dealers.

Finally, since three panels of experts in the hearing health field are unanimous in their criticism of the NHAS curriculum, finding it inadequate and even dangerous for the hard-of-hearing, the Subcommittee staff urges that organization to voluntarily withdraw the home study course from circulation immediately and work with the Department of Health, Education and Welfare to develop a satisfactory training program that does not jeopardize the hearing health of any American.

FOOTNOTES

[1] *The Deaf Population of the United States*, Jerome D. Schein and Marcus T. Delk, Jr., 1974, National Association of the Deaf.

[2] *Federal Register* June 24, 1975, Part II, page 26646.

[3] *Final Report to the Secretary on Hearing Aid Health Care by* The Department of Health, Education, and Welfare Intradepartmental Task Force on Hearing Aids, September 1975.

[4] The American Council of Otolaryngology represents otolaryngologists and otologists. An otolaryngologist is a doctor of medicine who specializes in diseases of the ear, nose, throat and upper air and food passages. He/she is a "regional specialist," meaning that the training includes treatment of any of the diseases of these areas. An otologist is an otolaryngologist who limits his/her practice to diseases of the ear.

[5] The American Speech and Hearing Association represents audiologists, who have master's degrees or the equivalent in the evaluation of hearing, habilitative and rehabilitative services for auditory problems, and research related to hearing and its disorders and can determine range, nature, and degree of hearing function related to patients' auditory efficiency. An audiologist is trained to differentiate between organic and non-organic hearing disabilities.

[6] In Georgia, use of the term "hearing aid audiologist" has been ruled illegal by the attorney general. (See Exhibit 3, p. 17.) Moreover, the FTC's proposed rules prohibit dealers from advertising themselves as audiologists unless they hold a degree in that discipline.

JOINT ECONOMIC COMMITTEE REPORT PRESENTED TO HOUSE BUDGET COMMITTEE

Mr. HUMPHREY. Mr. President, on October 3 I had the honor of appearing before the House Committee on the Budget to present the recommendations of the Joint Economic Committee with respect to the fiscal 1976 budget as well as other aspects of economic policy.

The administration has suddenly become strangely silent on the question of the fiscal 1976 budget. The spending ceiling which the President is now discussing applies, as we know, to the fiscal 1977 budget. It is easy to talk about savings, and cuts, and ceilings in a budget that does not take effect for another year. I say it is easy to talk. It will be much harder when the time comes to take action, to actually make some cuts in the budget. Many of those who talk loudest now may again be strangely silent when the time comes for actual decisions on the fiscal 1977 budget.

The President was not always so silent on the 1976 budget. We will all recall that last spring the President went on television and drew a line—a $60 billion line—above which the deficit must not go. Those of us who have long memories will also recall that last fall—just 1 year ago—the President was urging a tax increase. Going back further into history, when President Ford first took office he promised a balanced budget for fiscal 1976. If the $395 billion spending ceiling for 1977 fails to materialize, it will be far from the first of the administration's erroneous readings of the budget situation with which we in Congress have had to contend.

The administration may have given up on this year's budget, but we in Congress still have work to do. Budget Committee consideration of the second concurrent budget resolution is already underway and in a few weeks this matter will come to the floor for debate. So far Congress has followed its new budget procedures in a most careful and responsible manner. I am confident it will continue to do so.

In its midyear report, the Joint Economic Committee has made three recommendations which directly affect this year's budget. The first of these is that pending legislation which would provide antirecession grants to State and local governments be enacted. That legislation has already passed the Senate. Provision was made for this program in the first concurrent budget resolution. The need for this program has now become so glaringly obvious that I need not belabor the point. All that remains is for legislative action to be completed and for the President to sign this bill.

Our second recommendation concerns the need for an emergency jobs program. It calls for a jobs program to put the long-term unemployed to work on a temporary emergency basis on highly useful community work projects. This program would enable us to realize great savings on unemployment compensation, food stamps, and other forms of income support. Hence its net cost is quite modest. Indeed, it is a bargain. The modest amount which it would add to 1976 spending should be provided for in the second budget resolution.

The third recommendation was on the tax side of the budget. The Committee recommended that calendar 1976 taxes be reduced by some $8 to $10 billion more than would be achieved by a simple extension of the 1975 tax cuts. Together with the proposed emergency employment program, this tax change would give the economy the support it needs to keep a strong economic recovery underway. Its distributional effects and its long-run impact on the budget would, I believe, be considerably more favorable than the President's tax proposals. Since only half of this tax cut would take place in fiscal 1976 and since provision for the extension of the 1975 tax cuts was contained in the first budget resolution, the impact of the Joint Economic Committee's tax recommendation on the fiscal 1976 budget is only about $4 billion.

My testimony before the House Budget Committee discussed these and other recommendations of the Joint Economic Committee in greater detail. It also summarizes the committee's assessment of the outlook and the reasons why policy initiatives are so badly needed if the economic recovery is to continue at a satisfactory pace next year.

I ask unanimous consent that my statement before the House Committee on the Budget on October 3 be printed in the record.

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

STATEMENT BY SENATOR HUBERT H. HUMPHREY

Mr. Chairman, Members of the Committee: it is a great pleasure to be here this morning to present the recommendations of the Joint Economic Committee on economic policy.

The Joint Economic Committee's Midyear Review was released this week and copies have been made available to you. I have also brought with me this morning copies of a summary version of our report which you may find helpful.

The JEC Report makes recommendations in five areas; jobs, taxes, aid to States and cties, monetary policy, and price incomes policy. I want to stress that our recommendations form a coordinated total program. We think the whole package is needed.

There are three general points I would like to emphasize about this coordinated program;

I. The JEC program is both expansionary and anti-inflationary.

II. The additional stimulus we recommend is *essential* if economic recovery is to continue in 1976 and future years.

III. The program will require some departure from the first Concurrent Resolution on the Budget.

INFLATION AND UNEMPLOYMENT

I would like to speak briefly to each of the three above points. First, the question of inflation. There have been times in the past when it has been necessary to choose between economic expansion and price stability. There most likely will be such times again in the future. At the present time, however, there is no such "trade off" between inflation and unemployment. Demand is not excessive, and industry certainly is not pressing against the limits of its capacity.

In fact, at the present time inflation and unemployment tend to feed on one another. To progress against either, we must progress against both. Faster growth will bring productivity gains which help hold down inflation. By contrast, slow growth or stagnation will mean continued inflation which, in turn, eats into consumer purchasing power and invites a new recession.

Estimates made by the Joint Economic Committee staff indicate that with the adoption of the Committee's program 1 to 1½ million more people will be at work in the second half of next year than might be the case without this program. At the same time the inflation rate might be ½ percentage point or more lower than it would be in the absence of the program. Also interest rates would be lower and housing starts as much as 50 percent higher than they would otherwise be.

THE NECESSITY FOR NEW POLICIES

Let me turn now to my statement that our program, or something similar, is a necessity if the economic recovery is to continue in 1976 and beyond. I concur with those who believe that a recovery is now underway.

We will have fairly strong economic growth during the remainder of this year. But much of that growth is being caused by two temporary factors; The tax rebates of last Spring and the swing in inventories. Once these two factors have run their brief course, the rate of economic growth will slow down. The weight of evidence presented to the Joint Economic Committee is that the growth rate could slow down so much that there would be little, if any, further decline in unemployment during 1976 and 1977. In fact, there is a disturbingly high probability that the dampening effects of continued inflation, together with too restrictive a monetary and fiscal policy, could actually induce a new recession late next year or in 1977.

We will enter 1976 with unemployment somewhere close to 8 percent; that is to say, unemployment will still be at an emergency level. It is crucial that the economy continue to grow strongly in 1976 and that unemployment continue to come down. In our judgment, this progress against unemployment requires that we act now to extend the 1975 tax cuts, to enact a further $8 to $10 billion reduction in taxes for 1976, and to adopt an emergency jobs program to put some of the millions of unemployed back to work.

I invite your attention to the chart on page 4 of the summary of our report. The line labeled "preferred growth path" shows the progress which the economy should be able to make toward full employment if proper policies are adopted. Even with this rapid growth, it will take until 1978 or 1979 to get back to something approaching full employment. That represents a long hard struggle. I hope we can find some way to achieve this goal more quickly. However, if you look at the bottom line of the chart, which sketches the course which the economy might follow under current policies, you can see that even in 1980 we would be far from the zone of full employment. The unemployment rate would still be 6 percent or higher in that year. That is not a pleasant prospect to contemplate.

IMPACT OF THE JEC PROGRAM ON THE FISCAL 1976 BUDGET

I said earlier that our recommendations would require some departure from the first budget resolution. We should not be afraid of that. The reason the law provides for a second resolution is precisely so that the budget totals can be amended as necessary in light of changing economic conditions. That purpose seems in danger of being forgotten. Many people seem to have the attitude that if Congress departs from its original spending ceiling of $367 billion or goes even a few dollars beyond its original estimate of the deficit, the budget process will have "failed". That is nonsense. The real failure will be if we lack the courage and good sense to make such adjustments in the budget totals as circumstances dictate.

Congress has done an excellent job of keeping appropriations within the sugggested targets. All appropriations actions have not yet been completed. The defense budget, as of course you know, is still under consideration. However, it presently appears that those items over which Congress has control through the appropriations process will remain well within the targets set last Spring.

Some uncontrollables are running ahead of earlier estimates. The Director of the Congressional Budget Office, Alice Rivlin, testified to you earlier this week that the costs of unemployment compensation now appear to be running a good bit above earlier estimates. High costs of unemployment compensation are a function of high unemployment. The way to get those costs down is not to hold back on the spending total but to reduce the unemployment.

In the Joint Economic Committee's report we have recommended an emergency jobs program which would take up to 1½ million of the unemployed off the unemployment compensation rolls and give them work to do; useful work providing the goods and services which are needed by the States and cities of this Nation. The additional costs of this program compared to what we are already paying in unemployment compensation, food stamps and so forth would be modest compared to the great benefits this program would provide. It is a bargain; an investment opportunity we would be extremely foolish to overlook.

I intend to introduce legislation within a few days carrying out our recommendation for an emergency jobs program. I urge you to provide specifically in the second budget resolution for the cost of this program. In the Joint Economic Committee's report we have estimated that, if this program were to be fully operational by January 1st, it would have a net cost of $3 billion in fiscal 1976. It may be, of course, that we cannot get this program fully into operation that quickly. The Joint Economic Committee staff will be glad to work with you in making estimates on what the program would cost based on different assumptions regarding the date it becomes fully effective.

A second program for which the Budget resolution should provide is the combined program of anti-recession grants to State and local governments and emergency public works. Outlays for this program, which would be approximately $2 billion in fiscal 1976, were provided for in the first budget resolution. Legislation has passed the Senate and is pending in the House. The devastating impact which recession has had on our cities is now painfully apparent. The need for this program of anti-recession aid is all too obvious. Provision for this program should remain in the budget resolution.

Let me turn now to the revenue side of the budget. Due in large part to continued inflation, personal incomes have grown more rapidly than was anticipated last Spring. As a result tax receipts are coming in higher than was expected. Mrs. Rivlin has testified earlier this week that fiscal 1976 receipts are now estimated at $303.8 billion or $5.6 billion higher than was expected last Spring. This inflation induced growth of receipts will have a restrictive effect on the economy.

In order to offset this restrictive effect and to keep the budget as stimulative as Congress intended at the time of the first budget resolution, we need a tax cut which goes beyond extension of the 1975 tax cuts. Extension of the 1975 tax cuts is, of course, assumed in the first budget resolution. Our Committee has recommended an additional $8 to $10 billion for calendar 1976. The fiscal 1976 impact of this additional tax cut would be about $4 billion. I repeat that this recommended tax change does not represent a new departure toward a more stimulative budget. Rather, it represents an adjustment to higher than expected inflation, an adjustment which must be made to maintain the economic policy stance which Congress intended last Spring.

In closing, let me say a word about the deficit. In our report we have estimated outlays at $370 billion, receipts at $300 billion, and the deficit at $70 billion. I wish to stress that these are rough estimates. We have deliberately used round numbers. The Members of this Committee are even more aware than I of the difficulties of making precise revenue estimates and of the uncertainties which remain on the expenditure side.

The most important question about the deficit is not whether it is a little under $70 billion or a little over. The important question is: what is causing the deficit? The cause of the deficit is high unemployment. The faster we get back to full employment the faster the deficit will diminish. If the Joint Economic Committee's program is adopted the deficit will be a little larger at first, but with stronger economic growth, the deficit will diminish steadily with each quarter. Our studies show that, if all of our recommendations were to be rejected, the economy would be so sluggish that the deficit would not narrow at all; in fact it would grow larger over time. This we can not have.

It has been an honor to be invited to testify here before you this morning. The major recommendations in our report are summarized in a very brief fashion on page 2 of the summaries that have been distributed this morning. I would be pleased to try to answer any questions you may have.

MEXICAN HEROIN FLOODS UNITED STATES: SECRETARY KISSINGER AND ATTORNEY GENERAL LEVI URGED TO INTERCEDE

Mr. PERCY. Mr. President, I would like to call attention to letters I have sent to Secretary of State Henry A. Kissinger and Attorney General Edward H. Levi, urging them to intercede with Mexican officials to halt the illegal importation of Mexican heroin into the United States. I have asked Secretary Kissinger to confer directly with Mexican President Luis Echeverria and Attorney General Levi to work out a cooperative enforcement strategy with Mexican Attorney General Pedro Ojeda.

Urgent diplomatic steps at the highest level are required because of information I requested and received last week from the Drug Enforcement Administration—DEA. It shows that Mexico, to its own regret, has taken over as the dominant source for illegal heroin throughout this country, supplanting Europe, the Near East, and Southeast Asia.

For the first 6 months of 1975, 90 percent of 305 heroin samples confiscated in 13 major cities by the DEA were Mexican-processed. A similar analysis made in 1972 showed only 40 percent of all heroin samples to be Mexican-processed. For 1973 and 1974, the figures rose steadily to 63 percent and 76 percent respectively.

The report confirms the virtual severing of the route that brought into this country French-processed Turkish heroin. Only 2 percent of the confiscated heroin analyzed between January and June 1975, came from Europe or the Near East. In 1972, 44 percent of the sample came from those regions. During that period, Turkey halted the growing of the opium poppy from which heroin is made. Earlier this year, Turkey resumed cultivation. Let us hope that this so-called "French Connection" is not reconnected.

The increasing flow of Mexican heroin toward the major cities of the Northeast and the drying up of the European supply are the most startling aspects of the first-half of 1975 DEA figures. A survey completed early in 1972, showed that the furthest penetration of Mexican-processed heroin eastward was an irregular line running from Detroit to the Florida Panhandle.

For instance, in Boston 100 percent of all confiscated samples came from Mexico in 1975 and none from Europe. In 1974, 50 percent of the Boston samples had come from Mexico and 17 percent from Europe.

In New York City, 83 percent of the samples were Mexican-processed in the first half of 1975 compared with 10 percent from Europe. In 1974, 21 percent of the samples were Mexican and 67 percent were European.

For Philadelphia, 83 percent of the samples were Mexican in 1975 and none were from Europe in 1975. In 1974, 50 percent of the samples were Mexican and 17 percent were from Europe.

The new figures show that Mexican-processed heroin has even established itself for the first time in the Pacific Northwest, replacing heroin from Southeast Asia.

The already entrenched position of Mexican-processed heroin in the Middle West and the Southwest was further confirmed by the new figures. For instance, Detroit samples were 93 percent Mexican in 1974 and 94 percent in 1975, while Chicago remained at 100 percent Mexican for both years.

However, in 1972, Detroit samples showed 58 percent of the heroin was processed in Europe and 30 percent in Mexico. For Chicago, 44 percent in 1972 was European and 33 percent was Mexican.

Somehow, our society must come to grips with this grave problem which has tragically addicted at least 500,000 of our citizens, with reports indicating a new epidemic starting again, not only in the big-city ghettos, but in the affluent suburbs and small sized towns. No one is immune from the effects of heroin. Half the street crime in this country is directly linked to the addict's need to financially support his habit.

I am also including in the RECORD, a series of exceptionally well-researched and graphic accounts of the Mexican heroin problem written by two outstanding reporters for the Chicago Sun-Times, Allan Parachini and Andy Shaw. Both traveled to the opium-growing area of northwest Mexico to give their readers a first-hand insightful account of the heroin highway which runs from Durango, Mexico, to the city of Chicago. Their work in identifying the extent of the Mexican connection was instrumental in my seeking this new information from DEA.

In conclusion, I want to express my personal gratitude to Acting DEA Administrator Henry Dogin for the assistance and cooperation rendered throughout the agency in assembling this important new information. I also want to extend my appreciation to John Warner, Chief of the International Intelligence Division of DEA, and to Robert W. Goe, Chief of the Latin American Section of that Division, for their assistance in responding directly to questions raised by the analysis.

I ask unanimous consent that the material that I have referred to above be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., October 22, 1975.

Hon. HENRY A. KISSINGER,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: Several days ago, I received new information from the Drug Enforcement Administration which indicates that Mexico has become almost the exclusive source of heroin sold in this country. The report, which uses laboratory analyses to trace the origin of heroin confiscated in the United States, points to a major shift in distribution patterns over the last three years.

Illustrative of this shift, in 1972 Mexico supplied 40% of heroin used in the U.S.; Europe and the Middle East, 44%; and Southeast Asia, 8%. For the first six months of 1975, Mexico provided 90% of all heroin; Southeast Asia, 9%; and Europe and the Middle East, 2%.

In many ways, the current situation may be more difficult to control than in the days of the "French Connection." Instead of heroin being smuggled over thousands of miles from distant continents and secreted by sophisticated international couriers, it now can be walked across a 1,945 mile-long largely unguarded border, by anyone who can afford a pair of shoes. It is then only hours away from major population centers in this country. Individual border inspections are almost impossible because of the almost one-half million people who cross the border daily.

I fully realize that Mexican officials are already cooperating in an effort to stamp out heroin smuggling from their country. But much more intense effort is needed if we are to dam up this international stream polluted with deadly granules of brown heroin. Immediate diplomatic steps are called for to work out cooperative arrangements ensuring that more effective drug law enforcement efforts are undertaken to halt this latest trafficking pattern.

The matter can only be resolved at the highest levels of government-to-government diplomacy. Accordingly, I ask that you intercede personally with the Mexican President Luis Echeverria—whom I know will want to cooperate in every conceivable way—to assure yourself and the American people that everything humanly possible is being done within and by Mexico to lessen the flow of heroin smuggled into the United States.

I am simultaneously requesting Attorney General Edward Levi to personally intercede with Mexican law enforcement officials with the same purpose in mind.

Without question, heroin addiction is one of the gravest problems that confronts the American people today. In its wake is the devastation of broken lives, human misery, and violent crimes against individuals and the society. With an addict population estimated to number 500,000 victims and drug-related crimes costing our society $10–15 billion yearly, not only have we not turned the corner in the so-called war on drugs, but, incredibly, we may be in a state of retreat. The thrust of the Federal effort must be to halt the flow of heroin even before it reaches our borders. It is in that vein that your own direct efforts with Mexican officials can have a substantial impact.

I will appreciate your keeping me fully informed as to the status of your personal efforts and of negotiations the Department may have with Mexican officials in this respect.

Warmest personal regards,

CHARLES H. PERCY,
U.S. Senator.

U.S. SENATE,
Washington, D.C., October 22, 1975.

Hon. EDWARD H. LEVI,
Attorney General, Department of Justice,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: Several days ago, I received new information from the Drug Enforcement Administration which indicates that Mexico has become almost the exclusive source for heroin sold in this country. The report, which uses laboratory analyses to trace the origin of heroin confiscated in the United States, points to a major shift in distribution patterns over the last three years.

Illustrative of this shift, in 1972 Mexico supplied 40% of heroin used in the U.S.; Europe and the Middle East, 44%; and Southeast Asia, 8%. For the first six months of 1975, Mexico provided 90% of all heroin; Southeast Asia, 9%; and Europe and the Middle East, 2%.

In many ways, the current situations may be more difficult to control than in the days of the "French Connection." Instead of heroin being smuggled over thousands of miles from distant continents and secreted by sophisticated international couriers, it now can be walked across a 1,945 mile-long largely unguarded border, by anyone who can afford a pair of shoes. It is then only hours away from major population centers in this country. Individual border inspections are almost impossible because of the one-half million people who cross the border daily.

I fully realize that Mexican officials are already cooperating in an effort to stamp out heroin smuggling from their country. But much more intense effort is needed if we are to dam up this international stream polluted with deadly granules of brown heroin. Accordingly, I ask that you intercede personally with Mexico's Attorney General Pedro-Ojeda—who is very knowledgeable in this area—and other concerned officials in that country, to assure yourself and the American people that everything humanly possible is being done by Mexico to lessen the flow of heroin smuggled into the United States.

I am simultaneously requesting Secretary of State Henry Kissinger to personally work out cooperative arrangements with the President of Mexico with the same purpose in mind.

Without question, heroin addiction is one of the gravest problems that confronts the American people today. In its wake is the devastation of broken lives, human misery, and violent crimes against individuals and the society. With an addict population esti-

mated to number 500,000 victims and drug-related crimes costing our society $10–15 billion yearly, not only have we not turned the corner in the so-called war on drugs, but, incredibly, we may be in a state of retreat. The thrust of the Federal effort must be to halt the flow of heroin even before it reaches our borders. It is in that vein that your own direct efforts with Mexican officials can have a substantial impact.

I will appreciate your keeping me fully informed as to the status of your personal efforts with Mexican officials in this respect.

Warmest personal regards,

CHARLES H. PERCY,
U.S. Senator.

THE MEXICAN HEROIN CONNECTION

Where is the opium poppy grown in Mexico? Along the Western slopes of Sierre Madre Mountains near the states of Durango, Gurerrero, Sonora and Chihuahau.

By whom? Wealthy farmers and families that have ties to relatives in the United States.

Where is it processed? Mostly in the area around Culiacan in mobile makeshift laboratories, unlike the sophisticated labs in the Marseilles area of France used in the "French Connection."

How much is imported into the U.S.? An estimated 10 tons annually.

Why do farmers grow it? There are no other profitable crops for which they can get as much as $2,000 to $2,500 per kilogram of raw opium gum. Four years ago they were receiving less than $600 per kilogram.

How is it brought into the U.S.? Mexican heroin, once processed, is brought over in small quantities by what DEA calls the "any army." There are persons who get up to $50 an ounce for bringing the heroin across the border. Other means are automobiles, small planes and boats.

Why is it brown? Because of impurities.

Even though the percentage of Mexican-processed heroin in the U.S. has risen, has the actual amount increased, too? Yes.

Are DEA officials comfortable in making projections with the small sample used in the survey? Not fully, but they are comfortable with the clear trends noted in the sample.

How is the Federal effort on heroin progressing? DEA says there is less heroin now than in 1971, but there is enough heroin to take care of the addict population which the agency estimates at 500,000.

What is the Mexican Government doing? The Federal Judicial Police and the Army regularly set fire to poppy fields. They also use helicopters in surveillance efforts. But more needs to be done. The U.S. and Mexican governments are currently negotiating as to the use of chemical sprays to destroy the poppy crop. The chemicals, DEA says, will not harm the environment.

HEROIN SOURCE IDENTIFICATION FOR THE U.S. HEROIN MARKET JANUARY TO JUNE 1975 [1]

No. and DEA region headquarters	Number of samples	Origin: Europe/Near East Number	Europe/Near East Percent	Southeast Asia Number	Southeast Asia Percent	Mexico Number	Mexico Percent	Unknown Number	Unknown Percent
1. Boston	10					10	100		
2. New York	30	3	10	2	7	25	83		
3. Philadelphia	18			3	17	15	83		
4. Baltimore	29	1	3	9	31	19	66		
5. Miami	10			2	20	8	80		
6. Detroit	34			2	6	32	94		
7. Chicago	25					25	100		
8. New Orleans	16			3	19	13	81		
10. Kansas City	17			2	12	15	88		
11. Dallas	36					35	97	[2] 1	0.3
12. Denver	28	1	4	1	4	26	93		
13. Seattle	15			2	13	13	87		
14. Los Angeles	37					37	100		
U.S. total	305	5	2	26	9	273	90	1	.3

[1] Estimate based on 305 in-depth analyses, which constitute a 10.5 percent stratified, sample of 2,893 DEA heroin records for the first half of 1975.

[2] Sample contained both Mexican type and Southeast Asia #3 type heroin.

HEROIN SOURCE IDENTIFICATION FOR THE U.S. HEROIN MARKET IN 1974 [1]

No. and DEA region headquarters	Number of samples	Origin: Europe/Near East Number	Europe/Near East Percent	Southeast Asia Number	Southeast Asia Percent	Mexico Number	Mexico Percent	Unknown Number	Unknown Percent
1. Boston	6	1	17	2	33	3	50		
2. New York	24	16	67	2	8	5	21	1	4
3. Philadelphia	18	3	17	3	17	9	50	3	17
4. Baltimore	27	10	37	9	33	8	30		
5. Miami	12			1	8	11	92		
6. Detroit	30			2	7	28	93		
7. Chicago	24					24	100		
8. New Orleans	21			6	29	15	71		
10. Kansas City	18			3	17	15	83		
11. Dallas	39					39	100		
12. Denver	28			1	4	27	96		
13. Seattle	18	1	6	7	39	10	56		
14. Los Angeles	36			1	3	35	97		
U.S. total	301	31	10	37	12	229	76	4	1

[1] Estimate based on 301 in-depth analyses, which constitute a 7 percent stratified, sample of 4,216 DEA heroin records for 1974.

HEROIN SOURCE IDENTIFICATION FOR THE U.S. HEROIN MARKET, 1973 [1]

No. and DEA region headquarters	Number of samples	Origin: Europe/Near East Number	Europe/Near East Percent	Southeast Asia Number	Southeast Asia Percent	Mexico Number	Mexico Percent	Unknown Number	Unknown Percent
1. Boston	12	9	75	2	17	1	8		
2. New York	36	20	56	11	30	3	8	2	6
3. Philadelphia	18	12	67			4	22	2	11
4. Baltimore	24	9	38	5	20	10	42		
5. Miami	12	2	17	4	33	5	42	1	8
6. Detroit	34	1	3	1	3	32	94		
7. Chicago	21	1	5	10	48	10	48		
8. New Orleans	10			2	20	8	60		
10. Kansas City	18	1	6			17	94		
11. Dallas	33	1	3	2	6	30	91		
12. Denver	27					27	100		
13. Seattle	15			6	40	9	60		
14. Los Angeles	39			6	15	33	85		
U.S. total	299	56	19	49	16	189	63	5	2

[1] Estimate based on 299 indepth analyses, which constitute a 6 percent stratified, sample of 1,973 DEA heroin records.

HEROIN SOURCE IDENTIFICATION FOR U.S. HEROIN MARKET, 1972 [1]

No. and DEA region headquarters	Number of samples	Origin							
		Europe/Near East		Southeast Asia		Mexico		Unknown	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
1. Boston	15	10	67			1	7	4	27
2. New York	51	26	51	15	29	4	8	6	12
3. Philadelphia	9	6	67					3	33
4. Baltimore	18	15	83	1	6	2	11		
5. Miami	27	17	63	3	10	3	11	4	15
6. Detroit	31	18	58	1	3	12	39		
7. Chicago	18	8	44	1	6	6	33	3	17
8. New Orleans	18	10	56			4	22	4	22
10. Kansas City	27	3	11			24	89		
11. Dallas	16	3	19	1	6	12	75		
12. Denver	20	2	10			18	90		
13. Seattle [2]									
14. Los Angeles	30	5	17			25	83		
Total	280	123	44	22	8	111	40	24	9

[1] Estimates based on a random sampling of 280 indepth analyses which represents a 6% stratified sample of 1972 DEA heroin records.

[2] No exhibits available for Seattle Region.

[From the Chicago Sun-Times, Sept. 7, 1975]

MEXICO-CHICAGO DRUG LINK TRACED

(NOTE.—Sun-Times reporters Allan Parachini and Andy Shaw spent four weeks, including two in Mexico, examining the unique way heroin flows to Chicago. They found a system of family-dominated supply rings capped by a single, enormous enterprise. This is the first of a series tracing the heroin highway.)

(By Allan Parachini and Andy Shaw)

Over the Sierra Madres, Durango, Mexico—Flying northeast from the tough farming and drug center of Culiacan, 25 miles away, one sees little clearings in the interminable green forest below.

Down there in the mountains, 3,000 feet below the helicopter, are the little fields that yield opium gum, the raw material of heroin. The fields, which also grow marijuana, start an 1,800-mile heroin supply line for addicts in Chicago. It is Chicago's own "connection," a system of heroin supply apparently unique in the United States—Chicago has received Mexican heroin almost exclusively for 10 years.

On the thick forest floor the little plots start appearing in the State of Sinaloa, first with the frequency of the drops of sprinkling rain. Crossing the border from Sinaloa to the State of Durango, they come into view at the pace of a driving rain. The two states supply the bulk of Chicago's heroin.

The Sierra Madre is nearly uninhabited hereabouts. Yet by surprisingly direct land avenues, raw opium travels to heroin refineries nearby. Then it is shipped north, again by land, crossing the border somewhere between Nogales, Ariz., and Brownsville, Tex. Finally, it speeds to Chicago by the efficient interstate highway system.

The business of supplying Chicago's heroin is overwhelmingly dominated by the Herrera family of Durango, Mexico, and Chicago, Ill. In Chicago there is a command center under direct family control.

At the head of the organization is Jaime Herrera Navarez, about 55, tall and fat, who controls the Chicago heroin empire from Durange City, 50 miles south of the little opium fields. With a population of 150,000, Durango City is the state capital.

They are rich these Durango Herreras. They enjoy a success reserved for the firmly entrenched and politically protected. The family members have been processing heroin and shipping it to Chicago for at least 15 years.

They grow their opium in fields of a half-acre or less in the Sierra Madre within a 50-mile radius of Los Herreras, a village of 600 that is the Herrera ancestral home. They refine their heroin, perhaps in secret laboratories in the Los Herreras area itself, or maybe in Durango City, but most likely in Culiacan.

Then the Herreras ship that heroin, in lots of between 5 and 30 pounds, up Highway 45 to Juarez and across the border through El Paso or through Nogales or Brownsville or Eagle Pass or Laredo, Tex. Methods vary, but the Herrera favorite, according to investigators who have followed the family's operations since 1963, is concealment in a "load car," an auto driven by a respectable-looking Mexican family, likely with children as passengers.

The heroin is hidden in exhaust pipes and gasoline tanks, anyplace customs inspectors at the border are unlikely to search. A particular Herrera favorite is a part of the car used so frequently for transporting heroin that it has acquired a nickname—the "Durango driveshaft."

The heroin speeds up the interstate highways to Interstate 57, the smugglers' southern access to Chicago.

The load cars turn off Interstate 57 into Roseland community of Chicago or the suburbs of Blue Island and Aurora, all Herrera family strongholds. They are pulled into nondescript alley garages and unloaded. Mid-level wholesalers pay the family about $35,000 for a wholesale kilogram, about 2.2 pounds. They, in turn, "step on" (adulterate) the heroin and sell it to street dealers.

Heroin trafficking has grown and flourished in Mexico for reasons ranging from the Mexican government's fear of peasant revolution (the folk hero and bandit Pancho Villa was born in Canatlan, Mexico, on the mountain road from Durango to Los Herreras) to the complexity of the drug ring.

The Federales—the Federal Judicial Police—plagued for decades by corruption and a dearth of equipment, now have a hundred new agents, graduates of a tough, year-old training academy, in the field. Many are in Durango and Sinaloa states. The Federale force will double in size over the next two years, and the agency, assisted by more than $20 million in U.S. assistance ranging from M-16 rfles to tubine-powered helicopters, is devoting 60 per cent of its efforts to drug suppression.

The Mexican army has assigned 12,000 soldiers to drug-destruction campaigns staged twice a year. The next one begins in a few weeks.

The U.S. Drug Enforcement Administration, operating from the American Embassy in Mexico City, has 19 agents on full-time assignment throughout Mexico. In a campaign without precedent in international law enforcement, these armed U.S. drug agents take an active role in routine action, side by side with Mexican police.

In El Paso, DEA has established a sophisticated intelligence center with computers programed to recall license plate and aircraft identification numbers as well as a card file matching the names and associates of known and suspected drug traffickers.

All of this has not been enough to shut off the Herreras' Chicago heroin supply. The DEA Chicago regional office has arrested more than a dozen Herreras and associates in the last two years.

"But we can sit here in Chicago and bust Herreras until the Sierra Madre mountains crumble away," lamented an agent, "and for every one we put down, two seem to appear to take his place."

The Mexican government fears that acknowledging REA's role in the country could portend serious domestic political difficulties for President Luis Echevarria Alvarez.

Robert Eyman, chief of REA's Region 15, encompassing Mexico, Guatemala, Costa Rica and other Latin American countries, cordially ushered two Sun-Times reporters into his comfortably furnished office on the third floor of the embassy three weeks ago and just as politely declined to say anything about DEA's Mexican enforcement effort. He referred all substantive questions about the Mexican drug scene to Pedro Ojeda Paullada, attorney general of Mexico.

Ojeda, glowing over a spectacular heroin laboratory raid days before, said the Durango-Chicago heroin supply route had been unknown to him until a year ago. The raid had netted 127 kilograms of pure heroin, the biggest such recovery in Mexican history and the third largest known to have occurred anywhere.

Ojeda said he learned about the Herreras last fall when he visited Chicago for the annual Sept. 15 anniversary celebration of Mexican independence. Chicago boasts one of the largest Mexican-American populations in the country, and while the vast majority—including hundreds who coincidentally share the common Spanish surname Herrera—are in no way involved in drug traffic, the size of the community has permitted the Herrera heroin organization and other smaller rings to operate almost unhampered.

"I know that many of the seizures in the Chicago area were of brown heroin that comes from Mexico," Ojeda said. "I told the DEA people, with whom I met in Chicago last year, that if they had any information, they should pass it along."

DEA responded with a full-dress briefing, including charts and graphs laying out arrests of Herrera family members and associates as well as a sketchy version of the family tree. The DEA and the Mexican government are still uncertain exactly who is involved and how some family members are related.

Ojeda returned to Mexico City downhearted, he said. Since then, accompanied by armed troops, he has ridden in helicopters through the mountains north of Durango.

"When I go to those mountains and see the plantations where opium is grown," he said, "I feel the grandiosity of what we are up against."

The streets of Durango City, bumpy and

largely unpaved, betray a similarity to the old U.S. West. In fact, the city—a favorite movie location—has a reputation as a frontier cowboy town where the moral code depicted in U.S. Western movies survives.

In a restaurant at the Mexico Courts Hotel, where movie crews are put up when they come to Durango, a Federale sipped coffee and spoke in hushed tones about the Herrera organization, pausing each time a suspiciously thorough busboy appeared to mop the floor nearby.

"We have tried for years to get the Herreras," the Federale said. "We know about the Herreras, and we have known about the Herreras. But each time we get close . . ." He shrugged and made a face.

Quickly, it became clear that the Herreras wield political power. Ojeda's plan to deal with the Herrera situation, this Federale said, is not realistic.

Jaime Herrera the chief of the operation, and at least one of his three brothers are said once to have been members of the Durango State police force. A cousin, Carlos Herrera, is currently mayor of the city of Gomez Palacio, on the eastern border of Durango State.

So these Herreras operate with only the occasional harassment of seizures of small quantities of heroin.

Herrera opium is grown on the western side of the Sierra Madre in little fields guarded by armed campesinos. At harvest time (the latest gathering of the crop concluded about six weeks ago), campesinos, on whose land the Herreras grow their raw opium, slit the small pods on each opium plant to permit the white gum to escape.

After the harvest, Herrera associates, some of whom are low-level family members, pay the campesinos about $1,900 a kilogram (about 2½ acres of poppy fields are required to yield a kilogram of crude opium).

The opium is then turned in at isolated locations, and the midlevel campesino is paid by a man he never sees. Money is mysteriously left for him at these drops. Precisely where the crude opium goes to be refined is unknown.

Most likely, according to Mexican sources, the crude opium is shipped to the seacoast resort town of Mazatlan and then carried directly up Highway 15 to Culiacan. Most of northern Mexico's heroin refining capacity is believed to center on Culiacan.

Mexican heroin refineries—sometimes called "kitchen labs" because they are primitive and highly mobile—produce a product far different in appearance and purity from the white heroin turned out by the old French laboratories in Marseille from opium grown in Turkey, which supply was interrupted for about three years when the Turks temporarily stopped opium-poppy growing.

Mexican heroin is about the color and consistency of brown sugar. It is less pure—between 25 and 85 per cent, contrasted with the nearly 100 per cent of the Turkish-French variety—than other forms.

Only the hierarchy of each smuggling ring knows the specifics of the network. In the case of Herreras, Jaime; brother Elias, identified as the financier of the operation; and Manuel, the third brother based in Durango and identified as the head of Mexican field operations, are likely to be fully conversant with the organization. The fourth Herrara brother, Reyes, lives in Chicago.

With so much known about the northern Mexico heroin trade and the Herrera organization, the inability of authorities to stop the operation might seem to beg credibility. However, the cultural context cannot be divorced from the heroin trade.

"The Mexicans find themselves between a rock and a hard place," said one U.S. Embassy analyst who declined to be interviewed on the record, fearing, he said, that his views might spank an international incident with the Mexican government.

"They have enormous political problems in the Durango area, which has never been firmly under the control of the central government," he said. "But at the same time, they do not want to become known as the 'new Turkey.'"

Durango and Chihauhua, the state immediately to the north, for decades have been a haven for smuggling of all kinds. Villa operated in northern Durango and throughout Chihauhua, supporting his political activities through smuggling.

Furthermore, since the Mexican revolution ended in 1910, the northern part of the country never has been firmly controlled by the Mexico City government. Durango, in particular, never has acquired a significant measure of clout.

Politically, Mexico sometimes is compared to Chicago. Little happens, in this interpretation, to improve the lot of individuals, cities or states without appropriate political influence being brought to bear. One particularly bitterly felt step has been the shipping out, leaving Durango with none of the employment of the steel mills.

It is difficult for mountain campesinos to coax a living from Durango's infertile mountainsides. For them, opium is simply a cash crop—albeit illegal—which pays 5 to 10 times as much as corn or beans, the staple farm products of the region.

Into this dilemma stepped families like the Herreras, which made their fortunes years ago in lumbering and cattle and horse ranching. For the Herreras, heroin is a new enterprise, funded by decades of legitimate business endeavor. In this, the Herreras are unlike families of U.S. organized crime, who have used illegal activity as a springboard to "legitimate" wealth.

One man who has watched the heroin trade grow and flourish is Dr. Guido Belsasso, a Harvard University-trained psychiatrist who heads the government drug-treatment program, the Mexican Center for the Study of Drug Dependence. A realist, Belsasso knows that it is in the immediate interest of the United States but the not-so-immediate though certainly future interest of Mexico to stop the heroin traffic cold, now.

But Belsasso also recognizes political and other obstacles.

"Heroin traffic happens," he said. "I don't try to hide anything. This is very rough geographical terrain. The land is not otherwise profitable."

Belsasso also said the U.S. first must limit the market for the Herrera's product.

"This (the drug campaign) is essentially to honor our international commitments," he said. "This is a problem of an economic system. As long as you Americans have a market, there's going to be production."

Despite the inherent conflict between Mexicans and U.S. authorities, however, the Mexican effort seems co-operative and sincere.

The U.S. DEA sees itself as a temporary adjunct to the Mexican effort. Top DEA officials say they hope to be able to withdraw from an active role in Mexico in 10 or 20 years. The Mexicans have no delusions about their opponents in the mountains of northern Mexico—and in the old marijuana and new opium fields in the southern part of the country, too.

"I don't think we can kid ourselves," Belsasso said. "This is going to have to be a permanent campaign."

A DEA agent summed up the situation as he drove down the precarious highway from Culiacan to Mazatlan:

"There's been a flood of this stuff (heroin) into the United States, and this is a battle," he said. "Whether we feel we're accomplishing something isn't so much the question—we are slugging it out."

[From the Chicago Sun-Times, Sept. 8, 1975]

HOW FEDERALES' RAID GRABBED HUGE HEROIN SUPPLY

(By Andy Shaw and Allan Parachini)

RANCHO LIMON, SINALOA, MEXICO.—With the deftness of a surgeon, pilot Claudio Lometi set the huge helicopter down on the building whose contents soon would become the largest drug seizure in Mexican history.

Inside the helicopter—the civilian equivalent of those used to move troops in Vietnam—were 10 heavily armed Federales led by Comandante Manuel Arreguin.

Occupants of the house, who were processing raw opium into heroin, heard the helicopter touch the roof, panicked and opened fire through windows. Lometi lifted the craft upward and Federales returned shots as the men in the house ran in different directions toward nearby woods.

The helicopter landed again, agents piled out, and a chase was on. When it had ended, seven men were in custody, three had fled and the world's third largest hard drug seizure ever was in hand. Incredibly, no one was wounded during the encounter.

The haul was spectacular: 280 pounds of pure heroin; 132 pounds of raw opium and 35 gallons of processed opium, which, combined, would have made another 44 pounds of heroin; 43½ pounds of morphine, and four guns. The stash had a conservative wholesale value of almost $10 million.

Arreguin said opium for the laboratory—set up inconspicuously on a ranch 25 miles north of Culiacan, a tough and dangerous drug city in northwest Mexico—came from mountain fields in the states of Sonora in the northwest, Guerrero in west-central Mexico and Durango in the north-central region.

While Arreguin said he did know where in the United States the heroin was bound, U.S. drug officials suspect a substantial amount of it would have found its way to Chicago through efforts of the Herrera family, which operates a drug ring in Durango and Chicago.

Arreguin, 38, a hulk of a man who says little but commands absolute respect from his troops and U.S. drug agents, said helicopter surveillance of the lab began two months earlier than the Aug. 16 raid after Federales received a tip.

The planned raid had been kept secret so no one in the corruption-ridden judicial system could alert the drug ring, and Arreguin had to forgo backup troops, who would have come in by road, to prevent an alert being forwarded to the lab.

Those who were caught told Federales little about the operation, and Arreguin admitted a bit contritely that the men in custody were underlings, not kingpins. He also said that before the raid the lab—which contained crude refining equipment—had churned out about 330 pounds of heroin that presumably found its way to the syringes of U.S. addicts.

Reporters at the Federale compound in Culiacan were treated to the sight and putrid odor of the huge cache, which was secreted in a room near the district attorney's office. The intense fumes, smelling much like vinegar, were nearly overwhelming, making impossible to stay more than a few moments before retreating for fresh air.

Of note was the seemingly nonchalant way the valuable cargo was stored. Though the compound is guarded, sleepy looking soldiers seem to be there one minute and gone the next. And the room housing the drugs, which on the streets of Chicago or any large city would retail for an almost incalculably large amount, had in it a large and unsecured glass window not 10 feet from the street outside the compound.

[From The Chicago Sun-Times, Sept. 8, 1975]

MEXICO IN ALL-OUT DRUG BATTLE

(By Andy Shaw and Allen Parachini)

MEXICO CITY.—The drug ring of Jaime Herrera Nevarez, which supplies the bulk of Chicago's heroin from a base in Durango, northern Mexico, has been ordered smashed, says Mexico's top law-enforcement official.

Chain-smoking in his Mexico City office three weeks ago, Atty. Gen. Pedro Ojeda Paullada vowed to crush the Herrera operation within a month. The ring grows opium pop-

pies and refines heroin in Mexico and, through a Chicago branch, distributes it on the black market there.

The promise was made in an hour long session with Sun-Times reporters in which Ojeda also said he had personally been unaware of the Herrera ring until a year ago, even though it has been the dominant supplier of heroin to Chicago for at least 15 years. Ojeda said he learned about it, not through intelligence gathered by his own agents, but in a briefing by drug officers in Chicago that he attended while visiting the city to celebrate the anniversary of Mexican independence.

The pledge to break the ring is said by some to be tied as much to the international political ambitions of Mexican President Luis Echeverria Alvarez and Ojeda as to a sincere desire to root out the drug trade. The promise was made three days after a giant heroin raid on a refining laboratory near Culiacan. The raid was the biggest seizure—127 kilograms of pure heroin—in Mexico history.

Talking about the Herreras in his stark office, Ojeda was obviously basking in the warm glow of success engendered by the raid. Later, however, in an empty coffeeshop in Durango and bouncing along in police cars through the city's rut-infested avenues, Federal Judicial Police—the Federales—would scoff at Ojeda's vow and even his contention that the Herreras had been unknown to Mexican authorities until last year.

To meet his time schedule, which U.S. officials doubt he can, Ojeda would have to start bringing the entrenched Herrera empire crashing to the ground this coming weekend.

For a week, The Sun-Times questioned Federales about their drug investigations, pressing for an explanation of the Herrera-situation. In tawdry Culiacan, the agents said they found the Herrera name and Ojeda's order unfamiliar. But in dusty Durango, they were more candid. One Federale put down his coffee cup and shook his head.

"We have tried for years to get the Herreras," he said finally. "We know about the Herreras. We have known about the Herreras. But each time we get close. . . ." His voice trailed off. He made a funny face.

Despite a vastly improved drug-enforcement effort here, carried out by the newly professionalized Federales, Mexico is still beset with immense problems that encumber the effort.

One is internal communication, which Ojeda unintentionally underscored by admitting that the 15-year-old Herrera operation was unknown to him until last year.

Rife with corruption, beset with serious economic and social problems, Mexico still has begun to fight a good anti-narcotics war, a battle whose main beneficiary seems to be the big country to the north where the real drug-abuse problems exist.

Almost 12,000 soldiers and 500 Federales are involved in Mexico's campaign against drugs, an effort that has begun to yield results during Ojeda's term.

In the spring blitz on fields of opium, which provides morphine base for conversion to heroin, Mexicans found and destroyed what could have been refined into 3 tons of heroin, or about 30 per cent of the estimated crop. The rest, presumably, found its way to addicts' needles.

Unfortunately, Mexico has a unique set of obstacles impeding the enforcement effort. Mountainous terrain, through which few roads pass, makes it tortuously slow for Federales and soldiers to find and destroy fields, even with the aid of 21 helicopters, 10 lightplanes and an aircraft using a special photographic process to detect opium fields.

During the last campaign, Federales in the heavy cultivation area between the northern states of Durango and Sinaloa used eight helicopters from three mountain command bases to cover more than 61,000 square miles.

Working in "columns," which include 10 soldiers headed by an officer and one Federale, they scour mountains by helicopter much as U.S. search-and-destroy missions in Vietnam were orchestrated. Technically, the army officer is in charge of eradicating fields, but conflicts often arise because the Federale by training is actually the drug expert.

When fields are found, the soldiers, often aided by area residents pressed involuntarily into service, uproot and later burn plants. If there is evidence specific local inhabitants have planted the opium fields, those involved are arrested.

It is a hot, dirty and unpleasant assignment, uprooting these fields, and soldiers admit they occasionally smoke small amounts of the marijuana that also is found. While that is against the law, these soldiers ARE the law in these remote mountain fields. Yes, they do find many opium fields—6,000 in the campaign that ended six weeks ago—but there are many, many fields; so many that Federales admit they can destroy only the largest ones.

As agents explain—and it is borne out flying over the desolate Sierra Madres—fields discovered by air are difficult to locate from the ground even when several are in close proximity. "We may see four or five fields from the air and when we land, we locate only one or two," lamented a Federale. "And even then it takes several hours just to walk from one field to the next in these mountains."

Federales also bemoan the lack of equipment for the effort, but Mexican officials promise more. Whether it will come from the United States, which already has poured $20-million worth of planes and helicopters into Mexico, or from Mexico itself is still uncertain.

If the Mexicans have something to be genuinely frightened about, it is the enormity of the drug supply. Some estimates place the opium-growing capacity high enough to provide 30 tons of heroin a year, or triple the present amount. Much potential growth country, especially in mountainous southern regions, is vastly untapped, some drug officials say.

Opium, which mainly grows on the western ridge of the Sierra Madre between November and January, is harvested in May and June. Marijuana, which in some places grows year-round, has a primary harvest season from June to January. At high altitudes, growers rotate the crops, while in lower areas only marijuana can be cultivated. Right now, in lofty reaches of the range, opium once more is beginning to push toward the sun.

A new eradication campaign, similar to the last 105-day effort, is due to begin in a few weeks. Growers of opium, for the most part, are peasants who, for the first time, have a crop that provides them a decent living. They cultivate on land where little else can be grown profitably. That makes it hard to reconcile stiff government enforcement with Mexico's goal of improving the lot of peasants.

Ever mindful of the potential for peasant insurgence in a land notorious for such uprisings, the government must walk what some U.S. drug officials here call a "fine line between enforcement and benign neglect," for the long-held promise of peasant prosperity is visibly absent and the poor in many ways are worse off now than 25 years ago.

Federales, though, are the shining light of the drug-enforcement effort. They now have a training academy, opened by Ojeda a year ago, and candidates are hand-picked, carefully analyzed, given four intensive months of modern training and paid above-average wages. For the first class last summer, 50 candidates were chosen from 700 applicants. Only 15 finished after attrition had taken its toll. As of now, 200 new recruits have been trained along with 38 older Federales, who come through in small groups.

While Federale corruption exists, Mexican and U.S. drug officials say it has been reduced dramatically, in part through Ojeda's aggressive action against those caught on the take, some of whom he has jailed.

Last year's drug-confiscation figures underscore the effectiveness. Compared with 1971, heroin seizures rose to 132 kilograms from 16 kilograms, marijuana from 66 to 665 tons, and drug arrests have tripled. More than 300 Americans are now in Mexican jails on drug charges and convictions.

Still, the Federales have problems. Their command structure is top-heavy, meaning that when the commandante is away, his men will play. This reluctance to delegate authority, U.S. officials say, is a Mexican trait that is changing, albeit slowly. Another weakness is a lack of investigative follow-up. Too often Federales seize drugs and low-ranking drug ring members, pat themselves on the back and call it a case.

For instance, reporters around the Federale compound at Culiacan, a tough drug city in northwest Mexico, found an unsettling nonchalance after the massive heroin seizure on Aug. 16. When commandante Manuel Arreguin was away, a dozen agents sat idly in their cramped quarters, telling jokes or dozing, even though the bust netted only underlings of a drug ring.

Mexico's enlightened enforcement effort in the last four years has several roots. For one thing, political observers here point out, President Echeverria would like to become secretary-general of the United Nations when his six-year term expires next year.

Certainly, U.S. support for Echeverria and Ojeda would be welcomed by both, and fighting drug cultivation and trafficking with some success—along with busting a ring such as the Herreras'—would lose neither ambitious politician points in Washington.

Further stimulating the Mexican effort is a perception among some officials of a growing domestic drug problem. Dr. Guido Belsasso, the government's head of drug-treatment programs, said:

"We consider it our problem now. Five years ago there were maybe 40 heroin users in Mexico. Today there are between 1,000 and 5,000."

So Mexico now has the pieces to fight drug cultivation and shipment—soldiers, the new Federales, mountainside command bases, roadside checkpoints and ongoing co-operation and communication from U.S. drug officials.

This country, though, has yet to crack a major drug ring, and Ojeda put Mexico's whole drug effort on the line with his vow to smash the Herrera ring. U.S. officials are watching him closely, wishing him well and hedging their bets since this is Mexico, a land of paradox and contradiction, a puzzling country for those outside its borders to understand.

[From the Chicago Sun-Times, Sept. 8, 1975]

NARCS ALOFT—SWOOPING IN ON A SEARCH

(By Andy Shaw and Allan Parachini)

SAN JOSE DE LLANOS, SINALOA, MEXICO.—The small plane fell like a rampaging roller coaster, swooping toward the secret runway below and spiraling the stomachs of its riders.

Pilot Adrian Sepulveda had spotted a clandestine landing strip, on which sat an unfamiliar airplane; so he and two Federales in the craft decided to investigate.

These are the rugged, desolate, impassable Sierra Madre Mountains on Mexico's west coast. There are fewer miles of road than of opium fields and secret runways in this fortress; so Federales in helicopters and lightplanes maintain constant surveillance looking for drug fields and strange aircraft.

Two agents armed with M-16 rifles, ma-

chineguns and automatic pistols peered from the four-passenger, single-engine, fixed-wing plane as Sepulveda descended in a series of steep circles toward the airstrip.

The location: 25 miles north of Culiacan, a rough drug-infested city in northwest Mexico.

On the first pass over the runway, agents noted the grounded plane's serial number. After climbing slightly, Sepulevda veered down to land, skillfully dropping his plane's wheels on the bumpy, dirt-and-stone surface and then stopping not 10 feet from the other plane.

A reporter inside the Federale craft saw persons moving in nearby brush and shouted to the agents, but they already were single-mindedly piling out with weapons ready.

Fearful of an ambush from the thick foliage around the runway, the unarmed reporters stayed on the agents' heels, spinning to look in all directions.

An eerie quiet prevailed. Then a Federale spied someone walking. The bewildered campesino froze. More commands rang out and quickly a dozen other campesinos—attired alike in simple pants and shirts and shabby hats—appeared from thickets. With them was a well-dressed man.

With another harsh order, the campesinos hit the ground and spread-eagled, hands outstretched. One agent searched them for weapons (they had none) while another talked to the prosperous-looking Mexican, who, it turned out, was the pilot of the private plane.

His license and identification were checked, the inside of his craft scoured. What initially appeared to be marijuana turned out to be cereal. He was simply delivering foodstuffs to residents of the isolated mountainside, not trafficking illicit drugs.

Unperturbed, Sepulveda and the agents piled back into their plane with reporters in tow and the group soon was airborne again. The takeoff left less than 10 feet of unused runway, after which the strip gave way to several thousand feet of descending mountain to a valley below.

"We could make a hundred of these landings and find nothing," agent Adolfo Gottlieb said resignedly later, "or we could maybe find something three or four times in a row. There is no way to tell with all of these hidden runways."

[From the Chicago Sun-Times, Sept. 9, 1975]

DURANGO: FILMS, DUST—AND DOPE

(By Andy Shaw and Allan Parachini)

DURANGO, MEXICO.—The second best business in this dusty, unenticing cowboy town has to be replacing shock absorbers and aligning wheels—that's how bad most of the streets are.

The top money-maker, though, is probably the heroin industry run by the Herrera family, which in addition to having branches around Durango state, maintains a marketing arm in Chicago—1,800 miles north—where the efficient drug distribution network finally ends.

A cagy, sinister group these Herreras are, with brothers Jaime, Manuel and Elias mixing legitimate ranching and lumber concerns with a drug trafficking business reportedly topped by no other in Chicago.

Yet inside the government tourist office here, the niece of Gov. Hector Mayagoita Dominques has a hard time remembering one Herrera from another or pinpointing what they do.

"They have money," she finally says cryptically, "but they're not very well known here. No one seems to know much about them."

Hollywood makes movies in Durango. Seven with John Wayne, to be exact, and the city is surrounded by movie sets with evocative names like "Chisholm Ranch," "La Joya," "Howard Street" and "Chupaderos."

Ernesto Duran, owner of a hotel where actress Dolores Del Rio used to reside, loves to pull out his huge autograph book and point out names of luminaries who've crossed his otherwise uneventual path.

The climate in August here is terrible—rainy, too cold at night, too warm by day—but that is the by-product of the altitude, 6,220 feet.

No one seems sure what the city's population is, but an average of four widely-varying estimates is 200,000. The people, for the most part, are a grizzled, unfriendly lot.

Men, attired (naturally) in cowbody boots and hats, leer suspiciously as if to say, "Gringo, go home," which seems a bit odd since 60,000 Americans are said to pass through Durango yearly. Perhaps none stop.

While some Mexico observers erroneously said holsters and ammunition belts could be seen worn openly on these streets, Durango still is unmistakably like any Old West city after the stagecoach era: it is as if Durango residents expect strangers to have come here to jump their claims.

A Spaniard named Francisco de Ibarra is said to have stumbled upon the city in 1563 while towing Indians around in search of silver mines. Finding only small, unproductive mines, Ibarra and his followers switched to ranching and farming after naming the city for a Basque description meaning "glen bathed by a river and surrounded by mountains."

The area has always been sparsely populated partly because it is poor growing country for legitimate crops and also because industrialization spurred by Mexico City elsewhere has passed Durango by.

The vast pine and softwood forests around this city have not been properly exploited, and thousands of people have left Durango to find work elsewhere, mainly in Chicago.

The entrenched ranching and farming barons reportedly prefer the status quo and see no great need to industrialize simply to give a few poor jobs. As one Mexico scholar puts it, "Cowboy types don't pressure for reform. They just want another horse or saddle."

While most of Durango is a series of aging, nondescript little streets on which pass fewer people than dust clouds, there is a pleasant square in the center of town (every Mexican city has one) housing magnificent government buildings, and several parts of town are prosperous.

Like the Los Angeles section, home to the Herrera brothers. Brother Elias has a lavish ranch-style house with a spacious lawn and a late model Thunderbird in the driveway. U.S. drug agents say two autos with Illinois license plates were seen going in and out of that driveway recently, perhaps signifying visits from family in Chicago.

Wealthy and the proprietors of vast land holdings nearby, the Herreras nonetheless are described variously as apolitical, not connected to Durango's power structure and nonmembers of the local country club.

U.S. drug agents draw an analogy to American mobsters who buy ostentatious estates, bathe themselves and their families in material luxury, and yet never gain acceptance into local social cliques.

How the Herreras got into the heroin trade is another puzzle, since indications are the family had amassed wealth in legitimate ranching and lumber concerns first. Most observers say heroin as a business evolved naturally after family members who moved to Chicago 20 or more years ago reported a demand for a product the Durango branch had access to.

That access stems from the Herrera ancestral home in Los Herreras, a town 120 miles north of Durango. The village, comprising one street with a grocery and little else, has 600 or so residents, most of whom are related.

Members of the family also live in Santiago Papasquiaro. Tepehuanes and the town of Los Corrales, all nearby cities set in a canyon that runs north from Durango between two ridges of the Sierra Madres.

Herrera heroin grows west of Tepehuanes and is brought by mule to that town, after which it is either refined in area laboratories or shipped by car to labs to the west in the drug city of Culiacan.

While street sources in Chicago said the family has labs in Durango, one U.S. drug agent took a contrary view: "A car could run into the lab building in Durango and boom—they're uncovered. Why take the chance?"

Repeated Federale raids on suspected labs in the more remote Tepehuanes area have uncovered nothing, presumably because the Herreras somehow always receive warning and dismantle the labs before the police move in.

While the ride up the road from Durango to Tepehuanes (where it ends altogether) is uneventful except for passing Pancho Villa's birthplace in Canatlan, the road turns to gravel outside Santiago Papasquiaro and the last 30 miles to Tepehuanes is slow going. A reputed ring member was reportedly killed nearby, not long ago when his car caught fire, destroying a shipment of opium. Compounding the late driver's problems, according to local sources, was his mysterious "loss" of several thousand Herrera dollars.

The danger in this area also was underscored by a Mexican judicial official's warning to two reporters: "It is possible that if you go to Durango—bang bang—there will be two bullets in you, and you will not come back."

The local Federale office closes at 3 p.m., which may or may not be related to its failure to make any inroads investigating the Herreras. One agent painfully described getting close to pinning a rap on the family several times, only to see something "mysterious" happen to foil the effort.

Hints of Federales on the Herrera payroll were aroused by one agent who became nervous when his young partner said he had heard of Elias Herrera in connection with drug trafficking.

The older agent began muttering profanities at his compadre while chastising him aloud for talking without having proof. But there are agents in the seven-man office who have been graduated from the modern, professional academy in Mexico City, who are here to do a job without worrying about payoffs and clout.

Alvaro Orozco Novelo, 32, seems to be one. Short, stocky, handsome with wavy hair and a thick mustache. Orozco is a former auto mechanic from the south Mexico state of Campeche.

He talked with pride about wanting to "nail" the Herreras and feeling frustrated over the unsuccessful efforts so far.

Orozco earns about $300 a month, good by Mexican standards, but he must buy his own weapons and car, and travel expenses are not paid for. Federales in cities with higher costs of living, notably those near the U.S. border, earn several hundred dollars more monthly.

Since Federales also split up 40 per cent of the value of contraband seized (other than drugs), mostly guns and cars, that are sold at auction, they end up living fairly well. But U.S. drug officials wonder why these underequipped agents can't, through federal government decrees, put the confiscated goods to their own professional use.

Orozco was pleased to learn that the Mexican attorney general, Pedro Ojeda Paullada, recently pledged to crack down on the Mexican branch of the Herreras and optimistically said the investigation "will not be too hard."

That is questionable if he uses the Durango Federales, who since spring have made only one heroin and three marijuana sei-

zures. But if he succeeds, it will be the biggest thing to came from Durango since the last John Wayne movie.

[From The Chicago Sun-Times, Sept. 9, 1975]

DRUG TRAFFIC 2 WAYS ALONG HIGHWAY 40

(By Allan Parachini and Andy Shaw)

EL SALTO, DURANGO, MEXICO—Juan Manuel Valenzuela Batiz downshifted his 1975 white Volkswagen to slow for what he thought would be a routine, perfunctory inspection on twisting highway 40 here last June 16.

The little town of El Salto, which is so intimately involved with the developing Durango lumbering industry that the whole place smells a bit of sawdust, is one of two places on the tortuous 201-mile road from Mazatlan to Durango where the Mexican army and the Federal Judicial Police (Federales) try to intercept drug smugglers.

Valenzuela, no doubt, knew all about the El Salto checkpoint. On the way from Mazatlan, he had already passed successfully through a similar check at tiny Villa Union. He was almost to his destination. But something about the white Volkswagen roused the suspicions of the soldiers at the checkpoint. Perhaps someone had told them to watch for the car.

They rousted Valenzuela out and tore his vehicle apart. Carefully concealed in the exhaust system was 7½ pounds of pure heroin. Valenzuela was a "burro" (donkey) for a heroin smuggling ring. The Federales were unable to identify the ring, but agents conceded Valenzuela could have been working for the Herreras, the Durango family that dominates the Chicago heroin market.

This stretch of Highway 40, which climbs from sea level at Mazatlan to more than 8,000 feet above sea level at the crest of the Sierra Madre, is one of the most significant heroin transit routes in northern Mexico. Everything travels Highway 40. Between Aug. 6 and Aug. 25, three separate marijuana shipments were intercepted, totaling more than 4,400 pounds.

Two Sun-Times reporters drove Highway 40 two weeks ago, careening in a red rented Volkswagen around perilous mountain curves. It is a lonely road. Its traffic is made up almost exclusively of highballing heavy trucks and speeding buses.

Along the entire 201-mile stretch, only two other cars with U.S. license plates were seen, and one of them carried a family of Mexican-Americans from Texas, headed for a visit in Durango. Accidents are frequent. Two horrible truck crashes were seen in the six-hour drive.

There are only scattered villages on the road, which winds through the southern section of a part of the Sierra Madre known to contain both opium and marijuana fields. The people are hard and unfriendly. Unfamiliar American faces are greeted with looks of suspicion and open distrust.

Drug traffic flows two ways on Highway 40. Crude opium from fields north of Durango must traverse the mountains here on the way to laboratories far to the north around Culiacan because there is no other road through the mountains.

Refined heroin comes back this way for shipment north. Much of it goes to Chicago. It reverses its course because the more heavily traveled Highway 15, up Mexico's west coast to Tijuana—which would offer a more direct route to the American border—is said to be too heavily infested with checkpoints.

The Federales say drug smugglers trying to avoid inspections by traveling this way are fooling themselves. However, The Sun-Times reporters, retreating once from a swollen river for two hours, passed the two Highway 40 checkpoints a total of four times. They were not stopped.

The system on this heroin highway is at best haphazard. "If I were the Mexican authorities and two young Americans with long hair got through checkpoints four times," one American drug agent in Mexico City said, "I think I'd be embarrassed."

[From the Chicago Sun-Times, Sept. 9, 1975]

NEVER IN CUSTODY—THREE TOP HERRERAS HANG TOUGH

(By Allan Parachini and Andy Shaw)

One of the most tired cliches in law enforcement likens the complexity of organized crime to an octopus, at whose tentacles police snap continuously without endangering the vital organs of the central body.

With the Herrera family of Durango, Mexico, and Chicago, this tired simile, however, seems appropriate. Federal drug agents and city and state police have arrested 29 known members of the Herrera heroin importing organization in the Chicago area. Another 12 organization members or associates are said to be fugitives. Sixteen around Chicago have so far evaded the police.

But in the Mexican interior, none of the three Herrera brothers who run the heroin ring and dictate the terms on which Chicago heroin users eventually buy their black market drug has ever been taken into custody.

Even the best law enforcement intelligence contains conflicts about the Herreras. Each of three offices of the U.S. Drug Enforcement Administration, for instance, has a slightly different version.

But from the most reliable of these reports, this portrait.

Jaime Herrera Nevarez, between 50 and 56, described as tall and fat. The kingpin of the Herrera ring, Jaime resides in Durango, where he lives comfortably and is still involved in the daily operations of horse and cattle ranches and a lumbering business. Known to have visited Chicago on repeated occasions, perhaps as early as 1963 when the Herrera ring was still establishing itself. Never arrested.

Manuel Herrera Nevarez, about 63. Jaime's brother. Manuel is described as normally having responsibility for field operations of the Herrera organization in Mexico.

Duties of the chief operatives are not clearly defined, but it is believed Manuel is responsible for growing opium and refining heroin. He has traveled repeatedly to Chicago. Reliable intelligence placed him on a brief visit to the Herrera stronghold in Roseland as late as early last week. Normally a resident of Durango, Mexico. Never arrested.

Elias Herrera Corral, about 60, in all likelihood a third key Herrera brother but said by some sources to be only a cousin to Jaime. Resident of Durango, Mexico. Elias, said to have held a hidden interest in one or two Chicago bars that have served as Herrera headquarters over the years, reportedly is involved primarily in financial affairs for the Herrera ring. Never arrested.

Reyes Herrera Sr., 61, is the fourth key Herrera brother. He resides in Chicago and was arrested in 1973 with 37 other persons in a drug raid. Charges dropped. Reyes, now said to be in semi or full retirement, has handled Chicago distribution operations for the Herrera organization since sometime in the 1960s. He can be seen sitting in a car on the sidewalk in front of the Entenairo Restaurant, 338 E. Kensington. The restaurant, owned by Reyes, is a Herrera headquarters.

Jose Ramon Herrera, 33 eldest son of Reyes Herrera Sr. Resident of Chicago. Believed by police intelligence sources to have inherited operational responsibility for the Herrera Chicago operation.

Armando Jaime Herrera, 21, son of Jaime Herrera. Born, Durango, Mexico. Currently a resident of federal reformatory, El Reno, Okla. Young Armando was arrested by the Drug Enforcement Administration in February 1974, and charged with selling heroin. Previously active in the Herrera organization, Chicago.

Reyes Herrera Jr., 21, younger son of Reyes Sr. Resident of Chicago. Arrested October, 1973, on minor drug charges.

Efrain Herrera, son of Jaime, killed in August, 1974, in a shootout in a Chicago bar at age 24. Under investigation in a heroin smuggling case at the time.

Pedro Diaz, 43. Herrera associate. Arrested in Chicago on drug charges in July of 1973. In his possession was found $4,000 in cash and a notebook containing promissory notes from customers amounting to $60,000. Also in the notebook was a home address and unlisted telephone number for Jaime Herrera in Durango. Convicted and imprisoned.

In addition, intelligence files in Mexico and the United States list another 50 Herrera family members or associates spread from Durango to Chicago.

[From The Chicago Sun-Times, Sept. 10, 1975]

U.S. ROLE IN MEXICO'S DRUG FIGHT

(By Allan Parachini and Andy Shaw)

MEXICO CITY.—The American Embassy looms fortress-like behind a hefty steel fence, six stories of diplomatic enclave in downtown Mexico City at the fringe of the cosmopolitan Zona Rosa (Pink Zone).

Early each morning, several hundred Mexican citizens queue up in front of a gate on a side street off a broad boulevard called the Reforma over which the embassy looks grandly. They come to stand in winding lines for hours, waiting for brief audiences in an office labeled "visas."

This function—granting Mexicans permission to visit the United States—is what most natives seem to associate with the imposing embassy structure.

The embassy supports a range of additional diplomatic services, many of which are widely known to the Mexican people. But on the third floor of the embassy, just off a balcony overlooking a pleasant inner courtyard with a fountain, is a white door marked with four-inch gold-colored letters: "Drug Enforcement Administration."

This embassy function is one of which the Mexican people are generally ignorant. They are unaware of it because their government, which benefits from de facto press control, is not anxious to stir nationalistic political fervor by widespread awareness that an armed, active force of American drug police works out of the suite behind the white door.

The suite is the headquarters of DEA Region 15, which has 19 agents dispersed through Mexico, here and in field offices in Mazatlan, Monterrey, Hermosillo and Guadalajara. There are two more DEA agents assigned to an office in Costa Rica and another pair in Guatemala. Telephone communications with the United States are protected, when necessary, by an electronic "scrambler" to thwart eavesdroppers.

Robert Eyman, regional director, declined to be interviewed on the record about any aspect of the Mexico City DEA operation. Other agency sources in El Paso, Washington and Chicago said DEA has been forced to yield to the Mexican government's extreme sensitivity toward public admission of the active presence of DEA personnel in the country.

The American government became intensely interested in a major participatory role in drug enforcement south of the border in about 1972, said one official, as an outgrowth of a conference at which then President Richard M. Nixon told Mexican President Luis Echeverria Alvarez that both countries would have to do much more to combat drug traffic from Mexico, particularly in heroin.

By 1972, it had become clear that Mexican "brown" heroin had replaced the familiar white product refined in France from opium grown in Turkey. American government maps show that by June, 1974, Mexican her-

oin had established such inroads in the U.S. that it was virtually the only source of the drug for the country west of a line from the eastern border of Michigan south to Biloxi, Miss. And brown heroin is even more prevalent now.

Mexican officials cringe at the "new Turkey" label, but that is, in essence, what their country has become.

The DEA attempts to keep up pressure on the Mexicans to step up an existing antidrug campaign. More than $20 million in American equipment has already been supplied. More is on the way, including a $400,000 plane and backup equipment to spot opium and marijuana fields from the air. A similar plane is already in use.

The DEA Mexico operation has an annual budget of $1 million. In terms of DEA's total expenditures, Region 5 is comparatively small. Worldwide—the agency operates in dozens of foreign countries with 163 agents assigned overseas—DEA will spend $147 million this year.

DEA agents in Mexico work in much the same way their colleagues do at home. They contact informants and pay them for information. They make street "buys" and conduct surveillance, sometimes in the company of Mexican agents.

"It takes a little more time here," reflected one U.S. agent in Mexico City. "At home, if you want to make a buy, you just make it. Here, we have to show the courtesy of letting the Mexicans approve everything, so we have developed the skill of stringing the crooks along" When a case is in final form, it is turned over to the Mexican authorities, or, if it involves American follow-up, a U.S.D.A. office.

American DEA agents, accustomed to U.S. police methods, often go through a kind of law-enforcement culture shock when they arrive, sources said, especially because the Mexican Federal Judicial Police—the Federales—operate in a seat-of-the-pants system which puts heavy emphasis on big drug seizures, but almost discourage active follow-up investigations. Informant networks taken for granted by most American police officers, are nearly unknown here.

DEA has remained keenly aware of the dangers of overequipping the Mexican authorities or trying to bring them to U.S. standards overnight, if at all. Lessons of Vietnam are studied carefully here. DEA agents in the field compare the Mexican drug campaign to a war. Top officials of the agency worry openly about rushing too many helicopters, rifles, exotic testing equipment and other material too fast. "I think Vietnam taught us the false wisdom of that," one agent said.

Mexico's nationalism, American and Mexican political observers here said, is so deep-seated and sensitive to U.S. intrusion that the Echeverria government cannot risk permitting public admission of the DEA presence. Reflecting on a drug raid three weeks ago in Culiacan, advance word of which was carefully kept from DEA by Mexican police, one U.S. official said, "It had to do with their always feeling we're pressuring them. Every once in a while, they do something in such a way that they seem to say, 'Get off our back.'"

The relationship between the DEA office on the embassy's third floor and that of Ambassador Joseph John Jova on the sixth is also under perpetual strain.

That quandary is familiar to Jacques I. Kiere, head of DEA's El Paso intelligence Center (EPIC), who spent six years as a drug agent in Europe and knows the Mexican situation, too. "DEA agents are out there digging into the very guts of the country. They're collecting intelligence," Kiere said "There is a natural conflict between diplomacy and law enforcement.

"What the cop is doing is burning up the diplomatic credits that the ambassador has built up over the years. And there's the nationalistic angle, too. How would you like 20 Mexicans running around the United States delving into illegal arms traffic?"

DEA agents here concede that Mexican public resentment of DEA's active role—American agents regularly participate in "street" level cases and have been involved in four shoot-outs in the last 12 months—might be a legitimate ground for internal dissent. But they contend that the DEA role is necessary if heroin is to be stopped before it gets into the United States, where interception is much more difficult.

Despite their cultural differences, Mexican and American drug agents have started to show results from the co-operative campaign, the result of a 1961 international drug treaty that contained commitments for mutual assistance. It is the legal basis for the active DEA role here.

In the first six months of 1975, combined Mexican-American drug operations in Mexico resulted in the confiscation of 3,850 pounds of crude opium (heroin's raw material), 207 pounds of heroin and 144,650 pounds of marijuana. The combined forces made 234 arrests.

While DEA and Mexican authorities have not managed to put a dent in the Durango-based Herrera organization, the family operation which, through branches in Chicago and Mexico, supplies heroin to the lucrative Midwest market, both governments are believed to be involved in Herrera investigations now. DEA is believed to have initiated a series of discreet inquiries and Mexican authorities have said they want to put an end to the Herrera heroin traffic.

Jova, who assumed his post as ambassador early last year, was the only American official here who consented to an on-the-record interview about the joint drug effort. His mood was hopeful and upbeat. He betrayed positive feelings that some agents farther down the line said wryly may prove to be overly optimistic.

"Total elimination (of drug trafficking) is an almost insurmountable task because of the difficulty of the terrain and the high incentive to move drugs across the border," Jova said.

"But great tasks call for great efforts. We can be happy with the progress made in eradication, but more important we must hit the big fish and disrupt the organizations."

Jova said that when he was assigned to Mexico City after a stint as American ambassador to the Organization of American States in Washington, top State Department officials told him the antidrug effort would be his top priority. "That has not changed," he said.

[From the Chicago Sun-Times, Sept. 10, 1975]

ARMED AND ACTIVE—"ADVISERS" WELL UNDER COVER

MAZATLAN, Mexico.—"Maybe I'm waving something, but you've got a war going on without any boundaries. There's been a flood of this stuff into the United States and this is a battle. Whether we feel we're accomplishing something isn't so much the question, we're slugging it out."

This is a man who by appearance could pass for an American tourist or businessman, yet he is one of 19 U.S. Drug Enforcement Administration agents working in Mexico. Strangers in a foreign land, they officially "advise" the Mexicans in accordance with an international antidrug pact.

In reality, though, they are armed and active, paying informants and doing everything short of making arrests in a subliminal campaign sanctioned verbally by this government, which through media censorship keeps the Mexican public in the dark about the foreign police presence here.

Because of the extreme sensitivity of the joint effort, the DEA agent being interviewed insisted on being nameless, faceless and ageless. It is enough to say he is a hardened career law-enforcement operative, having worked for a local police department and the U.S. Bureau of Customs before joining DEA almost two years ago.

With even, well-chosen words, he compares DEA's Mexican effort to U.S. involvement in World War II and the American effort in Vietnam, which he feels was well-motivated but fought poorly, and he sees himself as an "elitist" in his field:

"The combination of foreign service and law enforcement is unique. We are a unique corps of professional people who've combined these two professions. It appeals to your pride to be part of an elite group."

He lives inconspicuously, working from a small office in a Northern Mexican city and passing information to the Federales, who then carry out and take public credit for drug busts.

Yet this agent's life is fraught with the same danger that faces policemen everywhere. He and a partner, for instance, not long ago were caught in the center of a gun battle with drug pushers while accompanying Federales on a raid in a tough Mexican city.

His partner was wounded and the agent risked his own life by braving a rain of bullets to pull his fallen companion to safety. Newspaper accounts of the incident ignored mention of the wounded agent, and the DEA man we interviewed declined to discuss it.

Over-all, he sees his role as something of a crusader for the American way of life: "I've met 18 year-old kids who were on drugs and looked like they were 55. I believe it's the drugs, plus the life-style certainly, but especially the hard drugs. Every kid is a potential target. . . .

"I can't see any greater battle than for the kids who are growing up and for the country. What greater Trojan Horse could you bring into a country to take away its aggressiveness, its respect for property, its individuality?"

Admitting the task of stopping heroin traffic from Mexico is immense, he likens it to a war of attrition: "Any seizure . . . is a definite inroad. When you knock off an enemy battleship or a cruiser or a destroyer, how much of a loss is it? You have to have the guts to fight what we know is going to be a long, hard fight."

Asked about what seems to be a lonely life—he lives by himself—the agent says, "Anything's a lonesome experience, but there are people who like to travel and make a career living in other places. When I came here I didn't know a soul. Now I've got a helluva lot of friends—Mexican and American—and I'm going to miss them when I leave. I got no gripes."

[From the Chicago Sun-Times, Sept. 11, 1975]

BORDER TRAFFIC'S SHEER VOLUME FAVORS SAFE PASSAGE FOR DOPE

(By Allan Parachini and Andy Shaw)

EL PASO.—The temperature on a Saturday noon in this west Texas border city of 322,000 struggled toward the 100-degree mark. On the Bridge of the Americas, one of three spans linking El Paso with Ciudad Juarez, Mexico, traffic was hopelessly backed up.

A U.S. Drug Enforcement Administration official looked at the line of cars, trucks and buses, pausing momentarily while customs officials rushed to extinguish a smokey fire that broke out suddenly in a station wagon carrying a large Mexican family.

"Here comes the heroin," said the drug official as he looked up at five nearly motionless lanes of traffic.

No seizure was made at the bridge that Saturday, though dogs trained to sniff out marijuana and heroin were brought ▸-

peatedly to cars with suspicious drivers or license plates, red-flagged by computer.

"If you ask me," one federal drug agent in Mexico had said a week before, "they (customs) stop the wrong people at the border. You look at who they stop. It's longhairs. It's blacks. It's Americans. But you sit at the border for a couple of hours and watch them (customs agents) wave through the clean-looking Mexican families in well-maintained cars with kids in the back seat. That's your heroin coming through right under everyone's nose."

Two separate hour-long observations of the border, one at night in the company of U.S. Border Patrol officers and the other on this hot El Paso morning, bore out the drug agent's contention. It will never be known how much heroin for Chicago moved through El Paso in that Saturday rush. Drug agents said, however, that it is safe to assume that some did.

There is disagreement over how much heroin crosses the 1,900-mile border between Mexico and the United States. Much of that expanse is open and unprotected. Electronic sensors and air and ground patrols cover part of it. The Border Patrol's El Paso office has only 239 men to guard 340 miles of border.

Police in Mexico seized about three tons of heroin last year and agents felt that Mexico probably produced about 10 tons, although no one really knows. Virtually all of that production, these agents believe, was destined for the United States. Only a few hundred pounds were intercepted north of the border.

The Border Patrol captured 99,000 persons who had illegally crossed the border in this part of Texas and in Arizona and New Mexico. The agency thinks 500,000 more got away. More than 300 drug arrests were made among the "illegals," but most officials believe alien drug smuggling involves primarily marijuana and not heroin. "You don't give a dirt-poor campesino heroin worth $70,000," said one agent. "It's just too big a risk."

Heroin for Chicago starts its 1,800-mile journey in northern Mexico, most likely in Durango state, headquarters of the Jaime Herrera Nevarez organization, the principal smuggling operating serving Chicago. Some other such enterprises, like the Herreras, rely on family branches in Durango and Chicago to act as a heroin conduit. Others—no one knows how many small rings there are—ship to U.S. border cities and deliver bulk quantities to buyers who ship the drug the rest of the way themselves.

Land routes are overwhelmingly favored, but organizations like the Herreras are flexible and have their own intelligence systems. When Mexican authorities started a roadblock campaign last year, for instance, Durango traffickers switched within hours to aircraft instead of cars and trucks.

"This is the old classical analogy to the balloon," said one American agent. "If you push the balloon somewhere, a new bulge pops out someplace else."

Smugglers know that border traffic volume alone works in favor of heroin shippers. Customs officials here privately conceded the problem: "What are you going to do, cut open the driveshaft of every car with Durango, Sinaloa, Chihuahua or Sonora (all big heroin-shipping states) license plates?" asked one agent. "They'd hear the screams all the way to Washington."

The "mules," as the drivers of smuggling vehicles are called, receive $500 to drive a "load car" from the Mexican interior to the border. If they take it all the way to the U.S. destination, they get another $3,000. Shipments contain between 5 and 40 pounds of heroin.

On July 8, an inspector detected a strange odor in a Plymouth Barracuda crossing at Laredo, Tex., and found 19 pounds of heroin under the auto's rear seat. Arrested was Adrian Corral Herrera, 19, who gave a Chicago address. Customs officials identified the youth as a Herrera family member. Also arrested was a 15-year-old girl. Chicago drug agents said the Plymouth was headed for Illinois.

Each of three agencies responsible for some aspect of border enforcement has a slightly different theory on how heroin gets through. Involved are the Bureau of Customs, Immigration and Naturalization Service and DEA. DEA and the Border Patrol (part of INS) have merged many of their drug functions with increasing effectiveness, but old professional jealousy between DEA and Customs and a new split between Customs and Border Patrol appear to hurt enforcement.

And Customs, whose primary function is to hold the flow of illegal materials across the border, is the object of a federal grand jury investigation here in El Paso. One officer was arrested on charges of selling cocaine two months ago and there are reports that as many as 20 El Paso-area employes of the agency may be targets of an investigation into drug trafficking.

Justice Department officials in El Paso and San Antonio refused to comment on the investigation, but a Customs spokesman in Houston confirmed there is a grand jury probe.

A top Herrera lieutenant reportedly is based in Ciudad Juarez to co-ordinate shipping operations at the border. The lieutenant, who was not identified by police, was reportedly arrested a few months ago but recently regained his freedom. In the interim, Herrera smuggling operations have been disrupted, but the lieutenant is said to be restoring the operation.

Customs officers at the border dismiss the contention that large quantities of heroin get away undiscovered. They say other parts of the border, patroled by INS, are the crossing points. Border Patrol officials, noting that they found heroin on only two of the illegal aliens they caught last year, disagree. DEA, which traditionally has been involved in a rivarly with Customs, agrees with the Border Patrol.

Six months ago, DEA opened the El Paso Intelligence Center (EPIC), a $1 million-a-year command post, which, for the first time since the drug agency was created, offers field agents access to computerized, co-ordinated intelligence information.

FPIC ties together a half dozen computerized systems so agents here can compare, for instance, movements of airplanes known to be involved in drugs to travel by suspected traffickers. The center maintains a name-file with records of 50,000 individuals believed involved in high-level drug smuggling.

Jacques I. Kiere, director of EPIC, told The Sun-Times he believes the center, which has not been widely publicized, may itself deter would-be smugglers. "Let's say a local agent is in a car anywhere in the United States," Kiere explained. "He calls in here with a license plate number and we can tell him whether the car or the owner is suspect. Within 30 seconds."

Analysts at EPIC—many of them trained by the Department of Defense or Central Intelligence Agency—are also developing "predictive intelligence" systems, Kiere said, which will enable agents in the United States to deduce the details of a developing drug deal from analysis of the movements of widely separated and apparently unconnected persons, vehicles, airplanes and boats.

The center has a staff of 24, which will double next year. Kiere believes that if EPIC is successful, centers may be added in a half dozen other locations across the country.

Kiere's easy sense of humor and cosmopolitan manner—he is American born of French parents and served for six years as a drug agent in Europe—seems more what one would expect of an urbane political science professor than a policeman. He knows that no matter how sophisticated the border guard is, a great deal of heroin will still get through.

He represents a new ferment among federal drug agents who are beginning to acknowledge publicly a reality that street sources have asserted for some time. Kiere does not believe that drug police can stop the flow of heroin. He thinks the best law enforcement can do is scare off potential users and some traffickers.

The rest of the entrenched drug scene, Kiere and other DEA officials now believe, will probably find a way to muddle through. "No, I cannot say that the supply of heroin can ever be stopped completely," Kiere said. "I think the realistic accomplishment is to increase the risk to the casual seller and many of the midsized and big operators. You're not going to get an addict off of heroin (through law enforcement.) But you may delay new addicts."

[From the Chicago Sun-Times, Sept. 11, 1975]

TWO NATIONS' DRUG PROBLEMS DIFFER

MEXICO CITY.—Five years ago, former President Richard M. Nixon issued a "war" decree setting up the White House Special Action Office for Drug Abuse Prevention. Its mission: Cope with burgeoning heroin addiction—fast.

Three years ago, Mexican President Luis Echeverria Alvarez issued a decree of his own. It, too, set up a central agency to oversee treatment for drug abusers. But its language, and the approach of the office that evolved, was more restrained than Nixon's declaration of war on drug addiction.

Today, the U.S. Special Action Office is defunct, replaced by the National Institute on Drug Abuse. The Mexican Center for the Study of Drug Dependence (CEMEF) only now is putting the finishing touches on a carefully laid four-year plan for a network of drug-treatment, education and prevention centers throughout Mexico.

Heading CEMEF is Dr. Guido Belsasso, a Harvard University-trained psychiatrist called by one Washington bureaucrat the "Jerry Jaffe of Mexico." The reference is a comparison to Dr. Jerome Jaffe who left the Illinois Drug Abuse Program in Chicago to become Nixon's White House drug czar. Jaffe has since left government and teaches pharmacology at Columbia University.

"Our drug problem is definitely not the same as that in the United States," Belsasso said in his posh Mexico City office three weeks ago. "We don't have the sense of national emergency that you did. We don't want drugs to become that kind of problem."

Although Mexico is the most prominent purveyor of heroin to the American market, Belsasso said opiate addiction is still comparatively unknown in Mexico.

Instead, Belsasso said the Mexican problem drugs are marijuana and substances that can be inhaled, like airplane glue. His agency started with a single treatment center in 1973 and is adding 15 more this year. By the end of 1976, when the Echeverria administration leaves office, 42 such centers will be in operation—at least one in each of Mexico's 30 states.

Only one of the centers, in the border city of Mexicali, will handle heroin abusers and it, Belsasso said, will confine its treatment to two-week withdrawal. The synthetic narcotic methadone, heavily relied on in the United States, will not be used in Mexico, Belsasso said.

"After a lot of brainstorming, we decided not to go through the methadone process," Belsasso said "We want to find methods that are applicable to our people." Current Mexican drug treatment programs rely almost entirely on psychiatric treatment and group therapy.

Belsasso said he fears what may become a heroin problem, especially if Mexico's native

heroin industry continues to expand. "That's why we consider this our problem now, even though we have very few addicts," he said. "I'm not waiting until heroin becomes a problem in Durango, for instance. It's a Mexican problem and our strategy is prevention."

Compared to the more than $1 billion spent by the U.S. federal government of drug treatment starting with the Nixon "war" decree, Belsasso's budget is minuscule. Mexican federal funds in 1974 amounted to only $2 million nationwide and the amount doubled this year. The government is assisted, however, by the individual Mexican states and accepts help from private sources—a reverse of the U.S. "drug-abuse industrial complex" in which private agencies cash in on government grants.

[From the Chicago Sun-Times, Sept. 12, 1975]

HERRERAS BLEND IN—DRUG KINGS DON'T FLAUNT IT

(By Andy Shaw and Allan Parachini)

On warm evenings the local lieutenants of Chicago's largest heroin ring linger lazily outside restaurants on the Far South Side, belying in appearance their lofty status in the city's drug underworld.

One can see aging Reyes Herrera, whose three brothers in Mexico run the operation, sitting impassively on a wooden chair in front of Entenario Restaurant, 338 E. Kensington, which he and his wife, Maria, own.

Reyes Herrera, who is said to speak no English, seems bored as several young Mexicans stand idly nearby. He occasionally leaves his roost and ambles down the street to attend mass at St. Anthony Church.

Dressed simply, he fits easily into this neighborhood of plain houses and apartment buildings, back alleys and garages, and working-class Latinos.

Blending in equally well with a crowd of young men near a tavern down the street is tall, slim, dark and mustachioed Jose Ramon Herrera, 33, Reyes' eldest son and purported boss of local Herrera drug operations.

Jose Ramon's perch is near Principal's Club, 392 E. Kensington, owned by the family and a stronghold for Herrera business.

Unlike the ostentatious Mexican Herreras—notably Reyes' brothers Jaime, Elias and Manuel, who control cultivation and refining of opium and shipment of heroin—the local family in inconspicuous, flashing wealth only in the form of large new cars.

Also distinct from their relatives south of the border, who so far have avoided prosecution, the family's Chicago arm has been seriously impeded by local law enforcement officials in the last few years.

Local Herreras have dominated Chicago's heroin market for at least 10 years. George Halpin, the U.S. Drug Enforcement Administration's deputy regional director for Chicago, thinks Reyes Herrera and his following initially were sent by Jaime Herrera to the Midwest to orchestrate heroin trade, but other DEA sources say the business began more by accident.

They feel Herreras who moved to Chicago in the late '50's to find work discovered the demand and so the operation was begun.

Mexicans began filtering into this country in large numbers after World War II, looking for employment and accepting menial jobs. Word spread that work was plentiful and the influx increased, even in the last 12 years, when immigration laws forced many Mexicans to enter the country illegally.

Homer Geymer, a supervisory deportation officer for the U.S. Immigration and Naturalization Service's Chicago office, estimates 90 per cent of the 12 million illegal aliens now in this country came from Mexico, with some 250,000 to half a million finding enclaves in the Chicago area.

Herreras, sources explain, were forced by the stiffer immigration laws to use forged birth certificates and work visas to move operatives up from Mexico.

Herrera heroin comes to Chicago when family members or friends in the Durango area, using illegal identification, carry it in cars to Chicago, then blend into the local ring, which in addition to the Roseland area has hubs in Blue Island, Calumet City, Aurora and on the West Side.

The alleys behind Kensington Av. are eerie. While ring members work secretly in garages, young Herreras and friends congregate in a little park near 118th and Prairie, or in front of the restaurants on Kensington.

Or in a sleepy Mexican neighborhood in Blue Island west of Western Av. where—tucked conveniently between a railroad switching yard and the Cal-Sag Canal—sits a crumbling wood frame house.

It is in the 2600 block of Broadway and belongs to a Herrera family member. On the porch are five or six casually dressed Mexicans. Inconspicuous.

Since people like the Herreras expect to return to Mexico some time, or are here illegally, it is in their best interest to live quietly.

Consensus is that drug Herreras have mainly do two things with their money—send it to family in Durango or keep it in ready cash.

Referring to the Herrera life-style, University of Chicago professor Phillipe Schmitter, who specializes in Latin America, says, "These people do not feel politically secure. They feel much more exposed to the law in some ways than, say, the Italians and the Irish, who had their own kinds of political machines to support them."

DEA officials note that ring members arrested around Chicago over the last two years have posted several hundred thousand dollars in cash or security bonds, and those who jumped bail left behind upward of $60,000.

There is a limit to how high the ring will go, however. Javier Jaime and Pedro Diaz, for instance, arrested last year in a deal that netted DEA 14 pounds of heroin, were unable to post $4 million and $3 million bonds, respectively.

Some family cash is used to buy restaurants and apartment buildings, usually for operational bases, and for fun. Herreras are said to gamble. No one can say just how much drug profit they make. Surely it is enough to live comfortably on.

Sources currently are a bit confused about the Herrera family's local command structure. While Jose Ramon is mentioned most frequently as the chief, he reportedly went to California for several months not long ago and just recently returned.

There have been intelligence reports of Herrera involvement in heroin peddling in Southern California, and some police believe Jose Ramon's California sojourn may have been connected to that. Herrera heroin also is shipped from Chicago to other Midwest cities, particularly portions of Indiana.

Manuel Herrera, one of the four brothers, came to Chicago briefly last week, and sources speculate he only setopped long enough to straighten out local command problems or inform his family here that the Mexican government has begun a crackdown. He is not wanted by police for anything here.

Since August, 1974, 29 Chicago Herrera organization members have been arrested and either jailed or imprisoned to await trial, and another dozen are fugitives from drug agents here or in Mexico. Yet local DEA officials say at least 16 other ring members still operate in Chicago.

Agents have had little success making those arrested talk about the ring or implicate higher-ups.

[From the Chicago Sun-Times, Sept. 14, 1975]

EMOTIONALISM HARMS EFFORTS TO EASE HEROIN ISSUE

(By Allan Parachini and Andy Shaw)

In 1898, the Bayer Co., later known for its aspirin, introduced a cough medicine made from opium. Its chemical name was "diacetylmorphine." It worked marvelously and it seemed, in 1898, to have no untoward side effects.

Bayer gave diacetylmorphine a trade name that called up the symbolic image of strong but gentle womanliness. They called the product "Heroin."

Later, of course, heroin's unseemly addictive qualities overshadowed its performance as a cough medicine. The product can no longer be sold legally anywhere in the United States. And "heroin" has become a modern American scare word.

Public policy toward heroin has evolved not rationally but in panic; this substance has been perceived as a political and moral threat. The federal government has even tried to declare "war" on heroin. Richard M. Nixon issued that proclamation in 1971.

While emotional, irrational fear of heroin is difficult to avoid, unreasoning American panic over heroin has largely failed to excite the interests of governments in those countries which produce opium, heroin's raw material, or refine the substance itself. Interest has picked up abroad when rumblings of drug abuse in the producing countries have occurred. That is in part what is happening now in Mexico.

Long before the Turkish government yielded to American pressure and the promise of millions of American dollars in 1972 and banned previously legal opium cultivation, people in Mexico's mountainous interior were working to fill a market for a product in demand in the United States.

Mexico-based supply organizations, which could tap a pool of Mexicans and Mexican-Americans to form a natural distribution system, evolved as a matter of course.

In this climate, Chicago's largest family-operated heroin smuggling ring, the organization of Jaime Herrera Nevarez, sprang up sometime around 1960. The lowliest Herrera operatives, the campesinos who grow opium for the ring in the Sierra Madre mountains in northwest Durango state, certainly know they are doing something illegal.

But like the peasant farmers of Afyon Province, Turkey, the Durango campesinos are far removed both geographically and culturally from the American street drug scene, whose ugly public exposure has worked up American emotions. Herrera Chicago operatives are closer to the violence and pathos that have been forced on heroin addiction.

Some of the Herreras have been killed themselves in the drug trade, but that problem is due more to the black-market system than any innate property of heroin itself.

Like most gut issues, heroin has come to be thought of in simplistic terms. Despite overwhelming evidence that Mexico has become the largest source of heroin imported to the United States, the public remains largely under the impression that the trade is dominated by shady Corsican mobsters and rusting tramp freighters from Marseille—the French Connection stereotype.

The federal government has done little to correct the misimpression over supply. A July 29, 1975, report on international heroin control programs by the General Accounting Office wrote off Mexican heroin in one paragraph. The report devoted the rest of its 89 pages to a post-mortem on Turkish-French heroin, rich in predictions of re-emergence of that supply route, and a review of clearly extant though comparatively insignificant supply routes through the Golden Triangle countries of Laos, Cambodia and Thailand and

south Asian sources involving India and Pakistan.

A month-long study of how Mexican heroin reaches Chicago leads unmistakably to the conclusion that the dark brown product from south of the border is the dominant substance in Midwestern heroin traffic. The Herrera ring and other operations working through Chicago also ship to cities and states surrounding Chicago. It has been this way for nearly a decade.

Other impressions have cropped up, too. They are varied, but lead to one general conclusion. Heroin has led to emergence of a social, economic and political issue of depressing complexity and quite unrelated to the pharmacological properties of heroin itself.

It is difficult to imagine, having spent two intensive weeks in northern Mexico, that the growing of opium poppies and the refining of heroin can ever be completely stopped or even seriously impeded, regardless of the quality of the law-enforcement effort in Mexico. That is not to say much more heroin cannot be intercepted. Progress can be made.

After flying over northern Mexico, where opium poppies and marijuana grow in crop rotation, it is difficult not to come away with at least a sense of hopelessness and futility. The Mexican helicopter pilot talks about having only one aircraft available to patrol five states including Durango and heroin-rich Sinaloa. The American border reinforces the notion. It is enormous, open and badly secured. But the alternative, a 1,900-mile Berlin Wall in the Southwest, is even less palatable than the ramifications of the heroin trade.

Mexican enforcement efforts can be greatly accelerated, but there are cultural barriers that mitigate both for and against such action. Culturally, the Mexicans appear unimpressed by impassioned pleas for assistance in an American campaign against heroin, the perceived assassin of youth.

Most top Mexican government officials simply suggest that if America is so concerned about heroin, perhaps forceful steps should be taken in the United States to discourage demand, rather than relying on continuing pressures on supply. These officials, like Dr. Guido Belsasso, director of the Mexican Center for the Study of Drug Dependence, dismiss arguments that American political reality makes mandatory demand reduction impractical, if not impossible.

At the same time, Mexican President Luis Echeverria Alvarez, a conservative who considers himself a reformer, wants to be secretary general of the United Nations. Attorney General Pedro Ojeda Paullada wants to chair the UN Commission on Narcotic Drugs. A balance has been struck, involving pragmatic politics, and the Mexicans have started a serious if so far limited antidrug campaign. They have also come to fear growing native drug abuse.

The Mexican government is leery of admitting to its own people that it permits agents of the U.S. Drug Enforcement Administration to operate in Mexico. A DEA official in El Paso, Tex., said there is fear the Mexican people might resent this as much as U.S. citizens might take offense at a force of Mexicans in Texas and Arizona raiding gunrunning rings.

That is a chilling notion and a striking comparison. American-made firearms supply the criminals, including heroin traffickers, who shoot back when the Mexican Federal Judicial Police or other enforcement agencies close in. Mexico restricts the sale of guns. American smugglers fill the void.

DEA officials in Mexico privately complain of a lack of commitment by the Ford administration in the drug field. The grousing is over a perceived lack of support for the DEA, which is under political attack itself and whose director, John R. Bartels, was fired on orders of President Ford.

Richard Parsons, a White House staff man assigned to a Ford drug task force, was in Mexico three weeks ago, looking at the terrain for himself. The administration, which is due to uncork a drug policy of some kind in a month, will likely propose a strong program of prevention and education to deter drug use. It is a fine theory, since enforcement and after-the-fact suppression are at best of limited utility. The problem is, little is known about how to prevent or educate against drug use.

Here in Chicago, the Herrera family's U.S. power base, it is unlikely that even destruction of this particular Mexican-American heroin supply system would have more than a temporary effect on the availability of heroin. There are several smaller, yet influential and violent, heroin rings. Any of them could easily fill the Herrera void given a short period of time.

It is encouraging that the DEA and other narcotic police agencies, which had until quite recently been the seat of uncompromising, hardline, self-assured notions of right and wrong in the heroin "war," are starting to become aware internally of the limitations of law enforcement and the complexity and mystery of the heroin trade may be that the political pressure on DEA have played a role in this.

These police agencies are starting to stop playing the number game which facilitated the American heroin mystique with outrageous numbers of addicts (most responsible officials now admit there is no way to know how many there are) and related statistics, from street crime related to drug abuse (difficult to calculate under the best of circumstances) to the volume of the heroin business (its limits are simply unknown).

But none of these approaches will be significant unless the issue of heroin can be separated from political emotionalism. Even if that can be accomplished, what would happen next is uncertain.

[From the Chicago Sun-Times, Sept. 14, 1975]

THE DURANGO-CHICAGO CONNECTION

While the public remains steeped in the mystique of the French Connection or tales of the Golden Triangle in Southeast Asia, a disturbing new source of opium poppies—the raw material of heroin—has developed rapidly south of the border.

A Heroin Highway begins in the mountainous provinces of northern Mexico, runs down to the Pacific Coast, up to the Rio Grande River and, finally, on the concrete of the U.S. Interstate Highway system, into the backyard of Chicago—the Far South Side. As Sun-Times reporters Allan Parachini and Andy Shaw have documented with painstaking care, most of Chicago's heroin supply these days originates in Mexico and comes to the city along the Heroin Highway.

The efforts of local police in Chicago, Drug Enforcement Agency officials here, in Mexico and at the border, and the Mexican Federals have not been able to place enough barriers across the highway.

Both ends of the highway are controlled by a large and well connected Mexican family—the Herreras of Durango, Mexico, and Chicago, Ill. Herreras are arrested on the streets of this city; new leaders arise to take their places. Herreras operate with relative ease in Durango and its surrounding towns.

If illicit heroin trafficking is to be stopped, there must be a stronger effort undertaken by law enforcement officials of both countries at the local and federal level. Police and DEA officials here have made many arrests. But not enough.

The primary responsibility, however, rests with the Mexican government. Only recently has it taken a serious attitude toward control of opium poppy cultivation. The Federals can be better trained and equipped. Their leadership's resolve can be strengthened. The heroin supply can never be completely cut. But it can be stanched considerably with more help from Mexico.

THE DEBATE ABOUT HALF AN ECONOMIC POLICY

Mr. MONDALE. Mr. President, the Minneapolis Tribune published an enlightening editorial on the President's tax and spending proposals on October 21. The editorial points out that the popular tax reductions would begin on January 1, 1976, while the controversial, and perhaps unwise expenditure cuts would not be felt until 1977. It also points out that it is impossible to actually assess the wisdom of the cuts, because the administration has refused to be specific about the programs to be reduced. The editorial expresses the hope that James T. Lynn, Director of OMB, would provide some detail when he testified before the Senate Budget Committee. I am sad to report that he did not. Despite repeated questions from committee members, Mr. Lynn refused to provide any new information on the spending ceiling. He also refused my request for him to provide the background information that was given to the President by OMB and upon which the President's decision on the spending cuts was presumably based. I have often lamented the fact that Congress is repeatedly forced to make decisions on very limited knowledge. But, as the editorial points out, the President's refusal to provide this information needlessly leaves the Congress and the American people in the dark.

The editorial also asks the cogent question:

Should such programs as income support and child nutrition be curtailed when inflation and unemployment are expected to be at least 7 percent in 1976?

The Congressional Budget Office has analyzed the President's proposals and CBO economists believe that the effect of the tax and spending recommendations would be, by the end of 1977, to increase unemployment by 500,000 people, decrease gross national product by $32.9 billion, and decrease real gross national product by $15.6 billion below what the Nation would realize if the first concurrent budget resolution were continued.

I agree with the editorial that answers to questions like these must be forthcoming before the Congress can accept the President's proposal. Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

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

[From the Minneapolis Tribune, October 21, 1975]

THE DEBATE ABOUT HALF AN ECONOMIC POLICY

The debate on President Ford's proposed cuts of $28 billion in federal taxes and spending continues to be indecisive, in good part for a reason Ford gave in presenting the program Oct. 6. Americans, he said, "believe that the politics of federal spending has become too much of a shell game." To which a Business Week commentator responded by saying that while much of the Ford program is admirable, "it, too, may leave many Americans wondering which shell the pea is under."

Taxes are the lesser issue, at least in polit-

ical terms. The temporary reductions enacted earlier this year would, under the Ford proposal, be extended in 1976 to account for $17 billion of $28 billion in permanent tax cuts, with another $11 billion lopped off personal and business taxes. There have been criticisms of the distribution of the recommended tax cuts, but since their total exceeds even what had been contemplated by the Democrats, that part of the proposal was bound to be popular. The benefits would be early, measurable and felt by most of the electorate.

The more troubling side of the equation is spending, where whatever reductions the administration contemplates remain hidden under one of its shells. To fault the president for failing to be specific is not to object to slowing the growth of the federal budget; he was right to warn that government programs are easier to start than to stop, and his observation about "the swollen federal bureaucracy," despite its pejorative connotations, has validity. But to espouse the principle of federal frugality without saying how the goal is to be accomplished strikes us as an inadequate policy.

It may be inadequate in dollars as well. Without his requested restraints, the president said, spending in the next fiscal year would raise to $423 billion "without a single new federal program"; he wants a ceiling of $395 billion, or $28 billion less. But even a conservative administration occasionally finds something it thinks deserves new federal funds. Last week, for example, the Department of Housing and Urban Development said it would release $264 million over the next two years in mortgage-interest subsidies for moderate-income housing buyers. Technically, that may not be a "new federal program," since the money had been appropriated earlier by Congress; besides, the amount wouldn't make much of a dent in the budget. But what about arms and other aid in the Middle East? That program is both new and large—several billions of dollars.

Even if the administration plans further offsets against such spending add-ons, there is good reason to question whether it is politically possible, economically wise and socially just to contemplate reductions of the magnitude indicated. Does the president intend to trim $10 billion or $15 billion from the defense budget, as would probably be necessary to reach his goal? Is it sound policy to match tax and spending cuts dollar for dollar? (A study for the Senate Budget Committee estimated last week that higher incomes resulting from a $20-billion tax cut would generate enough new federal tax receipts by 1980 to replace those lost by the cut in tax rates.) Should such programs as income support and child nutrition be curtailed when inflation and unemployment are expected to be at least 7 percent during 1976?

One can guess at answers, but only guess, because until now the president has chosen not to disclose how he would accomplish the budget cuts that he insists be linked to lower taxes. This week the director of the White House Office of Management and Budget is to testify before the Senate Budget Committee. It will, we hope, be the occasion for lifting the shell that now hides the administration's budget-cut proposals.

ARNOLD NELSON

Mr. ABOUREZK. Mr. President, my staff and I were deeply saddened to learn of the death of Arnold Nelson of Evergreen, Colo., this past weekend.

In recent years, Arnie held several top key posts in the Denver regional office of the Department of Housing and Urban Development, at one time head of public housing production. Lately he had been heading the effort to establish within Denver HUD a special office for Indian programs to make HUD's response to the Indian people of the northern Great Plains much more effective than it has ever been. We had even been discussing with him the possibility of making that Denver office the national center of HUD's Indian programs.

South Dakotans are deeply indebted for the contributions Arnold Nelson made to the betterment of our State. He believed in what he was doing. He was extremely dedicated. Many times we put our total trust in his judgment, and every time we were glad we had done so.

The Arnold Nelsons of the world are few and far between. In his job he put up with a great deal of bluster, and stayed with it through all of that because he believed so deeply in the goals of the good programs.

For as much as all that is, it is nonetheless a shallow description of the man. He loved art and painted well. He was a joy to know personally, sometimes loud, cantankerous and hilarious, sometimes quiet, subtle, and shrewd. He was a brilliant man who would have been exceptional anywhere. We were delighted that he chose public service, where he was of a rare breed and sorely needed.

We will miss him very much, and we are extremely grateful to have had the opportunity to know him and to have worked with him. He was superb.

LONG-TERM NATIONAL ECONOMIC PLANNING: THE SWEDISH EXPERIENCE

Mr. HUMPHREY. Mr. President, last month I enjoyed the privilege of discussing Swedish economic planning with Prime Minister Olaf Palme, with members of his Cabinet, and numerous other officials of the Swedish Government. It was a most instructive experience.

These discussions were held in connection with an address I gave before the International Economic Association in Stockholm. Most impressive to me is the fact that Sweden has no severe unemployment problem, even now when the Western World is suffering from recession. In the first quarter of 1975, the rate of unemployment in Sweden, measured on a basis comparable to our own, was 1.5 percent; in that same period our rate was 8.3 percent.

Another impressive finding is that the Swedish economy is 90 percent private. There is a widespread misconception that Sweden is a "Socialist country," but I do not find that to be the case. The essence of socialism is government ownership of the means of production. By that test, Sweden is clearly a capitalist country and, I might add, it is a flourishing economy.

They are also a highly humane nation and maintain a comprehensive welfare program; but, I hasten to point out that a comprehensive welfare program is much easier to maintain in a full-employment economy than in one where unemployment exceeds 8 percent. The Swedes do not pay billions of dollars to workers for remaining idle for long periods as we do. They find jobs for them even when it is necessary to retrain persons. And when the production rate falls, they take effective steps to stimulate production.

I strongly favor the improvement of our own capability for managing our economic policies, and Senator JAVITS and I have introduced legislation to do that. Some critics have mislabeled it as an attempt to plan the entire economy. This is not true.

What our legislation is intended to coordinate are the public economic programs so that the Federal Government, in conducting economic policy, does not stumble over its own shoelaces.

The public sector has a tremendous effect on the private economy. Over 25 percent of the national income passes through Federal hands, coming in as taxes and going out as Federal expenditures.

Beyond that, however, the National Government maintains a number of regulatory functions that affect, in a very fundamental way, important sections of the economy, such as transportation, communication, ocean shipping, financial markets, and a variety of others.

The Federal Government plays a role as investor, as in the case of the space industry, which was financed entirely from Federal funds.

The Federal Government builds facilities on a substantial scale. Our Federal investment in interstate highways alone, in the past 20 years, has exceeded $100 billion.

The Federal Government exercises a strong effect on credit markets. It is a large borrower. It lends directly for many purposes. It guarantees loans on an extensive basis, primarily to housing.

It would be obvious to any sensible observer that this vast network of economic efforts ought to be coordinated in terms of national economic objectives. Yet, we, as a nation, conduct our so-called full employment policies with very little reference to this network of involvement. Indeed, the right hand often does not know what the left hand is doing and we frequently frustrate our own objectives. Witness, for example, our tax policies of past years that encouraged construction of oil refineries abroad and discouraged domestic investment. Another example is the Russian wheat deal which was consummated at a time of impending food shortages and sharply rising food prices.

I do not think I have to belabor this issue with my colleagues in the Senate. It should be obvious to all of us and I urge consideration of measures to help us become aware of where we are going in our economic activities and to guide us in achieving agreed-upon objectives.

My proposal is not a socialistic measure. Quite the contrary, it is a means of guiding our private enterprise economy and avoiding waste and underutilization of men and machines and to prevent unwitting frustration of our economic objectives by ill-advised decisions. We are floundering now because the Federal Government is not doing its job and that is precisely what our proposal will help the Government to do.

Our economy is almost entirely a private enterprise one; less than 3 percent

of the means of production is controlled by the Federal Government. Our bill would not change the role of private enterprise in any way. Indeed, it would free private enterprise from the confusion that now exists.

It would require that the Federal Government present comprehensive programs which would serve the purpose of coordinating Federal activities and it would be doing this in terms of our productive potential and priorities. This would provide some guidance and information to the private sector in helping then make their own decisions. It would set forth, in a straightforward fashion, goals for our economic development and performance and hopefully provide alternative patterns.

Business has been adversely affected by confused policy signals from the Federal Government. It cannot live with off-and-on directives like those emanating from the White House over the past 6 years.

Indeed, this was one of the themes that I heard at the meeting of the International Economic Association, which brought together some of the outstanding economists and economic policymakers of the nations of the world. It is a common experience that in the absence of some reasonable assurance about Government policies and their effect on wages, prices, production, and credit, businesses are put at a serious disadvantage in their own planning. In such circumstances, they are prone to raise prices more than they would otherwise do. One hears a common theme from economic policymakers these days, that the old rules do not apply in the traditional manner. Inflation and recession formerly served to offset each other. Now, we have both simultaneously. Now, other considerations have entered the picture.

In this regard, it is instructive to learn something about the policies of other countries. I was heartened to learn that Swedish planning functions adequately without any compulsion on the private sector. It serves to inform both the public and private officials on developing relationships between different parts of the economy and the consequences and alternatives available to the country.

The basis for evaluation is a projected, 5-year survey, which is prepared by the Secretariat of Economic Planning in the Ministry of Finance. This survey makes an independent forecast of productive capacities and coordinates 5-year projections of the various sectors. The industrial sectors are projected in cooperation with affected industries. A number of officials in Sweden point out that these surveys help to show up inconsistencies between supply and demand and expose coming problems which will require action.

One of the documents made available to me is a paper on long-term planning in Sweden, which was prepared by Prof. Assar Lindbeck, of the Institute for International Economic Studies, Stockholm, and which appeared in a recent book of his on Swedish economic policy. I believe that this may be of interest to my colleagues. Mr. President, I ask unanimous consent that it be printed in the RECORD in abbreviated form.

I am also submitting a copy of my speech which was delivered to the Economic Association in Stockholm. It discusses the need for better coordination of economic policymaking. I ask unanimous consent that it too be printed at this point in the RECORD.

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

LONG-TERM PLANNING

(By Prof. Assar Lindbeck, Institute for International Economics, Stockholm)

THE LONG-TERM REPORTS

In Sweden, as in several other western European countries, public documents on long-term tendencies of the economy have been presented regularly during the postwar period. Six such documents, called long-term reports, have been published (usually by specially appointed committees), the first appearing in 1948 in connection with the Marshall Plan. The director of these reports was Ingvar Svennilson, with the exception of the last two (published in 1966 and 1971) which were produced by a division of the Ministry of Finance, headed by Erik Höök. As the reports deal mainly with five-year periods, they could perhaps be more accurately described as "medium-term economic reports".

The long-term reports in Sweden may be regarded mainly as forecasts, with some discussions on economic policy alternatives, rather than plans. They deal with the development of the basic sectors of the Swedish economy during the forthcoming five-year period and are based on detailed inquiries and discussions with representatives of firms and organisations in the private and public sectors. Thus, a considerable exchange of information between representatives of the various sectors of the economy takes place during the course of the work on the report—before it is published. On the basis of this information, the long-term committee tries to construct consistent forecasts for the economy or to discuss the inconsistencies remaining in the various plans, which have to be resolved either by the market mechanism or by government economic policy. The forecasts are to some extent hypothetical, in the sense that statements about the future course of the economy are made *if* certain specified events occur (for instance for exports and productivity). Perhaps we could talk about "projections" rather than forecasts.

The inconsistency tests have mainly been concerned with macroeconomic equilibrium conditions in terms of national accounts (equilibrium between aggregate demand and production, between exports and imports or between the current foreign balance and the foreign capital balance) as well as balance in the labour market. The tests were rather fragmentary in the early reports, but became slightly more explicit and comprehensive in later ones, partly owing to the use of simple aggregate production functions (or at least capital/output and labour/output ratios) and, to some extend, input-output tables. With the help of Börje Kragh's earlier mentioned studies of trends concerning financial surpluses and deficits in various sectors, it has also been possible to study the consistency of the trends in real and financial sectors of the economy respectively, i.e. the consistency between investment and saving plans on the one hand and the need for financing, liquidity, borrowing and lending on the other.

The authors have stressed that the figures should be continuously revised in the light of new information—a kind of "rolling" forecasting. Actions in the short-run have to be regarded, to quote Svennilson, "as the first step in a strategy, which includes different long-run alternatives of acting". Thereby a flexibility in the planning is supposed to be achieved: "we should not make our valuations norms for future generations". The reports can perhaps be characterised as a modest type of "indicative planning". However, contrary to the early French plans, no fixed production targets have been formulated in the reports, and no attempts have been made to force the private sector to conform to the figures in the reports. In fact, the government as a rule has not even adopted the reports as official government policy. The documents may be regarded mainly as a method of transmitting information about activities in various sectors of the economy, whereby information obtained from markets is amplified. It is also widely believed that the publication of the reports creates confidence in the growth process, and facilitates a sustained growth of the economy.

Besides transmitting information about plans and problems, and making consistency tests, the committees have to varying degrees discussed medium-term policy problems, and sometimes also made economic policy recommendations on the basis of certain value judgements. Sometimes these value judgements seem to be based on the subjective values of the committee members themselves, sometimes on what the committee believes are the dominating political valuations of society. These recommendations have above all dealt with the "desirable" saving ratio for the economy and with the allocation of resources among very broad expenditure categories, such as private consumption, public consumption, private investment, public investment and the current balance in the balance of payments. Furthermore, the volume of housebuilding has often been a target of recommendations, and to some extent also certain components of the public sector, such as road-building. In certain other countries, such as the UK, France and Norway, the long-term reports have been more of official government programmes than has been the case in Sweden. This holds maybe in particular for the French reports.

The French long-term reports have usually been described in the literature as much more interventionist than corresponding reports in other western European countries. One reason for this is presumably that the early reports in France (immediately after the Second World War) established fixed production targets for certain sectors, which the authorities during this period to some extent tried to achieve by direct regulations, subsidies, credit controls, and "open mouth operations'. Another reason for this opinion of the French long-term reports is, in my judgment, that both French and foreign authors writing about "French planning" have given an exaggerated picture of the centralist and interventionist character of this planning. This holds in particular, I believe, for the sixties, when the planning system changed as the production targets for separate sectors practically disappeared, at the same time as the direct regulations to a large extent were removed as permanent factors of the policy. It is nowadays rather unclear to what extent the supply of credit in France is connected with the forecasts and plans of the French long-term reports. (On the other hand, it seems to be rather common that credit institutes in France often point out that a certain decision conforms well with the forecasts and recommendations of the reports—if this happens to be the case.)

In general, it can presumably be said that the emphasis in French economic planning during the sixties shifted from the private to the public sector. In the private sector, the plan figures became less and less binding, whereas planning became more elaborate

for the public sector. The results of the operation of the market mechanism have instead been more and more accepted. The less detailed intervention in the private sector is probably connected with, *inter alia*, the increased importance of foreign competition for this sector in France, which to a large extent complicates attempts to fulfill central targets for production volumes. Along with this development, there has also been increased emphasis on short-term planning problems, i.e. stabilisation policy, as has for a long time been the case in northern European countries, such as Sweden.

It might be worth while to try to pinpoint the main differences between long-term planning in France and in Sweden, in order to provide a benchmark for Swedish long-term 'planning':

(1) The French reports give a comprehensive concise overall presentation of the development plans in the public sector, which is not the case to the same extent in the Swedish reports.

(2) A more powerful and geographically concentrated location policy is outlined in France (with support for a number of fairly large cities, of around half a million inhabitants, at least for the future).

(3) The State has, to a much larger extent than in Sweden, made joint ventures with private firms, combined with credit supply and subsidies, in certain limited fields (steel, shipbuilding, the data industry).

(4) There probably has been, mainly earlier, some central regulation of the credit supply within the manufacturing sector in France.

Perhaps it can also be said that the Swedish long-term reports differ from the French ones by not *pretending* to be more than they really are—forecasts and numerical examples of macro relations, a discussion of problems of macroeconomic balance and of the consistency between plans, and a discussion, to some extent combined with recommendations, concerning economic policies.

THE OPTIMUM SAVINGS RATIO

As a rule, the long-term committees in Sweden have found that investment plans (or 'requirements') are much larger than expected (*ex ante*) saving with an unchanged economic policy. This has usually led the committees to argue for a higher investment ratio in the economy and heavier taxation of private consumption. In the first three long-term reports—1948, 1950 and 1955—the argument for a higher saving ratio was not explicitly tied to the question of the growth rate of the economy. The main argument was instead to bring about macroeconomic and sector *equilibrium* via an increase in the output capacity in certain sectors. In particular, the purpose of the increased capacity was to restore equilibrium in the balance of payments (the 1948 report) and equilibrium between demand and supply in certain capital-intensive sectors where equilibrium pricing was not accepted—mainly housing and the public sector (the 1950 and 1955 reports).

Not until the 1959 report did the growth rate of the economy as a whole come to the forefront of interest. The growth problem was then largely analysed as a problem of inter-temporal allocation of aggregate consumption, i.e. as a problem of achieving an optimum time profile of aggregate consumption. On this approach, not only the conventional investment ratio but also the volume of resources devoted to education and technological research and development came into focus—ideas well in line with the international discussion of growth at that time. Ingvar Svennilson, in particular, underlined the importance of these factors for economic growth.

This stress on the educational and technological factors is one of the reasons why the 1959 report, in contrast with the earlier ones, did not argue for a further increase in the investment ratio. However, the committee also seemed to be somewhat doubtful whether it was reasonable, from the point of view of social values, for the present generation to give up additional consumption opportunities for the sake of future generations, when the latter would anyway be very well off compared with the present generation. As Ragnar Bentzel asked provocatively in a memorandum to the 1959 report: 'What are the motives for such a redistribution of a consumption? Would not this be to take from the poor and give to the rich?'

In the international theoretical literature of recent years on the optimum saving ratio, the problem has usually been formulated as a question of maximising aggregate consumption within a finite, or infinite, horizon (with time discount), or as the problem of reaching a saturation level of wants ('bliss') within a minimum of time, or sometimes of finding what has been called a 'golden age' path for consumption.

CRITERIA FOR ALLOCATION POLICY

Measured in 1971 prices, GNP in Sweden rose from 14,600 billion dollars in 1946 to 37,900 billion dollars in 1971, i.e. an increase of 160 per cent or 3.9 per cent per year. The allocation of resources changed substantially during this period. For instance, the investment ratio (gross investment relative to GNP), quite in line with the recommendations of the long-term reports, rose from about 18 per cent in 1950–5 to 23 per cent in 1965–70, rather a 'normal' figure for European OECD countries. This increase occurred at the expense of private consumption, which during this period fell from about 66 to 54 per cent of GNP, a lower figure than that for any other OECD country except Japan (the western European OECD average being 60 per cent).

At the same time resources were shifted from the private to the public sector. At present, public consumption constitutes about 29 per cent of total consumption (compared with 18 per cent in 1950)[1] and public investment about 37 per cent of total investment (as compared with 29 per cent in 1950). As housebuilding takes an additional 21 per cent of total investment resources, the private sector has the responsibility for about 42 per cent of the investment activity in the economy, slightly more than the public sector (excluding housebuilding). The shift of resources to public services is illustrated also by the fact that in 1970 about 17 per cent of the total number of statistically measured labour-hours is devoted to 'public services', as compared with about 7 per cent in 1950.

The long-term development of broad aggregates of GNP (in constant prices) is indicated in Charts 9:1–9:3. As can be seen from these diagrams, both public investment and public consumption have expanded much more rapidly than GNP (except during the first part of the sixties). Public investment has also increased faster than private investment (except for the period 1955–65). And public consumption has increased faster than private consumption (except for the first half of the sixties, when both public and private consumption developed somewhat slower than GNP).

The relatively weak development of private investment during the fifties (up to 1958) may be an important explanation for the slow rate of economic growth of GNP during that period. Similarly, the acceleration of the rate of expansion of private investment during the period 1958–66 may be an explanation for the rather rapid growth rate of the economy during the sixties. (In the case of investment in manufacturing, there were two great investment spurts during this period—1958–61 and 1965–66. Will the rather slow rate of growth of private investment, including investment in manufacturing, during the period 1966–72 result in a slow growth rate during the early seventies? It would seem so.

These differences in the rate of growth of private investment can presumably be explained to a large extent by the economic policy during the various periods. In the fifties, private investments were curtailed drastically during the booms, while restrictive action during the early sixties was directed more towards private consumption, for example through the continuous increase of indirect taxes on private consumption from 10 per cent in 1959 to about 18 per cent in 1970. At the end of the sixties, private investments were again curtailed by a very restrictive monetary policy in the booms—implemented partly for balance-of-payments reasons—and by a negative trend in private profits. (Uncertainty about Sweden's relations to EBC might also have dampened investment in the manufacturing sector.)

Another way of expressing the expansion of the public sector in Sweden is to point out that public spending on goods and services during the period 1950–70 expanded by 5.1 per cent per year (in real terms), as compared with 3.9 per cent for GNP. For OECD countries in general the corresponding figures are 3.8 per cent for public spending on goods and services and 4.7 per cent for GNP.

The discussion of the problem of the allocation of resources in Sweden has to a large extent been concerned with aggregate variables such as the growth rate of GNP, total availability of labour and capital, the investment ratio, the (ex ante) saving ratio, the balance of payments, etc. This characterisation holds for the long-term reports, which broadly speaking may be described as short-run national budgets extended to a five-year basis. Problems of the optimum allocation of resources have been discussed very sparingly, except for the 'consistency test' earlier mentioned, the usual advocacy of a higher investment ratio and certain attempts to establish priorities between the public sector, the private sector and housebuilding.

However, sometimes more detailed recommendations were made in the long-term reports. Thus, on some occasions priority was advocated for investment in housing and public services, such as schools and hospitals (in the 1950 and 1955 reports); sometimes for investment in manufacturing (in the 1947, 1959, 1965 and 1970 reports). Priority for the manufacturing sector was particularly emphasised in situations where either economic growth, as in the 1959 report, or balance-of-payments problems (at unchanged exchange rates), as in the 1970 report, were at the centre of interest in the general economic policy discussion. In certain instances priority was advocated for investment in the commodity-producing sectors (in the 1948 and 1959 reports), and on some occasions it was recommended for the service sector, such as department stores and distribution in general (the 1955 report). A general pattern seems to be that a sector that had been discriminated against in one report was often favoured in some of the subsequent reports (except private consumption, which has never been very much favoured), reflecting a "priority cycle" in Swedish economic policy.

A reason for this rather modest treatment of allocation problems is of course that it is

[1] This is actually an underestimate of the volume of public consumption, in the sense that capital costs are not accurately included in the measures of public consumption.

difficult to find reasonable criteria for detailed recommendations in an economy characterised by fairly free international trade and adherence to the principle of "consumer sovereignty". Practically no attempts have been made to evaluate the allocation of resources arrived at via the market forces.

A particular difficulty for detailed recommendations regarding intervention in the allocation of resources is that quite different price systems exist in different sectors of the economy. This means that it is very difficult to use market data either on profitability or on excess demand to draw conclusions about 'investment requirements' in various sectors. If, as has usually been the case in the long-term reports, investment requirements are measured by the excess demand in various sectors, the investment 'needs' will naturally always appear to be particularly large, not to say insatiable, in areas where the price is fixed at zero or very far below the equilibrium level. When this method of measuring investment requirements is used, the housing sector and large parts of the public sector will necessarily seem to be undersupplied with resources compared with other sectors, where equilibrium prices prevail.

These problems might not be so difficult if it could be argued that consumer prices in these sectors are simply an expression of the valuation by the authorities of these commodities, compared with other commodities. In this case it would be rational to move resources, corresponding to the stimulated demand, to sectors with low prices. However, this is a dubious way of looking at the problem, as will be obvious if we ask how the low prices have come about in the different sectors. For instance, the high consumer prices for agricultural products cannot be interpreted as a low official valuation of food consumption; these prices are instead 'unintended' effects of the present system of income support for farmers. And in the housing field, with existing rent control, the relative price of housing is simply a result of the rate of inflation; the more rapid the inflation, the lower will be the price of housing compared with other commodities. Without inflation it is even possible that, with the present stock of dwellings, there would not be any excess demand for housing at all. Moreover, if the demand for housing, stimulated by rent control, is regarded as an expression of the authorities' valuation of housing consumption, compared with consumption of other commodities, rather inconsistent valuations have been applied on the demand and the supply side; the authorities have hardly been prepared to move enough resources into the housing field to satisfy the demand stimulated by housing policy. The tendencies to equilibrium in the market for newly built apartment houses in the early seventies, still with excess demand for the earlier produced stock, depends not only on a rather high level of housebuilding but also on rapidly increasing building costs. In fact, there is an excess supply of new apartments in 1973–4.

Not even the queues for public services such as schools and hospitals can, without a closer look, be taken as indicators that these areas are undersupplied with resources *compared with other sectors*. For in these areas, the queue method has consciously been chosen as a method of distributing the services, rather than relying on the price mechanism. This means, of course, that the existence of a queue, or its length, does not tell us whether this sector is discriminated against in the allocation of resources. If queues in certain sectors, as for schools and medical care, are regarded as a better way of distributing a commodity than relying on individual choice in a market with equilibrium prices, then queues have to be accepted as a more or less permanent phenomenon in these sectors. Consequently, it is necessary to use considerations other than the length of a queue, such as political judgment, social-profitability analysis or cost-benefit analysis to determine the appropriate allocation of resources.

Thus, it is extremely difficult to find reasonable criteria for an appropriate allocation of resources in such a "dual economy", with equilibrium prices in the private sector and controlled prices with permanent excess demand in housing and public services. Not only do we lack information about the demand curves for the various types of public services (and housing), but the demand curves in the other sectors are influenced by the price policy in the controlled sectors. Another problem in the public sector is, of course, how to find criteria and create incentives for efficiency when there is no market test of the performance of the institutions. These difficulties are, of course, particularly acute for a country, such as Sweden, which has a large sector of public services. So far however, politicians and administrators in the public sector have shown very little interest in these important issues.

REMARKS BY SENATOR HUBERT H. HUMPHREY AT THE INTERNATIONAL ECONOMIC ASSOCIATION, STOCKHOLM, SWEDEN, SEPTEMBER 3, 1975

It is an honor and a personal pleasure for me to address this distinguished group of international economists and policymakers.

Economic and political power in the world is shifting. Economic policies are being reassessed. Heretofore comfortable economic principles and theories are being questioned.

The dollar has been devalued. The currencies of Europe and Japan are now the most sought after.

The oil-producing nations of OPEC have caused the quickest redistribution of income in history—a redistribution still underway. This has triggered a world-wide reassessment of who carries political clout and who is being edged out. As a result, there is a world-wide temptation for nations to realign themselves economically.

On the positive side, the oil crisis has forced an overdue assessment of the world's energy reserves. It has provided definite proof that the industrial nations of the world must cooperate in meeting common economic problems.

We survived oil price increases in a far better fashion than predicted. But this relative success was achieved only by common efforts of the industrialized nations to avoid the temptation to "go it alone." Most nations realized that such a solution would only leave all of us in a disadvantaged position.

The late Adlai Stevenson, a colleague and dear friend, often referred to "this space ship world"—the notion of the earth as a huge space ship moving through the universe. East and West have now met—joined together and even shared the same cabin in space. And we have learned first hand that space ships require concentration on navigation—the direction of the ship, and careful management of the limited resources available to those on board.

Interdependence in space and on earth demands coordination and cooperation among nations.

Interdependence demands sensitivity to the needs of others in the name of greater prosperity for all.

And interdependence demands a new economic maturity among nations.

In America we have yet to recognize that our economic well-being depends upon others as much as ourselves.

To be frank, it's been easy for us to go our own way.

It's been easy for America to be both a great and insular economic power.

We are blessed with abundant resources. We are the world's bread basket. And unlike many other industrialized nations, we have been spared the destructive ravages of war for generations.

There is another reason why America has been slow to recognize the need for interdependence. We are a young nation. We have displayed the optimism and independence, and I must confess, the cockiness of our youth.

Yet, let me emphasize I am proud of that youth. We were robust, endowed with idealism—eager to lead.

But as we approach maturity we are beset with uncertainties. Traditional economic concepts and theories no longer seem valid. This does not mean we have to do away with our past but simply that we must re-examine it and build on it.

In the past the very size and strength of the American economy isolated us from the effects of economic fluctuations abroad. But we no longer possess this immunity.

Devaluation and the oil crisis doubled our rate of inflation.

Energy price increases reduced our national output for five consecutive quarters.

Because of this, 4 million Americans lost their jobs.

The spending power of the average American worker is no greater than it was 10 years ago.

In short, we have been plagued by unique circumstances. Never before have we faced double-digit inflation accompanied by unconscionable levels of unemployment.

Our traditional economic theories don't tell us how to deal with high inflation together with high unemployment. They only tell us how to reduce one or the other—but not both together. These new circumstances have forced a rethinking of basic economic theories.

This is particularly true in America. We have seen that restrictive monetary and fiscal policies are not effective in reducing inflation in oil or food prices. They only raise unemployment.

The failure of traditional economic policies is the focus of the current American economic debate which is now raging between a Democratic Congress and a Republican President. The Congress is pushing for growth in GNP using more stimulative monetary and fiscal policies. The Administration still is operating under the questionable theory that in order to reduce inflation we must be willing to endure a longer period of unemployment.

The President recently pointed out that more Americans suffer from inflation than unemployment. But that is hardly the whole story. While official statistics reveal that over 8 million workers are now unemployed, a detailed examination reveals another 3.5 million seeking full-time employment but finding only part-time employment.

At any time 25 million wage earners and their families are touched by unemployment.

And over the next year some 75 million Americans will be directly touched by unemployment.

Unemployment is a colossal economic waste, but it is also a human tragedy.

It is being told, "There is no place for you."

The social costs of unemployment are enormous. But the economic costs alone are startling. It is estimated that unemployment will cost the American economy between the years of 1974 to 1980 about a trillion, 500 billion dollars in lost goods, production and income. It forces government expenditures up while reducing government revenues. It forces society to postpone badly needed investments to improve the quality of life.

We also find that after each recession a higher level of unemployment remains to burden society.

In 1946 our goal was full employment.

By the early 1960's we were told full employment really meant 4 percent unemployed.

By the late 1960's the officially acceptable employment target was 5 percent.

And President Ford in his January budget message proposed economic policies that would keep unemployment above 6 percent for the rest of the decade. This is a tragedy. And it is dangerous!

Indeed we have a sizable segment of our population in danger of developing an alienated life style—of becoming a class apart—separated from the main stream of our society—compelled to cut corners—and maintained by an inequitable and inadequate system of welfare.

In America unemployment leads not so much to revolution as to disenchantment. It leads us to a loss of our sense of community. The economic disenfranchised no longer have a sense of belonging. They have been rendered handicapped. It goes without saying that unemployment is like an insidious infection, sapping our strength, denying us productivity, and weakening our social and economic system.

This malady affects all countries to a degree but in our case it is magnified by added racial differences—40 percent of our inner-city black teenagers are out of work. Large numbers of American Indians and poor whites have been forced out of our economic system. A portion of our youth have spent their entire life dependent on welfare and public benefits. We are developing a welfare caste system.

We have a desperate need to get them back to work. This means restoring their faith, their sense of dignity.

I must tell you candidly there is a wide policy difference in the United States today over how quickly unemployment can be reduced. The Democratic Congress has repeatedly passed legislation to accelerate housing construction, to stimulate public employment, and to increase consumer spending power.

Regrettably, President Ford has vetoed much of this legislation.

He believes the legislation to be inflationary. But the majority of our economists find it difficult to believe this legislation will be inflationary when one third of our productive capacity lie idle and 8 million workers are unemployed.

The gap between our actual and potential output is now enormous. Our economy could easily absorb the additional stimulus we called for without triggering inflation.

In fact, as far as these inflationary dangers are concerned, I would stress that a substantial rate of expansion of production over the next two years, say at 8 or 9 percent, would not generate undue inflationary pressures. Indeed, expanded production will reduce inflation as gains in productivity push down unit labor costs.

The Administration's fear of renewed inflation could slow or even stop our economic recovery. I need not remind you that these fears were largely responsible for exacerbating and prolonging the worst recession since the Great Depression.

The duration of past recessions was shorter and recovery more vigorous. Now there is cause for concern about longer range prospects for solid recovery. Automobile production is very important to our economy and we have yet to see vigor in the recovery of this industry. Construction of housing is another important factor in economic performance and this, too, has not as yet shown enough vitality in its recovery.

But the key to rapid economic recovery is increased employment. And there is a great deal more that my country can do to increase employment through expanded public service jobs.

Because we have been blessed with a well endowed and vigorous economy, we have spent little time on the issue of public employment since the great depression of the 1930's. We need to remind ourselves, therefore, that temporary stabilizers like unemployment insurance are no substitute for productive public or private sector work.

Many people say that America is privately rich, but publicly poor, that our public sector is starved. There is a great backlog of public works in America—in public transportation, in the restoration of our cities and in the cleansing of our environment.

An expanded public service jobs program will reduce this backlog, and raise our national income.

It will close the yawning gap between actual and potential GNP.

It will replace unproductive idleness with productive labor.

And it will restore essential public services eliminated by recession-induced state and municipal budget cutbacks.

A rapid economic recovery in America rests on the twin pillars of a stimulative fiscal and monetary policy. In directing monetary policy, therefore, the Federal Reserve System, our central bank, must be a full partner in stimulating recovery. It must maintain a monetary policy sufficient to accommodate recovery while at the same time avoiding inflation.

Persistence of inflation in the midst of our recession shows that we need a national incomes policy. The powers of our Wage and Price Stability Council must be increased and the structural causes of inflation must be attacked, including a more aggressive enforcement of anti-trust laws.

The speed with which our recovery occurs is very important not only for my country but for the other nations of the world.

In clearest terms, because of our global interdependence, all nations have a stake in the ability of the American economy to recover rapidly.

Let me issue a warning now that recovery both in America and world-wide may be reversed due to selfish or shortsighted actions by the oil producing nations. Rumors abound that the OPEC nations will again increase the price of oil in October.

If they take this action, disastrous economic consequences would ensue both in the industrialized and developing nations of the world. And it can only increase political tensions in the Middle East and elsewhere.

OPEC must be convinced that the predicted oil price increases can only have a destructive impact on the foreign economies in which they have so heavily invested, and on the economies of the Third World already shaken by soaring energy bills.

All nations must bring every reasonable influence they can command to prevent another oil price increase. There is no other alternative!

Our present struggle with inflation and recession has reminded us dramatically of our need for economic planning. The United States is the only industrialized nation in the world without a central planning body.

We can no longer afford the luxury of haphazard, ad hoc and disjointed policy making.

Total government spending now amounts to more than one third of our trillion, 500 billion dollar GNP. This impact is magnified by government rules, regulations, subsidies and credit policies influencing every area of the private economy. These activities are carried out with all too little regard of their impact for any period beyond the current year. We have little, if any idea, whether these policies complement each other or work at cross purposes.

There is no mechanism by which these policies can be evaluated, nor is there any agreement on national goals and priorities. This haphazard conduct of Federal regulatory, fiscal and monetary policies contributes to uncertainty and is wasteful.

There is a growing recognition in government and in the American business community that we are competing at a disadvantage with nations that have more advanced economic planning—and there is a growing recognition that there has to be some definition of our long range economic and social goals.

With these considerations in mind, Senator Jacob Javits of New York and I introduced a bill this spring in the Senate entitled, "The Balanced Growth and Economic Planning Act of 1975."

This legislation establishes a central source of economic data.

It establishes a planning process which relies on inputs from state and local governments and the private business community.

It is designed to establish a system of improved economic management.

It is designed to enable private enterprise to plan with a great degree of certainty.

In short it will improve the efficiency we allocate our national resources.

Let me add that the very fact of introducing this bill has sparked a heated debate in America about the need for more economic planning. This was our purpose. But let me point out that our objective is not a planned economy but rather a planning society; a compact between government and the private sector to look ahead—to produce more goods and services with fewer resources due to improved forecasting and increased economic predictability.

We will never engage in planning just for the sake of planning.

Someone once said, it is politic not only to pay attention to a nation's laws and aspirations, but its superstitions, too.

Opponents to economic planning are terrified at the thought of putting all their eggs in one basket—which is but a manner of saying it is best to scatter your money and your attention. In the name of free enterprise they cling to this superstition. But to borrow from our American humorist, Mark Twain, who said:

"Only a fool saith—do not put all thine eggs in one basket. The wise man saith, 'it's okay to put your eggs all in one basket—just remember to watch the basket.'"

Believe me, it is our nature and our inheritance and our American way of life that any attempts at long range planning will have two hundred million eyes glued on the basket!

Let me emphasize that a nation's economic policy is part of a much broader complex of political and social factors. In the United States, we have come through a long period of travail—the race revolution, the terrible tragedy of Vietnam, the Watergate scandal, and we must now cope with a serious recession. For the first time in our history, we had a President and Vice President who resigned and we have at this moment a President and Vice President who were not popularly elected.

But our constitutional government has distinguished itself in surmounting these difficulties. As a nation, we are strengthened in the conviction that our democratic society, with all its diversity and difficulties is sound.

We know that our economic house must be put in order. And we will put it in order through a combination of fiscal and monetary policies and planning designed to coordinate our domestic economic policies.

But the task of bringing economic planning to America is a simple one compared to achieving greater economic cooperation among industrialized nations.

Let's be frank about it—America, Europe and Japan pursue domestic economic policies independent of one another.

The world-wide boom of 1971 and 1972 and the following world-wide recession demonstrated that independent policies can exaggerate fluctuations in the level of economic activity to an alarming degree.

Unilateral economic decision making ignores the fact of our economic interdependence.

The United States, Europe and Japan simply must make a greater effort to coordinate their domestic economic policy. Even now, the depressed Japanese and European economies are awaiting an export led recovery fueled by American consumers rather than following a coordinated plan of action.

Yet, coordinating domestic and economic decisions at the international level will not be an easy task. It cannot be carried out by experts alone.

The magnitude of the political and economic decisions necessary for coordination will require the attention of the heads of state, of political leaders.

It will require an economic summit conference among OECD members who all face the same unique problems of urban, industrialized societies.

Therefore, I propose that an economic summit conference be convened this fall to bring together the heads of states of the industrialized nations of North America, Europe and Japan to discuss the specific coordination of their domestic economic policies. It is essential that they discuss and arrive at acceptable policies in the fields of energy, food, employment, trade and to combat inflationary policies.

The economic summit conference can focus attention on the enduring problems of how industrialized economies should deal with such problems as trade barriers and international monetary reform. But the summit should not be a substitute for the already existing dialogue on these matters. Rather, its role would be to highlight and complement such discussions.

Convening of such a summit conference would not interfere with the continuing efforts of industrialized nations to engage OPEC and the developing nations in constructive and cooperative dialogue. Clearly, coordination of domestic economic policies within the OECD can only lead to a more rapid growth of markets for both OPEC and Third World products.

The summit will benefit all trading nations. It should not be misinterpreted by either developing nations or OPEC as a step toward economic confrontation.

While the industrialized nations of North America, Europe and Japan attempt to coordinate domestic economic policies, they must not lose sight of the growing importance of the nonmarket economies of the Soviet Union, Eastern Europe and the People's Republic of China.

My country's trade with Communist countries has increased substantially, from $580 million five years ago, to nearly $3.5 billion today. Even larger increases have occurred in the case of other Western nations.

I believe that the growth in East-West trade and commercial relations should be encouraged and expanded, for economic as well as political reasons. But there are still some important hurdles in the way of a substantial expansion of such relations.

There is a tremendous lack of knowledge among businessmen in Europe, the U.S. and Japan about how to market their products in Communist countries and how to deal with state trading monopolies.

Many Communist countries have a shortage of convertible currencies which limit their access to our markets.

And to be frank, the sharp differences between political systems have played a role in the development of legislation placing limits on East-West trade expansion.

Preoccupied as we must be with the total range of economic problems of the industrialized world, we must not forget the urgent problems of over one billion of the world's poor in the urban slums and rural villages of the developing world. These people have not benefited from the post-war economic boom.

We must address the growing disparity between rich and poor nations. It is not only a moral and humanitarian problem but an economic one as well. There are too few signs that the industrialized nations are willing to work together with the developing world in reaching substantive solutions to these problems.

Hopefully, more progress will be made at the Seventh Special Session of the U.N. General Assembly which is just opening in New York.

America has a significant role to play in the creation of a development strategy which could meet the needs of the poorest nations. Secretary Kissinger is outlining what our contribution can be. It is clear, however, to me that the cornerstone of a sound development strategy for the Third World is increased food production.

Industrialized nations have a unique opportunity now to make a commitment to increase agricultural production in the developing world through the newly created International Agricultural Development Fund. This fund, to which OECD and OPEC nations will be asked to commit initially a billion and a half dollars, could go a long way in bringing about greater food self-sufficiency, improved diets in developing nations and aid small farmers. But, unless we act now, the U.S. Department of Agriculture estimates that the world food deficit by 1985 might run as high as 71.6 million tons of grain. It could be held as low as 15.8 million tons if prompt action is taken.

The development of a self-sufficient food policy for the Third World should be accompanied by creation of a world food policy in which the United States plays a major role. The major components of this policy must be international food reserves and a full and free exchange of food production and marketing information.

Many centuries ago, governments found it desirable to establish food reserves to cushion the impact of sudden shortages in supplies. My own country stands unique in the world in not having government reserves even today. America also is the only nation allowing free, full and private access to domestic food supplies.

As a result, our consumers and producers are on the crack end of the world food whip. They are all exposed to a shocking degree of price fluctuations.

They need greater stability. And greater stability requires food reserves, insulated from the market so as not to depress farm income. At the same time these reserves must be adequate to meet our domestic needs and to insure our steady customers of adequate food exports.

This vital food reserve in America could be held by the farmers themselves under a crop loan program that would permit them to carry such inventories, or it could be a combination of farmer-held reserves and government supplies.

Ready access to our American market by occasional customers should hinge on their participation in an early warning system where information on food supplies and crop prospects is provided.

We should not permit easy, penalty-free access to our food supply by nation's unwilling to provide consistently complete and accurate information on the condition of their own crops and food needs.

Let me emphasize that the world must no longer depend on the U.S. to be the sole food reserve country. The burden must be shared.

This principle also should apply to other basic commodities. In this period of raw material shortages and rising prices, there is a temptation to use economic trade as a political lever and even as an economic weapon. Let us all resist this temptation. Such a power struggle can only leave everyone in a disadvantaged position.

I am hopeful that producers and consumers will not conduct economic blackmail. I am optimistic that the family of nations will realize that constructive economic interdependence offers the best route to world stability and prosperity.

Economists and finance ministers are by nature prudent and conservative and rightly so. The public man, yes, the politician must be able to sense changes which are taking place and alert us to dangers. Public policies must be the product of public understanding and governmental decision.

There is no better way for me to share my own concern than in the words of our greatest American statesman, Abraham Lincoln:

"The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise with the occasion. As our cause is new so we must think anew and act anew. We must disenthrall ourselves. . . ."

Gentlemen this is a different world than it was 100 or even 25 years ago, you and I both know it. There are rising expectations; in both the industrialized and developing worlds. It is our task to realize this—to plan for the future and to do it together.

FREDERICK J. LORDAN SERVED WELL

Mr. RANDOLPH. Mr. President, last week the Senate lost an able and devoted staff member with the death of Frederick J. Lordan, staff director of the Committee on Commerce. For more than 25 years, he worked with the Members of this body and was instrumental in shaping numerous legislative initiatives.

In recent years, my office has been located just across the corridor from that occupied by Fred Lordan. I, therefore, had the privilege of seeing him frequently. He was always cheerful, even though the responsibilities of his position were substantial.

He had long experience in transportation matters and in that respect we shared a common professional interest. Fred often counseled with the Committee on Public Works as we developed transportation legislation and I valued his willingness to share with us his wealth of knowledge.

Mr. President, Fred Lordan had many friends on Capitol Hill. All of us will miss him but we will remember him as a man of high integrity and as a public servant of the highest order.

LESS GOVERNMENT REDTAPE FOR THE RED PEOPLE

Mr. ABOUREZK. Mr. President, why cannot writers who draw up Federal Government regulations involving Indians, or others for that matter, keep their writings brief and clear so that Indians and others that are affected by said rules would be able to understand them?

A statement arrived recently from Mr. Frank La Pointe, a Rosebud Sioux from South Dakota, which explains his problem in trying to interpret recent Bureau of Indian Affairs and Indian Health Service regulations that relate to Public Law 93-638, also known as the Indian Self Determination Act.

Mr. President, Mr. La Pointe's statement is so directly to the point that I would like to share his comments with my colleagues and I ask unanimous consent that his statement be printed in the RECORD.

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

[From Sicangu Oyate Ho Inc., St. Francis Indian School, St. Francis, S. Dak.]

STATEMENT BY MR. FRANK LAPOINTE

My name is Frank LaPointe, a member of the Rosebud Sioux Tribe.

This statement is being sent via the U.S. Mail but I hope it will be accepted along with other specific recommendations that must be taken seriously if P.L. 93-638 is to mean anything to the grassroots Indian people.

My plea to you, Mr. Chairman, is that your Subcommittee take a larger view of these proposed rules and regulations. Please give the Indian people something to celebrate during the Bicentennial—less government red tape for the Red People.

I would like to quote from an editorial in the Rapid City Journal on August 23, 1975. Although I don't always agree with its editorials, this one hit the nail on the head:

"Big government is unequipped to take into account unique factors involved in transactions between 50 states, 30,000 locations, and 200 million citizens. As each of the hard and fast regulations prove inapplicable or unresponsive to a new situation, new regulations, exceptions, and redefinitions are enacted in a never-ending struggle to keep pace with the real world."

We are trying to run an Indian controlled contract school out here in the real world and we looked upon P.L. 93-638 as a real solution to some of our real problems.

Now, however, we find a situation similar to that described by the Journal. We have read 58 pages of fine print being proposed for the unique situations in more than 800 Indian tribes, bands, or organizations listed in the 1970 Census, including 792,730 tribal members in 50 states and the District of Columbia, ranging from Oklahoma with 96,803 to Vermont with 204, living on 115 major Indian reservations and many more smaller ones or in 30 metropolitan areas with Indian populations over 2,500 and countless smaller towns.

The 1970 Census also says the median years of education for Indians living in Washington, D.C. is 12.6 so they probably can wade through all the governmental language in these 58 pages, but we Indian people out here in the real world have a heck of a time because our median years of education is only 9.8.

In 1970, there were approximately 20,000 pages in the Federal Register covering rules and regulations. In 1974 that figure jumped to 46,000 pages, and this year the estimate is at least 50,000 pages.

The 58 pages added to the Federal Register on Indian Self-Determination are the straw that is breaking our backs and blowing our minds in our struggle to comply with federal paperwork.

Your Subcommittee should take the lead in turning this country around and make a significant contribution to the real meaning of the Bicentennial Celebration—to allow people on the grassroots level to operate government programs in a way best for them. This means the proposed rules and regulations on P. L. 93-638 should be flexible enough for the unique situation on our reservation as well as the other 114 major reservations in the country.

This can be done in part by ordering the Secretary of the Interior to bring these proposed rules and regulations back to your Subcommittee within 10 days—in a form not to exceed 10 pages in the Federal Register.

Impossible? Maybe, but it would make a real goal. After all, one of the best set of comprehensive rules ever laid down was given to Moses by God Himself on 10 stone tablets. By following this example, your Subcommittee can set the pace for the rest of the government in dealing with "burrocracy" where stubborn adherence to the rule that paperwork begets paperwork is bordering on illicitness.

UNITED STATES MUST EXERT HUMAN RIGHTS LEADERSHIP

Mr. PROXMIRE. Mr. President, there was a time when the United States could practice a policy of isolationism. This is no longer possible. We can no longer crouch within our own borders and declare ourselves to be merely a collection of hermits who have no desire to know what happens beyond our shores. Such a policy would be folly; our Nation and all nations have become dependent upon one another in an intricate, inescapable scheme of alliances and agreements.

We have established a distinguished position among the world's nations and only a series of our own illogical actions could alter it. It is my conviction that failure of the Senate to ratify the Genocide Convention would be such an action.

Genocide has eradicated the lives of many—Poles, Slavs, Armenians, Chinese, Hungarians—totaling more than 20 million humans. We should not leave the slightest impression in anyone's mind that the United States condones such inhuman actions.

Over 75 nations of the U.N. have realized the significance of this document and have ratified it. The United States has shamefully ignored the Genocide Convention for 27 years.

Our country must not make a gross error and hesitate to assert our basic beliefs. The United States is not a detached nation; our country is an involved leader.

We must exert our leadership to condemn any possible infringements against the principles of our Declaration of Independence. I strongly urge you to ratify the Genocide Convention.

ALTERNATE FORMS OF ENERGY UTILIZATION AND CONSERVATION METHODS

Mr. BAYH. Mr. President, between 500 and 1,000 bills relating to energy matters are pending in committees and subcommittees in the House of Representatives and the Senate. I have introduced such legislation myself. Together with Senators ABOUREZK, PHILIP A. HART, and PACKWOOD, I have proposed legislation to break up vertical integration of the major oil companies in order to bring competition and competitive pricing to the oil industry.

This measure is addressed to pricing and production problems in the oil industry. Similar measures introduced by others focus on the supply, production, pricing or delivery of natural gas or coal.

Today, however, I wish to address myself to another aspect of energy: the development of alternative forms of energy utilization, and the development of conservation methods.

I wish to emphasize a simple point: that energy conservation is the fastest, the cheapest, and the most environmentally safe way to increase the energy supply. While the development of alternative energy sources requires investment of time, money, and technology, we can and must act rapidly to "produce" fuel by conserving it.

Responsibility for these two programs, previously scattered among several Federal agencies, is now largely concentrated in the Energy Research and Development Administration—ERDA.

Action which ERDA takes now in the research and development of alternative energy forms and conservation will have a crucial impact on U.S. consumption of fuel and on the U.S. economy for years to come.

Action which Congress takes in the fulfillment of its oversight and funding responsibilities with respect to ERDA will, similarly, have a long-term impact.

Earlier this year, the administration submitted to Congress authorization and budget requests for ERDA. The budget request reflected no sense of the urgent need for a concentrated Federal effort in energy research and development.

Specifically, the administration budget reflected a great imbalance in favor of nuclear power and defense, and a consequent short-changing of other energy sources. More than one-half of the ERDA budget, in fact, was devoted to nuclear weapons and nuclear development.

Second, the budget to improve technologies for energy conservation was totally unrealistic in terms of the importance of energy conservation in national energy policy. Energy conservation accounted for less than 2 percent of the administration's total ERDA budget.

Fortunately, two committees in the House of Representatives and two committees in the Senate have acted with great foresight to reorder the priorities contained in the ERDA authorizing legislation. For example, the House Subcommittee on Energy Research, Development and Demonstration of the Committee on Science and Technology increased the ERDA authorization for energy conservation research by almost $100 million—the largest authorization increase which the House made compared to the administration request.

The Senate committees have made similar improvements.

Mr. President, our country's potential for energy conservation and development of new energy sources cannot be achieved solely by a crisis-oriented program; or by an undue reliance on voluntary measures or action by private industry; or by high fuel prices.

The Senate and the House, in dealing with ERDA, have recognized these facts. We need a comprehensive, long-term effort to utilize energy more efficiently and reduce waste.

And, I submit, such an effort requires adequate Government assistance.

NEED FOR GOVERNMENT ASSISTANCE

Because this point is basic to understanding what Congress is trying to do through ERDA, I want to elaborate on the reasons why Government involvement is necessary in energy source and energy conservation research and development.

First. Rational business decisions made by private industry are based on the profit motive. Such decisions neces-

sarily reflect a balancing between the risks—the probability of making a profit, including a calculation of when that profit will be realized—and the expected return.

There is nothing wrong with this; this is how the private sector is expected to operate. This is free enterprise.

But it may not be profitable or rational for a private business to indulge in long-term, risky energy and development.

Our national needs are immediate; we cannot wait for private energy development to occur at such time when it will be a profitable enterprise.

Second. Invidual businesses cannot always afford to indulge in massive research and development programs. Or, they can afford to do so if the product of their investment is protected: if a new technology gives the developer a competitive edge and, therefore, the investment returns a profit. This requires that the technology not be shared.

But our energy needs are national: we need to develop technologies which will be widely available so that the national problem will be solved.

Third. The energy problem is more than an economic or business problem. The means which we select to resolve that problem will involve numerous social costs or benefits, as the case may be. Among the social implications of energy policy are its environmental impact, impact on employment levels and patterns, and the balance of trade.

These are matters of national significance. And, to my knowledge, the Federal Government has not yet turned over the responsibility for such national policies to private industry. And I doubt that private industry wants that responsibility.

In other words, the macroeconomic or national goal with respect to energy policy is not fully reflected in microeconomic, or private decisions of individual firms.

This is why Government assistance is necessary: to bring risky and long-term energy technologies to the stage where private industry is willing to become involved, and to insure that the benefits of Government research and development are widely available and coordinated toward a national concept of national needs.

I want to emphasize, again, that we need a consistent course of Government action which will lead to long-range solutions, and not ad hoc solutions, on a month-to-month or even a year-to-year basis.

National policy with respect to energy research and development must have, I believe, two principal goals: to conserve fuel and to increase domestic sources of supply and in that order of priority.

The goals are mutually reinforcing; they are complementary. Conservation is merely another side to development, a side which I believe to be the cheapest as well as the fastest way to increase domestic supply—and with the least environmental distress.

Therefore, I want to mention three research programs of particular interest to me. Each one illustrates the tremendous potential for achieving energy sufficiency which can result from an increased Federal effort.

ENERGY CONSERVATION

The first is in the area of conservation. The ERDA conservation program includes electric power transmission, advance automotive power systems, energy storage systems, and end-use conservation, and improved conversion efficiency as targets for research and development.

I have recommended to the Interior Appropriations Subcommittee that it provide funding for the energy storage and end-use conservation programs at the highest level permitted by authorizing legislation. Both of these programs offers promise of reducing energy waste in the near future on a highly cost-effective basis.

I believe that the most dramatic advances in conservation in the short term—and possibly for the long term as well—will be made in the area of end-use conservation. End-use conservation is probably the most highly "leveraged" sector of the energy economy. It is here that the proverbial ounce of prevention will result in tremendous savings.

For example, a single kilowatt hour of electricity conserved represents a saving of 0.9 pounds of coal; or of 0.074 gallons of oil; or of 10.4 cubic feet of natural gas. And it also means reduced pollution—at no increased cost whatsoever.

The options for Federal end-use conservation research are so numerous as to seem endless. They include, in both the commercial and home sectors: Insulation; lighting alternatives; architectural design; urban design; incentives for the production and purchase of more efficient applicance; sociological aspects to adaptation of lower energy consumption life-styles and work-styles.

In the commercial and industrial sectors, consider the following: Development and publication of energy consumption data; ways of bringing capital cost tradeoffs to bear on the choice of energy efficient systems in the construction and purchase of structures; effects of the tax systems on energy use in buildings; recycling of materials; sponsorship of new industrial processes which would require less energy per unit of output.

In short, there are so many opportunities for Federal assistance in the end-use conservation program that the biggest problem may simply be deciding where to begin.

A second important area for Federal action is energy storage.

The development of new technologies for energy storage will provide the country with a greater degree of self-sufficiency in energy supplies, as well as fostering a more efficient generation, distribution and use of energy. This research is directed toward eliminating waste created by existing use patterns: Energy demands have daily, weekly and seasonal peaks, yet most powerplants are most efficient when operating at a constant rate of output. Energy storage systems will not only permit more efficient use of powerplants, but reduce the need for scarce fuels, such as oil, by shifting consumption to more plentiful fuels, such as coal.

Another problem is heat waste, a costly and unnecessary expenditure of fuel. The significant heat waste associated with industry and with the generation of electricity can be curbed if we commit sufficient resources to developing methods to capture and reuse that heat.

FLUIDIZED BED COAL COMBUSTION

In the area of alternative energy sources, ERDA has targeted several areas for research, demonstration and development. Nonnuclear targets include the fossil fuel program, and other, nonfossil possibilities, such as solar energy; photovoltaic conversion; wind energy conversion; ocean thermal conversion; and geothermal.

The principal areas of fossil energy development are coal, petroleum and natural gas.

It is estimated that natural gas comprises 9 percent of total domestic fossil fuel resources; that petroleum constitutes 8 percent. Yet we depend on natural gas and oil to supply 79 percent of this country's energy needs.

Fully 80 percent of our domestic fossil fuel resources are made up of coal—3 trillion tons of it, more than half of the world's total reserves, enough to supply all of the energy needs of our entire Nation for at least a century.

Coal can and should be an important near-term source of clean fuel; very possibly it will provide energy well into the next century.

The action which ERDA takes, and which Congress takes, will impact decisively on the early development of alternate coal utilization processes.

Unfortunately, we have been lacking in foresight in our attitude toward coal. For the long term, coal gasification and liquefaction deserve greater emphasis. Even more importantly, we can make clean and efficient use of coal in the short term through accelerated development and affiliation of advanced technologies for burning coal as coal.

One of the more promising of these processes is the direct combustion of coal in fluidized beds—FBC. This is a technique of direct combustion of coal in a fluidized bed of granular nonburning particles.

There are two major classes of FBC systems: the atmospheric and pressurized. The data base for atmospheric FBC is considered extensive, and commercialization of the process by the early 1980's seems obtainable.

FBC holds promise of allowing expanded direct use of coal in a cheap and environmentally acceptable manner. Specifically, the process permits the utilization of low-quality coal in a manner which maintains emissions in compliance with the Federal new source emission standards. This feature will reduce costs because: First, available supply will be expanded to include low as well as high grade coal; and second, transportation costs can be reduced as consumers will be able to use the nearest available supply, regardless of quality.

FBC also may be capable of producing

higher overall thermal efficiencies than conventional plants—further reducing costs because less coal will be burned to provide the same amount of energy.

Finally, because of fluidized bed steam generator is significantly smaller than a conventional generator of the same capacity, the capital costs involved are lower. Because of their smaller size, FBC boilers may be shop-fabricated and shipped, preassembled, to the powerplant site—eliminating costly field fabrication and erection, as well as taking advantage of the economics of scale and quality control offered by mass production.

I want to emphasize that FBC is not a new or unknown technology. At least 12 different organizations—both public and private—have carried out programs concerned with FBC. At least 30 different test rigs have been used.

This technology is at the stage where an intensive Government effort can bring it into commercial use within the next few years. I have recommended that the Senate Committee on Appropriations fund this research and demonstration program at the highest allowable level so that commercial use will be speeded up.

We should not hesitate to concentrate our efforts on programs such as FBC so that national coal policy will be a reality and not a conglomeration of half-hearted efforts.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

EXECUTIVE PROTECTIVE SERVICE

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 12, which will be stated by title.

The second assistant legislative clerk read as follows:

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

The Senate proceeded to consider the bill, which had been reported from the Committee on Public Works with amendments.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that Stevens Swain, and Harold Brayman of the staff of the Committee on Public Works, and Robert Jackson be granted the privilege of the floor during the debate on H.R. 12.

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

Mr. BUCKLEY. Mr. President, I urge that the Senate pass H.R. 12 as it was reported from the Committee on Public Works.

The bill was approved in committee on a strong bipartisan vote, 9 to 2. I believe it is a sound and a cost-effective approach toward meeting a problem that no one wishes to have continued.

This legislation expands the ability of the Federal Government to provide necessary and vital protection for foreign diplomats and dignitaries visiting the United States. The bill expands to 1,200, from 850, the authorized size of the Executive Protective Service. The Executive Protective Service is the uniform branch of the Secret Service and has the responsibility to protect the White House, the Executive Office Building, and foreign missions in the United States.

The protection of foreign missions was made a Federal responsibility by passage of Public Law 91-217. Until then, the protection of embassies in Washington, D.C., was the responsibility of the Metropolitan Police, but because of rising crime and other factors, this responsibility was transferred to the expanded Executive Protective Service.

As a practical matter, the EPS protects missions only in Washington, leaving to local police in other cities the responsibility for day-to-day protection of consulates and United Nations missions. That is as it should be. But the present law, recognizing that extraordinary threats do occasionally arise outside the Washington area, authorizes the President, on a case-by-case basis, to send EPS officers to cities outside Washington. This is important in these days when the rise of terrorism can place such unexpected burdens on many cities.

These are sad days, when dynamite sometimes is substituted for debate. There is always a possibility that a band of terrorists may threaten to assault a diplomatic mission in New York City or New Orleans or San Francisco. I believe that such a threat merits action by the Federal Government to provide reasonable protection against the threat. This bill would provide that assurance.

As reported, H.R. 12 strengthens this protective authority, while reducing its potential cost. The bill requires that the Secretary of the Treasury, the cabinet officer through which the Secret Service operates, provide this out-of-town protection in cases of "extraordinary protective need." This authority goes to the cities where the danger would be most evident, cities where 20 or more legations are located.

The report on this bill was not complete in its listing of those cities where 20 or more foreign diplomatic missions are located. The report notes that six cities have 20 or more consulates. They are: New York, 77; San Francisco, 47; Los Angeles, 37; Chicago, 30; New Orleans, 24; Houston, 22. These figures are available from the Department of State's published list of "Foreign Consular Offices in the United States, 1975." That list also cites 21 foreign consulates in Miami, Fla. Thus, while the report does not specify Miami, that city would certainly qualify under the language of the bill in cases of "extraordinary protective need."

Of course, the interpretation of what constitutes an extraordinary protective need rests with the Secretary of the Treasury. In response to a question in our hearing, I would note that the Treasury Department testified that it considers the phrase extraordinary protective need as a temporary need that is "to be terminated at the conclusion of the extreme threat."

As importantly, this bill encourages the Treasury Department to delegate the implementation of this special, extraordinary protection to the police officials of the affected city, on a reimbursable basis, when local officials request it, and when delegation is appropriate.

Thus, if the Secretary determines that an extraordinary-protective need exists in relation to the visit of a foreign head of state to New York City or Chicago, or due to terrorists threats to diplomats stationed at a mission, he would first contact local officials to see if the local police can provide this extra, overtime protection. This is appropriate because local law enforcement officers have the sources of intelligence and information to provide the protection most efficiently, and at the lowest cost.

This delegation would also save the EPS the costs of transportation, out-of-town maintenance, and the hiring of officers who might otherwise be under-utilized much of the time. This authority, of course, extends to the points of arrival and departure of the diplomat during this period of extraordinary protective need.

The bill also provides that protection will be provided for an endangered diplomat when he is in residence at a hotel. This is an important modification because many diplomatic visitors to major cities outside Washington stay not at the actual mission building, which may be no more than a storefront office, but at local hotels. It is in the national interest, I believe, that protection not be halted when the diplomat walks across the street from his "mission" to his "hotel."

I recognize the points of objection made by the distinguished chairman of the Subcommittee on Buildings and Grounds (Mr. MORGAN) and by my good friend from North Dakota (Mr. BURDICK) in their minority views. But I believe their arguments miss the point.

H.R. 12 is designed to augment the safety provided to foreign diplomats in the United States, and at a cost less than that protection would cost if it were provided under existing procedures. By allowing the Executive Protective Service to delegate this responsibility to local officials, when requested, and then reimbursing local governments for that cost, the Federal Government should be able to produce significant savings from the costs it would incur if forced to dispatch officers from Washington. I point out that the report estimates this savings at about half the Federal cost.

The minority views also state that this bill would pay the "more or less routine expenses" of New York and other cities. That, I believe, misinterprets the language of the bill. It states that the EPS will be sent to meet "extraordinary protective needs." I do not know how to equate the word "extraordinary" with the phrase "routine expenses."

The opponents of this bill also state that the District of Columbia is specifically excluded from this legislation. How can this be? The EPS seems to blanket Washington. The fleet of blue Executive Protective Service patrol cars regularly prowl the streets of Washington. EPS officers can be seen regularly in

the Embassy Row area of this city, providing 24-hour-a-day, 365-days-a-year protection for embassies here. It has two posts protecting the Russian and Israeli embassies, day in and day out, all year long. At 128 other locations in Washington, on a basis of need, the service provides at least one man on duty for 1 day. In many cases, this need lasted for weeks, involving around the clock protection. And EPS maintains four regular, round-the-clock foot patrols that give special attention to several embassies, plus regular checks by scooter, cruiser, or foot at 230 other locations.

Then there is the cocktail circuit. On 364 occasions last year, the EPS provided two or more officers to direct traffic and provide protection at diplomatic cocktail parties. I argue that it is far more important that EPS provide extraordinary protection outside Washington for unusual instances, such as occurred when Yasir Arafat visited New York last year, than to provide traffic cops for diplomatic cocktail parties in Washington.

This bill will help New Orleans and Chicago and Houston and other major cities meet this national burden.

I believe that the protection of a controversial dignitary walking into a volatile situation in Miami or New York is far more important to this Nation's interest than directing traffic at a cocktail party in Washington, D.C.

The only present authority to go outside Washington depends on a case-by-case directive by the President. The Treasury Department testified that the use of the directive in H.R. 12 for protection in cases of extraordinary protective needs "would seem to be less cumbersome than the present law which states 'as the President, on a case-by-case basis, may direct.'"

In the words of Treasury Department testimony to our committee:

> Increased intelligence information shows more and more attacks can be expected against foreign diplomatic installations in the United States. . . . The outlook for the future is that the trend in the number of politically motivated acts of terrorism has not yet reached its peak.

The committee, I must point out, included language that limits the scope of this reimbursement authority for any fiscal year to $3,500,000. Testimony before the Committee on Public Works indicated that such a sum would be sufficient to finance this protection. On that point, Mr. President, I ask unanimous consent that a copy of a letter from Mayor Beame of New York City that describes the problem be included at this point in the RECORD.

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

THE CITY OF NEW YORK,
OFFICE OF THE MAYOR,
New York, N.Y., November 18, 1974.

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

DEAR MR. PRESIDENT: New York City is proud to be the home of the United Nations, and we have always welcomed foreign diplomats and consuls general to work and live here.

As a matter of fact, the City has a special agency, the Commission for the United Nations and for the Consular Corps, established to give assistance to all members of the international community during their residence in New York City.

Furthermore, United Nations and foreign embassy properties are exempted from the obligation to pay City real estate taxes, and the City of New York also provides daily protection, 24 hours a day, 365 days a year, to the diplomatic corps.

For years, I have sought Federal reimbursement of extra police costs on grounds that these costs are purely international in nature, and therefore, are an obligation of our Federal government.

Since becoming Mayor, I have specifically brought this matter to the attention of the White House and have discussed it with members of the White House-City Hall liaison committee established by the President more than six months ago. While we have heard sympathetic responses, we have received no action on this matter—and certainly no money.

The City of New York is willing to shoulder part of the financial burden of being host city to the United Nations. However, we do believe that, in all equity, the Federal government should assume its proper share of the cost. It is not fair to ask the taxpayers of one city alone to pay for what affects all the people of our country.

The City now provides $2.4 million a year in daily police protection for members of the United Nations and the Consular Corps. This is normal, routine protection and does not include extraordinary expenses incurred because of unusual events at the United Nations.

For instance, the personnel cost alone to New York City taxpayers of protecting Yasir Arafat and members of the Palestine Liberation Organization during their visit last week to the United Nations totaled $696,592. This was exclusive of helicopter use, fuel costs, police launch expenses and other transportation costs.

Another example was the 15th anniversary celebration of the United Nations which cost us about $3 million and the 25th anniversary celebration of the United Nations, attended by some 70 heads of state from all over the world, which cost us about $2.6 million.

The fate of world peace often depends upon our ability to provide secure and efficient police protection to world figures involved in serious controversies. The New York Police Department deserves the commendation of the entire world in carrying out its security mission so skillfully and effectively during the Arafat visit last week.

Most of the people in this City were angered by the United Nations decision to bring the PLO to its shores. Nevertheless, we recognized our responsibility to ourselves and to the world to maintain order and calm.

Not a drop of blood was shed in this City because of the Arafat visit. That's a remarkable achievement which ought to serve as a model for our international community to follow.

New York City's present budget problems make it more urgent than ever before that the Federal government reimburse the City for its costs in protecting the international community here.

We urge you, therefore, to approve a Federal appropriation of $3.1 million to reimburse us for our current United Nations expenses—$2.4 million in routine police protection and $700,000 for the Arafat visit. We urge you also to establish this kind of appropriation on an annual basis to reimburse us for our actual police costs each year.

I call your attention to the fact that because of Federal treaties, we are required to exempt the United Nations and foreign embassy property from City real estate taxes, totaling close to $7 million this year.

Over the years, a conservative estimate of our cumulative real estate tax losses is $75 million, and a conservative estimate of the City's cumulative direct police expenses in protecting the international community is $35 million.

We would like to discuss our real estate losses and police costs of other years with Federal officials on another occasion. We are concerned, however, at this time, with being reimbursed for a specific, out-of-pocket cost of $3.1 million for the police protection we are providing this year.

We want the United Nations here. It belongs here in the capital of the world. As you know, New York City spent many millions of dollars in preparing the United Nations site, and we committed ourselves to spending additional millions toward its expansion. We are also providing other municipal services on a daily basis to the diplomatic corps, other than police protection. And, we have done so willingly.

But, the time has come, in all fairness, for the Federal government to help us carry out this international task.

Sincerely,

ABRAHAM D. BEAME,
Mayor.

Mr. BUCKLEY. I also note what I consider was the favorable commentary on H.R. 12 that was provided in our hearings by James Featherstone, Deputy Assistant Secretary of the Treasury for Enforcement. Mr. Featherstone testified:

> Our concurrence in section 1(a) of H.R. 12, which provides for assignment of EPS officers in metropolitan areas with 20 or more foreign missions, is based upon the construction of section 202, as amended by H.R. 12, that the determination of 'extraordinary protective needs required' is to be made by the Secretary of the Treasury. The request of the 'affected metropolitan area' is nothing more than a request; and, presumably, some demonstration of 'extraordinary protective needs' will be presented for the Secretary's consideration.
>
> Of course, the Secretary is not bound by the request or the evidence of local authorities in support of their request; and he may make his determination based upon information presented only from sources other than the requesters. This authority of the Secretary is embodied in his authority to supervise the Executive Protective Service.

In conclusion, I note that this bill may prove very important prospectively. We must do all that we can to assure that foreign diplomats can visit our Nation with every assurance of safety, preventing the stain of terror from splashing upon our Nation.

I point out that in the next 2 days President Sadat of Egypt will be in New York City in circumstances that could be explosive, and that it is precisely to make sure that such a dignitary is given adequate protection that this legislation has been introduced.

I urge the Senate to pass H.R. 12 as reported.

Mr. MORGAN. Mr. President, I think no one should make any mistake about this bill. This bill is simply one that is designed to render assistance and aid to the city of New York. Call it by any other name, that is all it is.

The distinguished Senator from New York mentioned that President Sadat would be in New York tomorrow. He is in Williamsburg today. There is nothing in the world in this bill that would aid or assist the police or the law enforcement officers in the city of Williamsburg in their duties to protect President Sadat, no more than there would have been any

assistance to them when they protected Emperor Hirohito some 2, 3, or 4 weeks ago.

For the record I think we ought to make it clear, Mr. President, what this bill does. In the first place, it provides that the Executive Protective Service can authorize payment to local cities that have as many as 20 diplomatic missions in them for the purpose of protecting dignitaries who visit there.

There are six, or if we add Miami, there are seven of those cities.

According to Mayor Beame's request there is an amendment pending that would make the reimbursement up to $3.5 million a year. What makes a bad bill even worse, Mr. President, is that it is retroactive.

There are two other provisions of the bill, one of which, I think, however, is a good provision. That would provide increasing the number of Executive Protective Service members from 850 to 1,200, and it would classify the director and the deputy director as service career personnel. I would favor that.

But, on the main bill, Mr. President, I think we ought to say the main thrust of this bill is simply this: It would provide a method whereby a few of the major cities in this country—New York and five others or six others—would be entitled to call upon the Secret Service for the protection of foreign missions located within their limits or else bill the U.S. Government for the services that their own police render in doing so.

According to the language of the bill, this assistance would be requested on the basis of extraordinary protective need.

I think it is important to note there is already law on the books allowing the President of the United States, under certain extraordinary circumstances, to provide Secret Service protection for visiting dignitaries. So this act is redundant in addition to being discriminatory, and extremely vague as to application.

As written, the bill offers no standards as to the scope of local police authority which shall qualify for reimbursement. Deputy Assistant Secretary of the Treasury James Featherstone testified before our committee, as the distinguished Senator pointed out. He testified that he was in the dark as to what would be an allowable level of police response, and he does not know how, he said, if at all, the quality and scope of local actions would be audited.

I might add, parenthetically, Mr. President, he also testified in opposition to the reimbursement provisions of this bill. He said:

> As a result, we have concluded that the reimbursement provisions contained in section 1(d)(1) of H.R. 12 are not acceptable since they would require substantial outlays at a time when we are making strong efforts to reduce Federal spending and assist the recovery of our economy. We must also realize that cost expansions through such programs are likely to prove to be far beyond current annual expectations.

This worries me because I think it is inevitable these problems will lead to a breakdown of important distinctions between Federal and local police authorities.

Look at the position the Treasury will be placed in. Either it must pay out whatever the local government claims its expenses were or it must begin to direct and control the actions of local police, deciding what shall and shall not be necessary in the performance of their duties, and this is a very, very dangerous precedent to establish.

Besides this, the law is discriminatory. Federal restitution to local jurisdictions will be made only if they are metropolitan areas having 20 or more foreign missions, and these presently are New York City, Houston, San Francisco, Los Angeles, Chicago, New Orleans, and I except Miami. But other jurisdictions have also said they experienced extraordinary protective needs when foreign visitors have come to their cities. Several have sought restitution but would not be covered under this law. They are Honolulu, Kansas City, Dade County, Fla., Beverly Hills, San Diego, San Clemente, Orange County, and others. Others have come out in favor of restitution, including Portland, Seattle, and Milwaukee.

Consider this: When the Emperor of Japan came here recently he visited New York City, but he also went to Norfolk. When Bernadette Devlin was here she visited New York, but she also visited Detroit. When Khrushchev visited the United States, he went to New York, but he also went to Pittsburgh, to Des Moines, and Coon Rapids, Iowa. But none of these would be covered under this bill.

Here in Washington the local police are frequently called upon to supplement police efforts. Yet the State Department informs me there has never been a special payment to the District of Columbia for police services, and this bill would go so far as to specifically exempt the District of Columbia from the provisions of it.

We ought to be able, Mr. President, to guess what will happen. Once discriminatory elements in this bill become evident, there will be demand for equity, and the cost of this legislation will rise astronomically.

I mentioned a moment ago that title III of the United States Code, which this bill, H.R. 12, would amend, already gives to the President on a case-by-case basis the authority to provide Federal protection to any foreign officer anywhere in the United States if the local police cannot cope with it.

What we are being asked to do is to remove the law's restraints. The decision as to Federal responsibility would be downgraded and would be lodged with the Treasury instead of with the President of the United States.

Moreover, we are going to change the nature of the Federal response from providing direct assistance through the Secret Service to paying the bill after the fact for local police protection, as is clearly evidenced from the retroactive provision of this bill.

All these matters lead me to wonder at the real effect the bill would have. I think it is significant that when Edward J. Kiernan, president of the International Conference of Police Associations testified in favor of H.R. 12, he stressed New York City's "routine policing of the United Nations Complex, plus all of the Embassies, Missions, and offices of its member nations." He also spoke of New York City's police contribution on a daily basis.

I believe we will find, Mr. President, that such routine police activity soon will be described as "extraordinary protective needs," should we pass this bill.

Mr. ROBERT C. BYRD. Will the Senator yield for a question?

Mr. MORGAN. I will be delighted to yield.

Mr. ROBERT C. BYRD. What is the estimated annual cost of this legislation to the Federal Government?

Mr. MORGAN. $3.5 million per year under the bill as it now stands.

Mr. BUCKLEY. Will the Senator yield?

Mr. MORGAN. I yield.

Mr. BUCKLEY. There is a ceiling established within the bill, based on testimony.

Mr. MORGAN. I would suggest to the Senator that the ceiling will become the amount, and that as soon as other cities learn that these six cities are entitled to it, I would predict that we would have to then treat all cities alike, and the cost of it would be astronomical.

Mr. ROBERT C. BYRD. Mr. President, how does the distinguished Senator from New York explain the paragraph on page 4 of the committee report which indicates that for fiscal year 1977, the cost in subsection (d) is estimated by the Treasury Department to be $4.5 million; in 1979, $3.6 million; in 1980, $3.7 million, and, in 1981, $3.75 million.

Mr. BUCKLEY. Mr. President, those figures reflect the increase in the personnel that would be added to the EPS in this bill. I believe the distinguished chairman of the subcommittee does not oppose that increase from 850 to 1,200.

Mr. MORGAN. On the personnel.

Mr. BUCKLEY. This does not reflect potential reimbursements.

Mr. ROBERT C. BYRD. What the distinguished Senator from North Carolina has reference to is the last line, in response to my question. The cost of subsection (e) is limited to a maximum of $3.5 million.

Mr. MORGAN. That is correct.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. MORGAN. Mr. President, I would like to make some comments——

Mr. ROBERT C. BYRD. Will the Senator allow me to ask one further question? Over what period of time will this legislation extend, if it is enacted? It will be how many years?

Mr. MORGAN. It will be indefinitely.

Mr. ROBERT C. BYRD. So we are talking about $3.5 million in perpetuity?

Mr. BUCKLEY. As a maximum, yes.

Mr. MORGAN. A maximum under this bill, but we can certainly look for it to be extended.

Mr. President, I have found there is a widespread assumption that the presence of the United Nations in New York City is somehow the doing of the Federal Government, and that it is therefore a Federal responsibility.

In the first place, nothing could be further from the truth. According to

Trygve Lie, first Secretary General of the U.N., New York City mounted an entirely local campaign, in competition with other American and European cities, to win the United Nations.

The Federal Government initially favored Geneva. When the search for a site was narrowed to the United States, the Government could hardly have been said to favor New York. President Truman opposed New York, his Secretary of State Edward Stettinnius advocated San Francisco, and the Government formally offered the Presidio as a site for the United Nations.

The city of New York knew that there were significant economic and cultural benefits to be reaped by having the United Nations located there and they actively sought it. Having reaped the benefits, it seems highly inconsistent to me for those interested in the plight of that city to come forward and ask that the United States Government pay the bill for police services rendered when world figures are naturally attracted there.

The fact of the matter is, the Federal Government did not "assign" the United Nations to New York City. The delegates there are not ambassadors to the American people, but to the United Nations alone, which New York City successfully tried to attract.

In the second place, where is the Federal responsibility with regard to the visit to the United Nations of the terrorist Yassir Arafat? The U.S. Government did not invite him; the United Nation did, over the expressed opposition of the U.S. Ambassador.

And as to the Federal responsibility for the "conflicts of nationalistic groups" in the streets of New York in reaction to Arafat's visit and to the Greek-Turkish war in Cyprus, any notion of that ought to vanish when we realize one thing.

According to the New York Times, the demonstrators being controlled by the New York City police on those occasions were by and large residents of New York's large ethnic neighborhoods, and therefore citizens of the city itself.

Mr. President, it appears we are being asked to pass special-interest legislation to have the taxpayers at large, including the voters of my home State of North Carolina, pay for the fact that New York and certain other cities are in and of themselves, and incidentally sought to be, world centers.

Mr. President, it has many drawbacks, I grant you, but as I mentioned to the Senator in committee, I visited the United Nations earlier this year as a delegate of this body. I think I paid $65 a night for a single hotel room in that city. I paid some rather high food costs, even $1.50 for a hotdog. So I say that the many visitors who are going to this city in many ways help pay the costs of it.

Furthermore, the ramifications of this bill, Mr. President, are just beyond imagination. Surely, if we are going to pay New York City, then we must pay the little village of Williamsburg; we must pay Norfolk, Va.; we must pay every other area.

There is one other provision of the bill which I would like to discuss while I am at it, Mr. President. I think we probably deleted it through error. That is we deleted section 2 of the House bill which would classify the Director and the Deputy Director of the Secret Service as career officials.

I believe the provision was misunderstood by the subcommittee, which struck it, thinking it meant a reclassification and a pay raise for these two positions. This is not the case. The Director and Deputy Director already serve at levels IV and V of the Executive Service, and the law would not change this.

Rather, title 5 of the United States Code would have been amended to include the Secret Service positions specifically, as it already does include other similar positions: What would have been accomplished was to give statutory support to the classifications of the Director and his deputy, thus making them less vulnerable to possible political pressures.

This was later understood by the committee, I think, but in the rush of a very hurried meeting unfortunately we failed to restore the language. I think this provision is uncontroversial, and ought to be reinstated and passed. I would ask when we get to this point that this amendment be agreed to in order that these two officials may have the career status that their counterparts in other areas seem to enjoy.

Mr. President, for that reason I urge that the bill and the amendments which will come forward be defeated.

Mr. BUCKLEY. Mr. President, first of all, if the distinguished Senator from North Carolina wishes, I would be delighted to accept his brief amendment, if he will accept the balance of the provision. I would raise no objection whatsoever to the restoration of that language.

I think my friend from North Carolina has demonstrated why he was, I believe, Chairman of the National Association of States Attorneys General. He has marshaled his arguments well.

I regret to say that I do not believe that they are, however, persuasive in the light of the situation as it exists.

In the first instance, President Sadat has gone to Williamsburg. Yes, other people who come to this country on diplomatic missions will avail themselves of the opportunity of visiting some of our historic spots.

But, those visits elsewhere are discretionary. The problems of law enforcement in a Williamsburg are totally different from the problems of law enforcement in a Chicago, a Los Angeles, or any of the other huge metropolitan areas with vast populations, where, in the nature of things, diplomatic missions tend to be clustered.

Certainly the protection of President Sadat while visiting a Williamsburg is totally within the capability of the Secret Service. In short, I am suggesting that he is protected by the arm of the Federal Government that is associated with the EPS. What our legislation would do is to provide a second option, one that is far less costly. That is to allow the Federal Government, instead of using its own personnel, in this increasingly dangerous climate in which we live, to make use of the people already on the scene, the people who can be mobilized on short notice, who know the cities, know the problems, and know where the troubles may arise.

The Senator from North Carolina stated it was discriminatory that only seven cities should be singled out for this protection. The fact is that the seven cities have in them a cluster of missions that are there because they serve the mutual convenience of the United States and the foreign countries with which the United States has regular concourse. The 20-mission cutoff is one that was adopted in the House of Representatives, and that our committee found to be reasonable as focusing on those areas where one is most apt to run into serious problems of law enforcement.

The Senator from North Carolina said that this language is somehow vague in its application, and suggested that we might end up with an open ended situation, the ultimate cost of which could not be estimated. He suggested that somehow or other the very clear distinction between extraordinary need and the provision of routine general protection would vanish.

The fact is that this bill foresees and copes with this possibility by vesting exclusive authority to determine whether or not there shall be reimbursement with the Secretary of the Treasury. I believe that the Secretary of the Treasury, more than anyone else, is anxious to keep money in that Treasury rather than let it dribble out where there is no clear justification. So I believe that this language is anything but vague in application, and that it will in fact pinpoint areas where, because of the outbreak of terrorism on a global scale, we are facing new situations that no one would have contemplated.

My distinguished friend from North Carolina pointed out an accurate story. New York City was anxious to have the U.N. locate there. Yes, there are benefits in terms of prestige and culture from bringing this world body into the city. The city has been providing all these years, and intends to continue to provide, all of the normal facilities and protections that come with protecting people who are there. This involves sanitation, fire protection, and normal police protection. But, again, I do not believe that anyone 30 years ago ever contemplated that a time would come when the kidnapping of diplomats, terroristic activities, or dynamiting would become tools of international politics.

The situation is going to get worse and not better, I fear, if we can draw any conclusions from the headlines of the last few months. But this is certainly an extraordinary situation, an extraordinary threat the cities of Chicago, Los Angeles, San Francisco, New Orleans, Miami, Houston, and New York certainly did not contemplate when they offered their hospitality to foreign nations.

So I believe, Mr. President, that the need is real, that the protections are clear, and that there is a limit on the ultimate cost that fully protects the interests of the taxpayer, while recogniz-

ing what must be considered a Federal responsibility for the ultimate safeguarding of people who visit the United States on diplomatic business.

The Senator from North Carolina did speak about the fact that this legislation would become effective as of July 1, 1974. That date was selected when the need became most clearly identified. It happens that New York City was the target of many demonstrations connected with the session of the United Nations last autumn. This was particularly true during the 1-day visit of Yassir Arafat, the leader of the Palestine Liberation Organization. While I consider that the Arafat visit clearly met the definition of extraordinary protective need—and incidentally it placed an additional police burden on the city of $700,000—I must note that the responsibility to evaluate the merits of any retroactive request rests exclusively with the Secretary of the Treasury, and this was included in the House-passed bill and accepted in the Senate version.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

Mr. MORGAN. I object.

The PRESIDING OFFICER (Mr. HATHAWAY). Objection is heard. The clerk will state the first committee amendment.

The assistant legislative clerk read as follows:

On page 2, line 7, insert the following:

(c) Section 202 of title 3, United States Code, is amended by adding at the end thereof: "As used in this section, the term 'foreign diplomatic missions' includes hotels and similar places of temporary domcile that are used by officials connected with foreign governments, including provisional governments, when such officials are visiting the United States on official business, including attendance at the United Nations".

Mr. BUCKLEY. Mr. President, that provision, which was not present in the House bill, is necessary to achieve the objective of the House bill. The plain fact is that except in New York and Washington, where we have the Blair House and the various embassies, the diplomatic missions in various parts of the country do not have housing facilities. If we are going to protect the person of a visiting dignitary, the protection should be extended to where that dignitary must necessarily lay his head at night.

Mr. MORGAN. Mr. President, this makes a bad bill even worse, because it extends protection regardless of where he lays his head.

I think the original bill was much better. If we are going to have protection, there ought to be some safeguards and protection as to where we can protect him. I urge the defeat of the amendment.

Mr. BUCKLEY. Mr. President, I would continue to urge that the Secretary of the Treasury has the jurisdiction to determine whether it is reasonable or unreasonable to believe that the protection, on the whole, is necessary to meet a significant and unusual threat.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment (putting the question).

The Chair is in doubt.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescindcd.

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

The question is on agreeing to the amendment.

Mr. BUCKLEY. Mr. President, I understand that the Senator from North Carolina wishes to withdraw his objection to this particular amendment.

Is that correct?

Mr. MORGAN. Mr. President, I do, with the understanding that I wish the record to reflect that, if the bill is going to be adopted, then the amendments that were argued about would be all right. So I withdraw by objection.

Mr. BUCKLEY. I thank my friend from North Carolina.

I understand that time is almost up. I ask unanimous consent that we take this matter up again at 4 p.m.

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

EXECUTIVE SESSION

NOMINATION OF GEN. ALTON D. SLAY TO BE LIEUTENANT GENERAL

The PRESIDING OFFICER. Under the previous order, the hour of 1:15 p.m. having arrived, the Senate will proceed in executive session to consider the nomination of Gen. Alton D. Slay to the rank of lieutenant general in the U.S. Air Force, with the vote thereon to occur at 2:15 p.m., the time to be equally divided between the Senator from Indiana (Mr. BAYH) and the Senator from South Carolina (Mr. THURMOND).

The assistant legislative clerk read the nomination of Alton D. Slay to be a lieutenant general in the U.S. Air Force.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, as I understand, each side has 30 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. I allot myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. THURMOND. Mr. President, the question now before the Senate is whether the promotion of Maj. Gen. Alton D. Slay to the rank of lieutenant general in the U.S. Air Force should be confirmed by the Senate.

My colleagues should realize that the Committee on Armed Services favorably reported the nomination of General Slay to be lieutenant general on July 24. In reporting that nomination to the Senate no member of our committee voiced specific objection to the Slay nomination.

The Senate may also recall that on April 24, 1974 we had before us the nomination of General Slay to be permanent major general. That promotion was recommended by our committee and the Senate then confirmed his nomination 51 to 36 after considerable debate and discussion. There are no new facts, to my knowledge, bearing on General Slay's fitness for promotion which were not discussed last year.

Mr. President, while I defend the right of any Senator to question or object to any nomination, I hope we can promptly dispose of this matter one way or the other. It is, in my opinion, unfortunate it could not have been resolved prior to the recess, especially since I believe this issue has been fully aired before.

The question of involvement of other officers and men in the "unauthorized bombings" in Vietnam was thoroughly reviewed by the Committee on Armed Services in hearings between September 11 and 22, 1972. These hearings followed visits to Vietnam by two staff members charges with investigating this matter.

General Slay, of course, was among those we interviewed and our committee was satisfied he was not involved. Subsequently, the committee has concurred in the nominations of promotion for General Slay, first to permanent major general and now the promotion under consideration today to lieutenant general.

At the heart of this issue is a basic military axiom, the obedience of orders issued by a superior officer. To begin with, the Vietnam war was managed by civilian authority through military officers on the scene to an extent never before attempted in our history.

While our committee found fault with the actions of General Lavelle in carrying out his orders, Genral Slay was merely executing the orders issued to him by a superior officer. The basic issue thus becomes a question as to whether every subordinate commander in Vietnam or any other war is to be charged with the responsibility of second-guessing whether the commander has the authority to issue the order received by the subordinate. If this premise is correct, military operations in some instances would cease or at least be greatly slowed down. General Slay, serving as General Lavelle's operations officer, testified before the committee that as far he knew, General Lavelle had authority to issue the order which was passed on. Basically, this is the only way which military operations can be conducted.

Mr. President, the committee determined that the sole responsibility for the unauthorized bombings must be borne by General Lavelle and no others. This was also the determination of the Air Force Chief of Staff and the Secretary of Defense in their recommendation to retire General Lavelle as a lieutenant general. Although I disagreed, the on Armed Services rejected that nomination and the end result was to retire General Lavelle in his permanent grade of major general.

General Slay has an outstanding record and he would not have been recommended for promotion to lieutenant general by the Air Force, the Secretary of Defense and the President, were he not qualified. Because of his service in Viet-

nam during the Lavelle case, I am sure his selection has undergone double scrutiny.

Mr. President, I reiterate that the Committee on Armed Services unanimously approved the Slay nomination just as it approved his previous promotion. Therefore, I urge his nomination to lieutenant general be confirmed by the Senate.

Mr. President, I wish to go back to the Republican Policy Committee. If the distinguished Senator from Arizona is going to be here full time, I ask if he would be kind enough to take charge of the time on our side.

Mr. GOLDWATER. I am very happy to do so, although I would hope that the opponents or opponent, I should say, because I think there is only one, to the promotion of General Slay would show up, and I feel that he has. He is here now.

Mr. President, I will not say too much at this time, because I think the Senator from Indiana might want to speak.

What we have here is an action that came down from the investigation the Committee on Armed Services made several years ago into an action by General Lavelle, Commander of the 7th Air Force, in Southeast Asia.

All our forces in Southeast Asia—Navy, ground forces, and Air Forces—were operating under what we call the rules of engagement. For the first time in the history of any war in the world and in the United States, civilians sitting in Washington wrote the rules of engagement, such as, you cannot attack a truck on the highway, even though you know it is loaded with SAM missiles. You cannot attack a SAM site—a surface-to-air missile site—unless you take a photograph of it, send it to Washington, get approval, and then send it on.

There was one radar station that was vectoring Mig aircraft, enemy aircraft, to destroy our helicopters that were engaged in lifting the wounded out of Laos. One day, General Lavelle gave orders to hit these targets. He gave the orders to Slay, who at that time was a temporary major general and the director of operations. What Slay's action shows to me is that he knew about obeying orders.

When a commanding general gives you an order, you may disagree with him, but you usually go out and do it. In fact, Slay, in the testimony I heard, questioned Lavelle's going over the rules of engagement; and he said he had to assume that someone was holding his hand.

What we had here—what it was obvious that we had here—was an order from the President of the United States, down through channels, to forget about rules of engagement and get along with winning the war.

I cannot prove that statement, any more than we can prove statements that we have heard in the CIA investigation on assassinations. But these actions do not take place at the whim of some general. They take place when the President of the United States decides that it is time to do something.

So Slay was given his orders, and Slay performed those orders. The subcommittee went to Fitzsimons Hospital to investigate him and talk to him, and came away convinced that he had nothing to do with this. He was promoted to permanent major general and confirmed by the Senate on April 24, 1974. Now he is up for his third star, lieutenant general.

Mr. President, let me turn now to my formal remarks in which I would like to give the Senate my perspective on this matter which I acquired as a member of the Senate Armed Services Committee during the investigation of the General Lavelle matter, particularly during the sworn testimony given by General Slay while he was hospitalized in Denver.

Senators will recall that members of the Armed Services Committee traveled to Fitzsimons Hospital, Denver, Colo. on September 19, 1972 to interview General Slay. The role of General Slay became very clear to me that day and I believe it bears directly on the issue at hand today. It seems to me that what is being suggested now is that General Slay should be looked at, not from the perspective in which he sat at the time of the event, but from hindsight. It is easy to be a Monday morning quarterback, but I hope we will recognize that decisions must be made during the heat of battle without an opportunity to sit back and deliberate.

When I listened to General Slay testify, I had no doubt that he was being totally forthright and honest when he told us that he could not conceive of his commander acting in the manner in which he did without, as he said, having someone, "holding his hand." It may well be that had General Slay had the perspective of what has happened in the last several years, he might well have asked more searching questions to determine whether General Lavelle, in fact, had authority.

However, I do not believe we can judge General Slay on what we now know or questions which we might now ask. He was in a situation in which he was being told to direct missions against clearly valid military targets—trucks, SAM missile carriers, supply points, and so forth.

Let me refer to some of the testimony given by General Slay during our hearing at Fitzsimons. As I go over this testimony I think it is important to remember the commander-operations officer relationship that existed between Lavelle and Slay. They were not equals in the organization and Slay, after questioning Lavelle's authority, followed orders.

Referring now to General Slay's statement, Slay said the following about the strikes in question:

> General Lavelle personally directed each one of these. He would not allow any of his staff to make the decision to go on one of these. This was his personal decision and, as a matter of fact, as I said before, he would describe the numbers of airplanes that would go and quite often we would perhaps differ on that and we would dicker back and forth as to how many airplanes we should send on this particular raid or, in fact, whether it should be sent. (Senate Armed Services Committee Hearings on Nomination of John D. Lavelle, p. 289.)

The point here, Mr. President, is that Lavelle had this whole situation personally in hand. Now let me cite another portion of Slay's statement that illustrates General Lavelle's concern about the actions of the North Vietnamese and how the rules of engagement were jeopardizing the safety of our air crews.

> It was General Lavelle's comment at the time that "no one can fly over North Vietnam without being fired at, so why should I risk my pilots' lives by going up and waiting until I see a burst" and I remember on one occasion he said, "Slay, you have seen .51-caliber fire; you have seen 23-millimeter fire; you have seen 37 and 57." He said, "What can you—can you assure me when you fly somewhere that you are or are not getting .51-caliber fire?" and, of course, you cannot. I mean unless they are using tracers you can't. So it was his contention at the time that if you are in the vicinity of where the enemy has supplies, or where the enemy has a SAM site, they know that you are there to do them some dirt and you will get fired upon. (Senate Armed Services Committee Hearings on Nomination of John D. Lavelle, p. 290.)

So we see, Mr. President, that General Lavelle as the commander, had clearly expressed his concept of the rules of engagement and it was up to Slay, as the operations officer, to carry out the commander's concept.

In further support of that, Slay in his statement quoted Lavelle as saying:

> Anytime you are over North Vietnam you have, just by definition, people are going to shoot at you so you must report that you have been reacted upon. (Senate Armed Services Committee Hearings on Nomination of John D. Lavelle, p. 290.)

Now, Mr. President, it was my judgment after listening to General Slay testify that he was aware that General Lavelle was operating outside of the "so-called" rules of engagement. However, Slay further testified:

> My belief at that time was that General Lavelle was perfectly—in fact, my absolute conviction was that General Lavelle was completely cognizant of what he was doing. He knew the rules; he knew them as well or better than anyone in his position would have known. He stayed very close to it. General Lavelle was the type of man who—he liked to keep a firm grip on his operation. As a matter of fact, on several occasions he would laughingly introduce me as his assistant ops officer and, in other words, 'I am the ops officer; Slay is my assistant.' (Senate Armed Services Committee Hearings on John D. Lavelle. p. 291.)

So, Mr. President, we have here the case of a commander who kept his operation very close to his chest. Further, as Slay testified:

> He (meaning Lavelle) would allow no one, not even his vice commander, I might add, to make the decisions to go into North Vietnam. (Senate Armed Services Committee Hearings on John D. Lavelle. p. 291.)

Now, Mr. President, there is further testimony I believed that bears on this matter and further illustrates the conditions under which General Slay had to operate. An enlightening exchange occurred between Senator DOMINICK and General Slay.

> Senator DOMINICK. You realize(d) that during the process of this whole period of time that you were, in fact, operating outside the rules of managment?
>
> General SLAY. Yes, sir.

Senator DOMINICK. Did you ever discuss this with General Lavelle?

General SLAY. Yes, sir; I did.

Senator DOMINICK. What was his answer to that?

General SLAY. His answer was supreme confidence that—my impression was that General Lavelle knew exactly what he was doing and also my impression was 'That is my worry; you run your end and I will run mine' and it never—as a matter of fact, Charlie Gabriel and I discussed this very point and we both agreed that well, he is a big boy and that is the way he wants to run it; that is his show.

I don't want to overemphasize this point; it never occurred to me really after the first few of these to question General Lavelle as to his authority to do that. I just assumed that he either had the authority to do it or something that I had not seen and was not in the written word or he was deliberately choosing to do it extraneous to authority. (Senate Armed Services Committee Hearings on John D. Lavelle. p. 301.)

In a further exchange, Senator DOMINICK refers to the Moc Chau raid and asked:

Senator DOMINICK. Didn't this raise some concern in your mind as to what you were doing on the other planned strikes or whether General Lavelle had or did not have authority to go on them?

General SLAY. Sir, my personal opinion was that this was General Lavelle's policy and it was my job to carry it out; and if you want to know the honest-to-God truth, I thought somebody was holding his hand. In hindsight, evidently no one was. (Senate Armed Services Committee Hearings on John D. Lavelle. p. 302.)

Mr. President, it is this hindsight of some Members of the Senate that I am critical of today. I seriously doubt that any other director of operations would have handled the situation differently than did Slay. He received the orders; he questioned the orders; he was told by his commander that the commander assumed responsibility for the orders and Slay carried out the orders. I personally cannot see how it could be any other way, especially when in testimony General Lavelle said he assumed full responsibility for what happened.

For the Senate to now conclude at this late date that General Slay should have done something more, would, in my opinion, be the ultimate in second guessing.

Mr. President, I remind my colleagues that the Senate in April 1974 confirmed the nomination of General Slay to be permanent major general. As a matter of principle, that promotion is as important as the one we are considering today. Therefore, I suggest it would be inconsistent to have previously approved the promotion of General Slay to be permanent major general while today denying the promotion to temporary lieutenant general. The standard and qualifications for general officers should be consistent for each grade. I do not believe we can have degrees of qualification within the general officer ranks. Therefore, I reiterate it would be a gross inconsistency for the Senate not to confirm General Slay to the grade of lieutenant general.

Mr. President, the next matter I wish to raise is related to the matter at hand, but is not one that is easy for me to raise. Those who have followed my comments on the Vietnam war know of my distaste for the imposition of the many rules of engagement that inhibited our forces from gaining a victory that was so clearly within our military capability. However, political considerations continually added more and more restrictions to the operations of our military forces to the point that the very safety of our military forces was placed in jeopardy.

I would remind my colleagues that while the Senate punished General Lavelle for the so-called unauthorized bombings by refusing to retire him in the grade of lieutenant general, which was requested by the administration, General Lavelle never once ordered a strike against anything other than a military target. General Lavelle never once had anything in mind other than the full protection of the men and equipment he was responsible for.

Personally, Mr. President, I think General Lavelle has had to bear the rap which many others should rightfully share since they, and not General Lavelle, were the ones who imposed the rules of engagement and the subsequent "no-win" policy. It was Lavelle's interpretation of those rules to protect his forces that brought him down. What would we have done if he had continued to sit idly by as North Vietnam continued to entrap our forces and shoot down our aircraft? Who in the chain of command superior to General Lavelle will step forward and take credit for that policy?

If the Senate should see fit not to confirm the nomination of General Slay then I believe it will be necessary and essential to call for a full reinvestigation of the Lavelle matter to assure that we get to the very core of those responsible for the implementation of the rules of engagement that governed operations in the Vietnam war. I recognize this will encompass both the Nixon and Johnson administrations, but if the Congress can conduct all of the investigations that we have seen of late, then I think the least we can do is to conduct an investigation to make sure we understand how policies come about that put this country in a no-win position. That, Mr. President, is the real issue at hand and for us to take out our frustrations on loyal and dedicated professional military officers is the height of stupidity. We have got to get off this kick of using the military professional as a whipping boy or else we will not have any professional military force left.

Mr. President, I hope it will not be necessary to pursue this particular course and I hope my colleagues will see fit to confirm overwhelmingly the nomination of General Slay. But let there be no misunderstanding. If the Slay nomination is rejected, I will insist on the investigation I have just outlined and I am confident I will have the support of the majority of the American people.

Mr. CANNON. I yield myself 10 minutes.

BACKGROUND AND QUALIFICATIONS OF GENERAL SLAY

Mr. President, the nomination of Maj. Gen. Alton D. Slay to be lieutenant general in the Air Force for the purpose of serving as Deputy Chief of Staff for Research and Development was approved without opposition by the Senate Armed Services Committee on July 24, 1975.

Mr. President, prior to discussing the issue which has been raised regarding the protective reaction strikes in North Vietnam, I would like to emphasize the accomplishments of General Slay which leave no doubt of his qualifications for this post. His career of over 30 years of active duty has included both the operational and staff assignments which ideally qualify him for this important post. He has served as Deputy Chief of Staff for Operations for both the Air Force Systems Command and the U.S. Air Forces in Europe, as well as in various squadron and wing level command jobs, along with service as a command pilot of over 7,500 flying hours, including 181 combat missions in Southeast Asia.

In addition, his staff assignments in research and development duties in the Pentagon total over 7½ years in key assignments including his present one of Assistant Deputy Chief of Staff for Research and Development in Headquarters, USAF. Moreover, he was Commander of the Air Force Test Center at Edwards Air Force Base where all new aircraft are tested for the Air Force. I do not know how a person could present more impressive credentials for the position to which he is nominated.

ISSUE BEFORE THE SENATE

Senator BAYH, in his Dear Colleague letter of July 25, 1975, urging the rejection of General Slay's nomination states "General Slay knowingly accepted and executed orders to conduct air strikes in Vietnam contrary to the written rules of engagement and participated in falsification of reports regarding those strikes in order to conceal them." Mr. President, this charge, which I shall discuss in full detail, can be fully answered.

PRICE CONSIDERATION OF ISSUE

The issue involving the protective reaction strikes in North Vietnam is not new to the Senate. It was a subject of lengthy so-called "General Lavelle hearings" before the Senate Armed Services Committee in 1972, and it has involved a number of nominations. The first nomination was that of General Lavelle to be advanced on the retired list to the grade of lieutenant general. The others included the late Gen. Creighton Abrams to be Chief of Staff of the Army, Adm. John S. McCain, Jr., to be advanced on the retired list to the grade of admiral, and Col. Charles Gabriel to be temporary brigadier general. Finally, there was the previous nomination of General Slay to be a permanent major general. As the Senate knows, the nomination of General Lavelle was not approved in Committee. All of the remaining nominations were approved by the Senate with those of General Gabriel and General Slay occurring in April of 1974.

DISCUSSION OF CHARGE

Mr. President, the question raised by Senator BAYH goes to two separate issues: First, the nature of the rules of engagement and second, the so-called falsification of reports. The first question is, therefore, what were the rules of engagement as they related to protective reac-

tion strikes. Basically, the general rule was that American pilots would not react, that is fire their guns, until the enemy had reacted first. In layman's language I suppose this means "do not fire at them until they first fire at you."

During his testimony General Slay stated that these strikes were preplanned under the instructions from General Lavelle. This means that aircraft would expend their ordnance when the aircraft reached the military target, even though they were not fired on first. It was General Slay's view that some of these raids could be questioned as to whether they complied strictly with the written rules. General Slay assumed, and I think with good reason, that General Lavelle had the authority for ordering these strikes.

Mr. President, I would like to read from page 310 of the 1972 hearings directly on this point in which General Slay testified in response to Senator HUGHES:

Senator HUGHES. You testify that you considered General Lavelle your superior and when he gave orders and you discussed the matter you carried them out?

General SLAY. Yes, sir.

Senator HUGHES. Colonel Gabriel, I believe, testified, if I recall—Senator DOMINICK—well you were not there that morning—Senator DOMINICK, he did testify, I am sure, that he assumed, as you apparently assume, that General Lavelle at least had authority to go ahead and do what he was doing so he had no right to question him.

General SLAY. That is exactly my position, sir. I mean, there are certain things that General Lavelle did completely apart from this that I did not agree with; in fact, I violently opposed, but it was not my position after I made my position known to him when he said "This is the way we are going to do it," it was not my position to say, "I am going to General Abrams and complain."

I did it, saluted smartly and did it, and I would do it again.

Senator HUGHES. You considered the fulfilling of your obligation then a discussion when you disagreed with General Lavelle, and when he made the final decision or said, "The decision has been made; carry it out," you had fulfilled your obligation; your next duty was to carry it out and that was the end of it?

General SLAY. I certainly have my own limits that I would draw on that.

Senator HUGHES. Yes.

General SLAY. If he said "Go out and bash this village," I would say, "Get yourself another man, Buster; I am not about to do that." But when he is talking about hitting missile transporters and when friends of mine are getting shot down by these same missile transmitters that are coming across the border and says, "Slay, go ahead and hit them," I would say, "Boss, you understand we are a little bit shady on the rules side," and he said, "Fine, but I am taking care of that" I go out and do it and I would do it again. But, again, I would have something better than a verbal directive to me to authorize it. I would have—I would prepare a wire. At the top instead of being "DO" would have been "CC." Now, that is what is known in the trade.

DIFFERING INTERPRETATION OF RULES

First of all, the meaning of the rules of engagement with respect to protective reaction strikes was not crystal clear. It was General Lavelle's contention that American pilots could fire whenever the enemy radars were used against us, since that constituted, in his view, an enemy reaction. Keep in mind, Mr. President, that all of these raids involved military targets—enemy aircraft on the ground, missile transporters, radar sites, and the like, some of which cost the lives of American pilots from time to time. Personally, I agreed with General Lavelle, since I was in the minority who voted for his advancement on the retired list. I feel that his interpretation was reasonable.

PREPLANNED RAIDS ON HIGHER AUTHORITY

Second, there were times when, on orders from Washington, raids were directed in the form of preplanned strikes of expending the ammunition regardless of whether there was a prior reaction. A very legitimate question is whether all of General Lavelle's subordinates were to be responsible for knowing the exact authority for a particular strike.

General Brown in his letter of March, 1974 to Senator SYMINGTON on the prior nominations of General Slay and General Gabrial stated:

Neither General Slay nor General Gabrial knew the extent of authority which had been delegated to General Lavelle. Each honestly assumed that General Lavelle was not acting on his own . . . I believe it was reasonable, based upon the circumstances which existed at the time and the unique rules of engagement, for Generals Slay and Gabriel to assume that General Lavelle had authority to issue orders for both the air strikes in question and the reporting of them.

RADAR STRIKE APPROVED BY GENERAL ABRAMS

Third, the RECORD should reflect that one of these strikes was personally approved by General Abrams after very deliberate consideration on all sides of the issue. This involved a GCI radar in North Vietnam near the Thai border which posed a threat to the B–52's coming out of Thailand. The hearings on pages 290–291 discuss this matter in detail.

Mr. President, the RECORD should also reflect that not all of these strikes were limited to North Vietnam radar sites; some were directed against airfields in North Vietnam from which Mig aircraft posed a threat to the B–52's coming out of Thailand.

HONOLULU CONFERENCE

Last, I would mention that a commander's conference was held in Honolulu in December 1971, and one message from that meeting was that the 7th Air Force should be more aggressive and make the maximum use of existing authority. Our military commanders were correctly concerned, and rightly so, over the threat to our B–52's from the Mig aircraft and the SAMS. In other words, the pressure was on to protect those B–52's from being shot down, and rightly so.

Mr. President, under the circumstances I have described, it is perfectly reasonable for General Slay not to question the orders of General Lavelle with respect to these preplanned strikes.

COMMENT ON SECOND GUESSING

Mr. President, the issue posed by this nomination is the same as General Slay's previous nomination to permanent major general. It is whether every subordinate commander in this or any other war is to be charged with the responsibility of second-guessing whether the commander has the authority to issue the order received by the subordinate. If this premise is correct, military operations in some instances would cease or, at least, be greatly slowed down. Let me raise two examples.

CAMBODIAN RAIDS

Senator SYMINGTON, as acting chairman of the Senate Armed Services Committee, in 1973 held hearings regarding the so-called Cambodian raids. American aircraft conducted an airstrike into Cambodian sanctuary occupied by the North Vietnamese who were causing a frightful loss of American lives. Incorrect information was purposely given out at all levels in order to protect the secrecy of the raids. These raids were ordered from Washington from the highest authority, but with also the apparent approval of the rulers in Cambodia. This is a perfect case of where American airmen in an action involving the possible loss of their own lives could very well demand to know the authority for this raid and also a determination as to whether it was legal. If such orders can be questioned, then such military operations themselves will be in great jeopardy.

"MAYAGUEZ" INCIDENT

More recently, I am reminded of the so-called *Mayaguez* incident, in which American military personnel conducted a rescue operation at some loss of life after the cease-fire in order to rescue American civilians on that vessel. A number of persons questioned whether or not the President had legal authority for this action under the War Powers Act. Since this apparently had public support, its legality has not been challenged, although it certainly is an appropriate question.

FALSE REPORTING

The second question relates to Senator BAYH's statement that General Slay "participated in the falsification of reports." Mr. President, the fact of the matter is that on one of the raids, which I have already discussed, in which one of the crews reported to be successful, but without enemy reaction, General Lavelle verbally stated that they could not report "no enemy reaction." General Lavelle's order was passed on down by General Slay to others on the perfectly reasonable ground that General Lavelle had the authority for issuing such an order.

As General Brown's letter of 1974 states, it was reasonable, based on the circumstances, for General Slay to assume that General Lavelle had the authority to issue orders both for the air strikes and the reporting of them.

FINAL COMMENT

Mr. President, General Slay has served with distinction throughout his 30 years, both before and after his Vietnam service. I can think of no greater injustice if we were to refuse to confirm this distinguished officer on the charges that we have discussed today. They have been fully explained as justifiable under the circumstances at the time. Moreover, to lose General Slay's future service as Deputy Chief of Staff for Research and Development would represent a serious loss of a highly qualified individual and officer.

Mr. President, I urge the Senate to confirm this nomination.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I have listened with a great deal of interest to the remarks of my distinguished friend from Nevada, to the Senator from Arizona, and to the Senator from South Carolina. As my remarks will show, I have some rather significant differences of opinion with them. Rather than deal with the specific instances at this time, perhaps we can do that as the colloquy and debate proceed. At this moment, I should like to lay the basis for my opposition to the promotion of General Slay.

The Slay nomination and promotion is related to one of the most tragic periods in American history. I do not think we can undo that history, though some on both sides of this aisle would try to make political hay out of it. Frankly, I think there is enough disgrace to go around. We cannot change that, but perhaps we can learn from it.

We can say to other generations of Americans that we profit from mistakes. We can say to other generals and subordinate officers, indeed to Members of Congress, that certain types of activity and certain types of conduct are not typical of the way we like to do things in this country and that we are not going to tolerate them. To tolerate them and not to learn from them is to make the already sad chapters of Vietnam and Watergate worse. That is why I take issue with my colleagues and with the Slay nomination and promotion.

Mr. President, opposing a nomination is never a pleasant task. Unlike legislation which is relatively impersonal, nominations relate to individuals and their careers, and working to defeat them is discomforting. There are times, however, when important principles require us to examine nominations in a particularly careful manner and then to vote against them. This is one of those times, Mr. President. The decision we make on this promotion will set a precedent in defining the quality of leadership we expect from our highest ranking military officers.

The issues raised by this nomination relate to incidents occurring in Vietnam in 1971 and 1972. At that time, U.S. air missions over North Vietnam were limited to reconnaissance flights. The reconnaissance planes were accompanied by armed escort aircraft, but actions the latter court take were strictly limited by written rules of engagement formulated by the country's highest political authorities.

The rules of engagement provided that the escort aircraft could strike only when a reconnaissance mission was fired upon or targeted by enemy SAM or antiaircraft artillery installations. Such strikes were then limited to immediate action against air defense sites.

In late 1971, the Commanding General of the 7th Air Force, John D. Lavelle began ordering preplanned air strikes which went beyond the action permitted by the rules of engagement.

He ordered his pilots to expend their ammunition whether or not the enemy reacted to their presence and to hit targets which were not related to air defense. He further ordered that reports of the preplanned missions always show that there had been an enemy reaction regardless of whether the North Vietnamese had taken action against American aircraft.

In all, about 25 of these illegal preplanned strikes were carried out from November 1971 to February 1972. An unspecified number of reports were falsified. Testimony before the Armed Services Committee indicated that such reports were numerous and that debriefing of flight crews returning from the missions often took hours as individuals attempted to coordinate false stories about targets and enemy reaction.

When the extent of General Lavelle's activities became known, he was relieved of command and subsequently retired. The Armed Services Committee held lengthy hearings on the matter and determined that General Lavelle had, indeed, violated the rules of engagement.

During the period that the 7th Air Force was engaged in the illegal protective reaction strikes, General Slay served as Lavelle's deputy for operations as has been specified earlier by my colleague. The role he played in the improper activity is set out in some detail in the record of the hearings on the Lavelle matter. I must say, in reading that record, I come to a conclusion opposite to that of my colleague from Nevada.

As the operations officer it was General Slay's responsibility to plan and execute missions for the 7th Air Force. It was he who received the order to preplan attacks on lucrative targets and to instruct pilots to strike even if the North Vietnamese did not take action against them. He carried out these orders dutifully, though he later stated that he was an expert in the rules of engagement and that he believed all along that such preplanned attacks violated these rules. No question about that. He says that all along he was relaying instructions that violated the rules.

General Slay also told his subordinates that they had to falsify reports and show enemy reaction even when there was none. There is no question, he admits it.

According to Colonel Gabriel, who commanded the reconnaissance wing in Thailand and carried out these missions, General Slay told him further to falsely report the nature of the targets that were hit so it would appear that all targets were air-defense related as required by the rules of engagement. There is Gabriel that this did in fact happen.

General Slay never questioned General Lavelle's requirement for false reporting despite the fact that falsification of reports were prohibited by article 107 of the Uniform Code of Military Justice. It is interesting to note that General Lavelle testified he had been unaware that false reporting was going on until the inspector general brought it to his attention shortly before he was relieved of his command. According to Lavelle, he never intended to order false reporting, and General Slay must have misunderstood his instructions. Thus, had General Slay questioned his commander at the outset, there would probably have been no false reporting and, the improper strikes would have been detected in Washington and quickly halted.

During his testimony before the Armed Services Committee, General Slay claimed that though he knew the preplanned strikes were contrary to the rules of engagement and that false reporting was generally improper, he believed that General Lavelle had been given authority from those above him to act as he did. Certainly, Mr. President, we cannot expect General Slay to have been privy to all instructions General Lavelle received from higher commands. That is not reasonable. But when one reads and analyzes the record carefully, it becomes quite clear that General Slay's defense amounts to a rationalization, even if a sincere one, for his failure to do what he should have done.

First, Mr. President, false reporting is forbidden by the Uniform Code of Military Justice. As a member of the armed services from the time he was 17, General Slay knew this. An order to falsify official reports had to raise serious questions in his mind. I do not see how anybody who has lived in the army his entire lifetime cannot understand what the Uniform Code of Military Justice requires. Anybody knows that false reporting is a violation of it.

Second, events of January 1972, indicated that the Joint Chiefs of Staff intended the rules of engagement to be strictly applied. Early that month, at a time when General Lavelle was temporarily absent from Vietnam, General Slay planned an attack on a ground control radar installation. Surprisingly, for a man who later testified that he believed General Lavelle and the 7th Air Force had some special authority to preplan strikes despite the rules of engagement, General Slay and the vice commander of the 7th Air Force, went to General Abrams and argued at some length that under the circumstances surrounding this particular mission, a preplanned strike should be permitted under the rules. If they really thought Lavelle had this kind of authority why did they go to Abrams, point 1? Point 2, General Abrams said under the circumstances they should go ahead and make the strike, but the attack was accurately reported to Washington and brought an immediate response that the Joint Chiefs of Staff considered such action improper.

Now, that should have laid the question to rest as to whether there was higher authority because the higher authority of the Joint Chiefs said this kind of reaction was improper.

Mr. President, I do not fault General Slay for violating the rules in this instance. It was a peculiar situation, and his interpretation of the rules urging judgment was reasonable. What is noteworthy about this incident is that General Slay attempted to conform the mission to the rules. Clearly he did not believe that the 7th Air Force had authority to disregard them even though he says now, that he did. Further, the response from the Joint Chiefs that the rules were to be strictly applied confirmed his belief.

Some remarks General Slay made during the hearings illustrate his doubts as to General Lavelle's authority to take the actions he did.

I quote from the record, Mr. President, at page 317:

I am not sure that even General Lavelle thought he had full clearance for this—

Let me repeat that in the RECORD:

I am not sure that even General Lavelle thought he had full clearance for this, but I just think that he was under the impression that you could press these rules a long way and as long as you stayed somewhere within the bounds of reasonableness that he wasn't going to be descended upon.

And at page 301 I quote General Slay again from the record:

General SLAY. His answer was supreme confidence that—my impression was that General Lavelle knew exactly what he was doing and also my impression was "that is my worry; you run your end and I will run mine", and it never—as a matter of fact, Charlie Gabriel and I discussed this very point and we both agreed that well, he is a big boy and that is the way he wants to run it; that is his show.

Here I think the closing quotation on that same page is very telling as to what General Slay actually thought at the time because he says in the record:

I just assumed that he either had the authority to do it on something that I had not seen and was not in the written word or he was deliberately choosing to do it extraneous to authority.

I submit, Mr. President, that General Slay clearly doubted his commander's authority to violate the rules of engagement and order the falsification of reports. The only real question before us is whether General Slay had responsibility to take action.

I further submit that the answer to this question is equally as clear. Former Chief of Staff of the Air Force, General John D. Ryan explained the duties of an officer in General Slay's situation quite well. He said:

I would have discussed it with the Commander and said it was not right. If he insisted that it be done, after my discussion, I would have transmitted the order. However, I think I would have reported it.

Seeing rules which had been established by our highest civilian authority systematically violated, seeing reports falsified so that the violations would never be known, General Slay had the painful duty of acting. It was his duty to go to General Lavelle and say, "You have me breaking the rules of engagement. You have me falsifying reports. Now, just where do you get that authority?" And if Lavelle had no good explanation, General Slay should have reported the matter to General Abrams or the Inspector General.

It seems to me, Mr. President, we have it rather clearly that the rules of engagement were violated. General Slay says he knew they were violated. He was falsifying the reports. He knew the Uniform Code of Military Justice forbids falsifying reports. And yet he refused to report this activity to higher authority.

Mr. President, I refer to the rules of engagement that my good friends from Arizona and from Nevada suggest were unreasonable. That may very well be. But it seems to me we have a broader principle here. If we have a civilian authority enumerating rules of engagements, then do we permit a subordinate military officer to subvert the intention of that civilian authority? That is point one. I think if we say now that we are going to step back and let civilian authority be subverted, we are establishing a very dangerous precedent.

Second, I think we have to recognize that even a subordinate officer has certain responsibilities. If he feels a superior is violating in this case two specific regulations, then I think he has a responsibility, as General Ryan says, to carry out the order but to report the violation. General Slay did not do that.

I have no personal axe to grind against General Slay. As I said earlier, whenever we get involved in one of these nomination battles, and I have been in more than one of them, it becomes very personal in nature and I do not like to deal with personalities in matters like this. I have talked with General Slay. I find him a very pleasant gentleman. We cannot deny his military record. I am not suggesting that the man be demoted or forced to retire, as was the case with General Lavelle. But I am suggesting if we are going to mean what we say about honesty, if we are going to convey the right message to all of those would-be generals who are now looking to see what standard Congress sets, if we are going to say to cadets at West Point "We are going to discharge you if you cheat on your exams," then perhaps we ought to establish that same standard of conduct for general officers.

The PRESIDING OFFICER. Who yields time?

Is all time yielded back?

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time if no one else desires to speak.

Is the Senator ready to yield his time back?

Mr. GOLDWATER. Will the chairman yield me 3 minutes?

Mr. CANNON. I yield 3 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I have listened with great interest to my friend from Indiana. Our troops in Southeast Asia operated under rules of engagement which had never been envisioned by civilians before in our 200-year history; have never been invoked upon the military by civilians at any place in the history of war, and these rules of engagement along with the indecision of civilians here in Washington did more to cause us to lose that war than anything else. But I think that is beside the point. Time after time ranking military men in Vietnam went to the Joint Chiefs of Staff begging for this kind of permission, and they were constantly denied this. I know that General Lavelle asked, General Abrams asked it, General Westmoreland asked it, and others, but it was turned down because of the rules of engagement.

Finally an order came down from on high. I assume it came right from the President.

General Lavelle obeyed that order. I do not know whether or not the general disagreed with the President. I do not think he even saw him.

Mr. BAYH. Will the Senator yield? If this is the matter contained in private correspondence between the Senator from Arizona and the Senator from Indiana, if indeed there was this order——

Mr. GOLDWATER. Is this on the Senator's time? We do not have much left.

Mr. BAYH. I will advise the Senator that I will bring that up again. If we have proof of that, I would like to know it.

Mr. GOLDWATER. As I said earlier, I have no proof of that, any more than we have proof on assassination attempts from the Committee on Intelligence. But these orders are never broken by men in uniform. I know of one time when we might say a general officer disobeyed orders, and that was the case of General MacArthur with President Truman, but even that was not clear.

When it comes down from upon high that he was going to do something, General Lavelle reacted. Again, a ranking general officer told a subordinate to do something. The subordinate, even though he would feel very strongly that it was against the rules of engagement, would, in my opinion, follow orders and do it. Yes, he could complain. He could have sent a wire, as he said he thought of doing, but he had to assume, as he says, that somebody had the boss by the hand.

That is the whole meat of this argument, the falsification of reports. Those reports are debriefings made by pilots on their return from missions. General Slay was probably never at any of these debriefing. The pilots reported what they saw or thought they saw.

To be able to live by the rule that you do not fire at the enemy until he fires back is, to me, an almost impossible rule. In fact, General Lavelle said that he had to assume that every time an airplane flew over North Vietnam, it was being fired at. The only way a pilot knows he is being fired at is if he gets hit or if he sees a tracer going by. About 999 times out of 1,000 that is too late.

I see nothing in the activities of General Slay that discredits him a bit. We approved him promotion to permanent major general. All of these questions were raised in the interrogations that we performed at Fitzsimmons General Hospital and I, as a member of the subcommittee, was satisfied.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, how much time does this Senator have?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. BAYH. Mr. President, I think we have learned one thing from Vietnam on these rules of engagement. If we are ever going to get involved in another war, we ought not have rules of engagement that keep us from knocking the other fellow's block off. But they are not on trial now. The question is the responsibility of officers to carry out orders they know they have. That is a greater lesson for us to learn than the error in the engagement rules. We can change en-

gagement rules a lot easier than we can establish a standard of conduct for our officers.

There are some rather strange inconsistencies here with the case that is presented by those who support General Slay's position.

First of all, the Joint Chiefs of Staff turned down requests for the very kinds of activities, the strikes, that were planned. Would that not convince a reasonable general officer that if the Joint Chiefs said "You don't do this," that they were closer to the President than somebody out there in the field? I would certainly think so.

If we are to assume that the President of the United States had, in some circuitous manner, conveyed these orders, and that the President was ordering these strikes, then I think we have to open up this investigation again and bring several of the most prominent military officers before this body and question them about perjury. General Lavelle said he never knew of any orders from the President. Admiral Moorer said he never knew of any orders from the President. General Abrams, General Ryan, even General Slay himself said he never knew of any orders from the President.

Whom are we kidding? Either they committed perjury or the President did not send him those orders, one or the other. I say again, this goes beyond the rules of engagement; it goes beyond our personal feelings toward any general officer; it goes to those junior officers that some day may be generals. Here we are establishing, now, the kind of conduct we are going to expect from them.

Here we had a general officer who engaged in a continuous violation of a rule of engagement, and there is no question about that; he admitted it before the committee. He also knew it was a direct violation of the Code of Military Justice to cover up his actions and misrepresent them. That is rather clear.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. BAYH. I am glad to yield.

Mr. BUMPERS. First, this nomination has troubled me deeply, because I was one of those people who were deeply troubled about the fact that we had an incursion into Cambodia and bombed that country without legal authority or congressional approval.

The thing that troubled me about this question is, how far do you carry it? For example, if one of the pilots who flew one of the bombing raids over Cambodia were before this body for promotion, would we reject him on the same basis?

Mr. BAYH. No, I would not reject him if he did not have a part in the decision, or participated only in making the kind of a decision that has to be made in the field and is not a product of high level decisionmaking.

Mr. BUMPERS. Let me reframe the question. Who was the next subordinate responsible for carrying out the orders of General Slay?

Mr. BAYH. Well, Colonel Gabriel was the one in the field.

Mr. BUMPERS. Who was he, the squadron leader?

Mr. BAYH. No, he was not the squadron leader. He commanded the air wing in Thailand.

Mr. BUMPERS. Carry it logically to the next step. Should Colonel Gabriel, for example, be denied a promotion on the same ground?

Mr. BAYH. I think the higher up the ladder of responsibility you go, the greater responsibility you have for knowing what the rules of engagement are and for knowing what the Uniform Code of Military Justice is.

Here we have General Slay admitting on the record that he knew that the rules of engagement were being broken, and he also must have known that to submit false records directly violated the Uniform Code of Military Justice.

Mr. BUMPERS. One further question——

Mr. BAYH. That man who is committing the strike out there, I do not think, is nearly as responsible as the fellow giving the order.

Mr. BUMPERS (continuing). Did General Slay ever lie in his appearance before the subcommittee?

Mr. BAYH. Well, I think there is plenty of reason not to promote him on the record of what he said, that he knew the rules of command were being violated, and that he intentionally misrepresented and falsified reports.

Mr. BUMPERS. I thank the Senator.

Mr. GLENN. Mr. President, will the Senator yield for a question?

Mr. BAYH. I yield.

Mr. GLENN. I would like to follow up a little bit, because the same thing the Senator from Arkansas has been aiming at has bothered me also, in this whole consideration.

I do not know where the whole thing stops, once you start downhill. How about the clerk, the Pfc., the airman who actually put the figures down, but who knew of the rules of engagement, just as much as the officers up here? He is still an American citizen, a member of the armed services. He is still committed; he has still held up his hand and is abiding by all the rules of legality and the orders that his superior officers are, clear up to and including the Joint Chiefs of Staff.

I do not see where this thing of holding a person guilty really stops. That has bothered me in this particular case. I share the view of the Senator from Arkansas that if the next man under General Slay knew this was wrong, and knew of the rules of disengagement, is he not equally to blame? The wing commander, I suppose, is under him, and the squadron commander is under them. The rules of engagement were not secret. They were known by all participating. At what level do we cut off this responsibility is a question that has bothered me somewhat. Does the distinguished Senator from Indiana have a comment on that?

Mr. BAYH. The Senator from Ohio, of course, with his outstanding military record, realizes the distinctions between a general, a colonel, and a Pfc. The Senator from Indiana did not get beyond Pfc., so I suppose that he is being a little harder on the generals. But I suggest to the Senator that the morale of the lieutenants, the captains, and the colonels is determined by what they see happening to a general. When they see a general forced to retire, and when they see a subordinate admit that he has violated the rules of engagement, when they see that officers conferred and decided, "Well, it is his responsibility, it is not any of ours," then they must be disillusioned when they see such subordinates promoted.

Further, it seems to me absolutely inexcusable that General Slay would permit reports to be falsified. There is no question but that that is a violation of the Uniform Code of Military Justice. As I said before my distinguished friend from Ohio came in, I do not want to see this man discharged or demoted. But if we have people in that Academy right now who are going to be kicked out for cribbing on an examination, and we are not going to treat a general the same way, that is the kind of dual standard that I think does not speak well for our military.

Mr. GLENN. I agree with the Senator that the most damning part of this whole thing to me was the falsification of records. I have been in many military situations, and I cannot imagine that I would ever go along with falsifying records, no matter what the order was. It seems to me that that was so inherently wrong, it was the most damning point in this whole case.

But so far as where the responsibility starts or stops, it is very difficult for me to see, and I share the concern of the Senator from Arkansas: At what level do you cut this off? It seems to me that when we try to base a case on that, it is a little bit thin.

Mr. BAYH. I am sure the Senator from Ohio has looked at how General Ryan, the Chief of Staff of the Air Force, assessed what the responsibility should be. He said he thought that Slay used poor judgment, that if he had been in that situation, he would have carried out the order, if Lavelle persisted, but he would have reported what he thought was a specific violation.

But Slay apparently did neither. He did not really question the order, and he did not report it; and going beyond that, he falsified.

Again, I think, rather than be punitive here, we had better leave things as they are. But we should not reward this kind of questionable activity and conduct. I think to do so would establish a very poor precedent for future general officers.

Mr. GOLDWATER. Mr. President, will the chairman yield me 2 minutes?

Mr. CANNON. Mr. President, before I yield to the Senator from Arizona, first, I want to draw to the attention of the Senator from Ohio and the Senator from Arkansas, because they did ask some very valid questions, that the answer they have received is not quite correct. It is close, but is not quite correct.

I refer to the testimony of General Slay, and this will be partly explanatory, where he refers to one of the alleged unauthorized strikes that we have heard talked about. This is General Lavelle first:

Another alleged unauthorized strike was the one made against Dong Hoi airfield on the 23d of January 1972. Late in November 1971, a Mig attacked a flight of three B-52s, firing three heat-seeking missiles at the middle B-52 in the cell. The Mig pilot missed [deleted].

I ordered the Quick Check Recce flight to launch with the objective of cutting the Dong Hoi runway [deleted]. The strike was successful [deleted]. The strike was so successful that the strike aircraft pulled off the target and out of the threat area without receiving enemy fire. The lead pilot reported [deleted] that he had struck Dong Hoi airfield, expended all ordnance, the mission was successful and no enemy reaction.

This is General Lavelle now.

I told my Director of Operations that we could not report "no enemy reaction." "Hostile radar" would have been a proper and, in my opinion, an accurate report.

He goes on then to explain that by the time this got on down the line, the man down, who really interviewed the pilots and made the report, filled out the report indicating AAA fire. This was General Lavelle talking here now, and this is the kind of situation where we have orders going down the line and a man at a lower level taking that order and carrying it out.

If I may refer to General Slay, this was his testimony before the committee:

I guess the thing that is foremost in your mind is were these preplanned. They were preplanned. There is no question under the sun about that. They were planned. Colonel Gabriel carried out his instructions to the letter.

The Senator asked who was the next successive officer down the line, and that was Colonel Gabriel, who was a wing commander of the wrecking missions. He says he carried out his instructions to the letter.

When we told him four airplanes, he mounted four airplanes. When we told him to go to Dong Hoi Airfield, he went to Dong Hoi Airfield. When we told him to use Route 137 as an alternate target to try to catch build-up of supplies there, he did that.

General Lavelle personally directed each one of these. He would not allow any of his staff to make the decision to go on one of these. This was his personal decision and, as a matter of fact, as I said before, he would describe the numbers of airplanes that would go and quite often we would perhaps differ on that and we would dicker back and forth as to how many airplanes we should send on this particular raid or, in fact, whether it should be sent.

Mr. President, I think this outlines what the command situation is. If one is in a wartime situation, he certainly cannot have a junior officer questioning the commander who is issuing the orders supposedly on the authority that he had. If he questions those, I know if I were the commanding officer and someone questioned it and raised the difficulties that could have been raised in a situation like this, I would have fired him, and then it was up to me as to whether I was carrying out the proper order of myself. I think that is the precise situation we have here between General Slay and General Lavelle.

Again I point out, as the Senator from Arizona made the point earlier, we have already confirmed General Slay once for promotion since these incidents occurred, and now we are having the issue raised again, saying, "You should not promote him."

I pointed out earlier the outstanding record that this man has had, with tremendously important experience, that it would be a loss to the Air Force if he is not promoted.

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

The Senator from Indiana has 1 more minute.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended for 15 minutes and that at the hour of 2:30 p.m. the vote occur on the six treaties, one vote, which will be listed as six votes, and following the vote on the treaties we then vote immediately on the nomination of Maj. Gen. Alton D. Slay to be lieutenant general.

The PRESIDING OFFICER. Is there objections?

Mr. BAYH. Mr. President, without objection, I assume the majority leader intends for the time to be equally divided.

Mr. MANSFIELD. Yes, on the same basis as before.

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

Mr. CANNON. Mr. President, I yield 2 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I only wish to make the point relative to the questions asked by the Senator from Ohio and the Senator from Arkansas. I think the Senator from Indiana answered them: "Well, there is no way you can stop."

In fact, during the hearings, and I was a member of the subcommittee that looked into this matter, a suggestion was repeatedly made that we court-martial General Lavelle. When we got into the legalities of this, every single pilot not only had the rules of engagement, but he had memorized the rules of engagement. Every officer concerned with combat in the wings and squadrons had memorized the rules of engagement. So they knew about this. When we got to looking into the complete court-martial of Lavelle, we would have to court-martial literally everyone in the outfit down to the private who screwed the fuses on the bombs. That sounds silly I know, but it is literally true.

The fact remains that when one is in combat or even when he is just in the military, he obeys orders, and that is all that General Slay has done. He wanted to help win the war and obey orders, something that a military man is ingrained with. One does not disobey on the field of battle.

Mr. President, I sincerely hope we can get quick action on this. This promotion has been before this body since June 24, and that is harmful to a man's career in the service, it is harmful to him and his family income, and I think we have delayed this far too long.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I suggest that the Senator from Indiana has said in the absence of some of our brethren here that he has no desire to court-martial anyone or demote them or to force them to resign, as General Lavelle was forced to do.

But I think we ought to make this nomination symbolic of the kind of conduct we expect of military officers. Certainly, I would not promote the kind of conduct in which General Slay participated.

The Senator from Nevada very skillfully, pointed to a particular instance, but a few moments ago I pointed out another one. In January 1972, General Slay had the responsibility for doing the preplanning because General Lavelle was not there. He in his own mind questioned whether he had authority to take such action and personally went to General Abrams. He knew that what he was about to do was questionable.

The Joint Chiefs of Staff later came down and said it was wrong. Then there should have been no question about the status of the rules of engagement. Yet he went ahead and continued to carry out these orders and continued to cover them up. There is no question about that.

We are not only talking about rules of engagement, which I think all of us might question. We are talking about a second in command admitting that he knew the orders were questionable, wondering what authority the chief had, going ahead and carrying them out without asking questions, and then covering them up contrary to the Uniform Code of Military Justice that he had followed since he was age 17.

General Ryan stated what the standard of conduct should be. If the fellow on top says do it, and the subordinate says: "Well, wait a minute, General. I wonder about that. It looks sort of questionable." And the Chief says, "Well, that is my responsibility," then one does it. But as General Ryan says: "At least I would have reported it."

Yet unfortunately General Slay did not do that. I think that is a very bad example for us to promote that kind of conduct.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I yield myself 15 seconds just to correct an error.

The Senator referred to General Slay as second in command. He was not second in command. He was the operations officer and he was charged with carrying out the orders of the commanding officer. There was a vice commander, who was the second in command, and the operations officer simply plans and carries out the missions that are given to him.

Mr. President, I am ready to yield back the remainder of my time if the Senator is ready.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I think the Senator from Nevada is right. Slay was not the deputy commander out there. He was the one in charge of carrying out orders.

I feel that whether he was the second in command or not is not relevant. The question is, what standard of conduct or what responsibility does a general officer have in the field when his superior is

handing down orders that he knows are questionable or wrong?

Second, what responsibility does he have to carry out the Uniform Code of Military Justice, which specifically says it is illegal to try to distort reports?

There has been some allusion to Cambodia. In the Cambodian action, the reports were falsified, but there were specific back channel communications which got the true facts to Washington. This was not the case with the covering up and distortions that General Slay participated in.

I say that I do not want this man punished or discharged. I simply think we are establishing a very poor precedent for future officers who now may be in that academy or may be lower echelon officers, as to what we are going to expect from them later on, God forbid, if they are forced to make this kind of decision themselves.

ADDITIONAL STATEMENTS SUBMITTED ON NOMINATION OF GENERAL SLAY

Mr. PROXMIRE. Mr. President, on April 24, 1974, the Senate debated the nomination of Maj. Gen. Alton D. Slay to the permanent rank of major general. At that time 36 Members of this body, over one-third of the Members present, expressed their disapproval of his promotion by way of a negative vote.

Now, once again, the Air Force has seen fit to submit the promotion of General Slay to lieutenant general with the intent that he serve as Deputy Chief of Staff for Research and Development—a very important and sensitive position demanding a man of unquestionable character and competance. The Armed Services Committee has reported favorably on the nomination and although I respect that decision Mr. President I cannot bring myself to agree with it.

In the spring of 1974 the promotion of General Slay was vigorously opposed by our very capable and respected former colleague from Iowa, Mr. Hughes. I cast a negative vote then and for many of the same reasons I must do so again.

In approving the nomination of an individual for a position such as this we must be certain that the individual possesses the complete trust of this body in his capabilities, honesty, and character.

We must ask the question: Does the nominee deserve, without exception, the rewards from his country that ovbiously accompany such a promotion?

General Slay's record during the Vietnam conflict while under the command of General Lavelle has been examined in detail by the Senate. The testimony of 1972 and 1974 remains undisputed. General Slay knowingly and unquestioningly received and carried out orders from General Lavelle to conduct strikes on targets in North Vietnam in violation of the written rules of engagement. Then he concealed these violations by way of falsified reports. The general himself testified to this fact. Therefore the worthiness of General Slay for promotion is as suspect now as it was last April.

This body should ask itself one simple question: Does General Slay deserve promotion?

Mr. President, I ask the patience of my colleagues while I briefly review the basic facts of the disputed actions which took place in 1972. General Slay testified before the Armed Services Committee that he knew the preplanned air strikes on targets in North Vietnam ordered by General Lavelle were contrary to the written rules of engagement. Yet he carried out those orders without question.

Had he not known that the planned bombing was against the rules of engagement then the argument of my distinguished colleague from Arizona (Mr. GOLDWATER) would apply with more force. That is, a military officer should obey orders. Without discipline there can be no military system.

There is one exception to this logic, however. We are a Nation of laws and rules. These laws and rules are provided for the protection of those receiving orders as well as to all other Americans. The military system is not exempt from this consideration.

When General Slay determined that the proposed air strike was against the rules of engagement he should have requested guidance from the Joint Chiefs. A higher responsibility lay with the general and that responsibility was to uphold the law, the regulations of engagement, above his standing orders.

No one can deny that General Slay knew his actions were in violation of the rules. He falsified reports to cover up this violation. This was a violation of article 107 of the Uniform Code of Military Justice.

It is a simple question. Should General Slay be rewarded by his country for violating the Uniform Code of Military Justice; for falsifying reports to higher authority; for exercising "poor judgment" as General Ryan, Chief of Staff of the Air Force, once said?

General Slay's new position requires the most stringent reporting requirements to Congress and the executive department. Does his history in the unauthorized bombing strike recommend him for this position? I think not.

Mr. President we are again asked to put our trust and confidence in a man who testified to the fact that he went along with false reporting of the illegal air strikes an act which is directly prohibited within the Uniform Code of Military Justice.

What does the Code of Military Justice have to say about activities such as General Slay's? It says that any person who fails to obey any lawful general order or regulation; or is derelic in the performance of his duties; or is an accessory after the fact in that knowing that an offense has been committed, receives, comforts or assists the offender in order to hinder or prevent his apprehension, trial, or punishment; or anyone, "with intent to deceive, signs any false record or official document knowing it to be false," and I quote, "shall be punished as a court-martial may direct."

It is not the duty of the Senate to conduct a court-martial. It is, however, the duty of the Senate to see that the best possible men with the highest qualifications available are promoted to the critical levels of leadership within our governmental structure.

This does not exclude the Air Force. I say now that I am obviously disappointed in the Air Force in their choice of General Slay. Surely there must be men of necessary stature, accountability, and competance capable of serving in this position other than General Slay.

In response to a question asked by my respected colleague from Arizona (Mr. GOLDWATER) as to whether there was any other alternative to following orders, General Slay replied that he could not force himself—that he did not have the "mental make-up" to question what he knew were illegal orders and systematic violations of the Uniform Code of Military Justice.

Mr. President, can we seriously wish to promote such a man, let alone make him a Deputy Chief of Staff for Research and Development, a position in which accurate reporting is of prime importance. In his own words, he may not have the "mental make-up" we need in this country.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I suggest the absence of a quorum, with the time to be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the role.

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

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

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

Mr. BAYH. I yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the Slay nomination.

The PRESIDING OFFICER. They have been ordered.

CONVENTION ON THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972, AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960; CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS; PROTOCOL FOR THE CONTINUATION IN FORCE OF THE INTERNATIONAL COFFEE AGREEMENT OF 1968, AS EXTENDED; AGREEMENT WITH THE FEDERATIVE REPUBLIC OF BRAZIL CONCERNING SHRIMP; AND AMENDMENTS TO CERTAIN ARTICLES OF THE CONVENTION ON THE INTERGOVERNMENTAL MARITIME CONSULATIVE ORGANIZATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to consider the conventions which the Senate has agreed to vote on at 2:30.

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

The clerk will state the first resolution of ratification.

CONVENTION ON THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISONS AT SEA, 1972

The resolution of ratification was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on the International Regulations for Preventing Collisions at Sea, 1972, done at London, October 20, 1972, as rectified by the Process-Verbal of December 1, 1973 (Ex. W, 93–1).

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Executive W, 93d Congress, 1st session, Convention on the International Regulations for Preventing Collisions at Sea, 1972?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Michigan (Mr. HART) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 453 Ex.]

YEAS—94

Abourezk	Garn	Morgan
Allen	Glenn	Moss
Baker	Goldwater	Muskie
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Beall	Hansen	Packwood
Bellmon	Hart, Gary	Pastore
Bentsen	Hartke	Pearson
Biden	Haskell	Pell
Brock	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Helms	Randolph
Burdick	Hruska	Ribicoff
Byrd, Harry F., Jr.	Huddleston	Roth
	Humphrey	Schweiker
Byrd, Robert C.	Jackson	Scott, Hugh
Cannon	Javits	Scott, William L.
Case	Johnston	
Chiles	Kennedy	Sparkman
Church	Laxalt	Stafford
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Stone
Curtis	Mansfield	Symington
Dole	Mathias	Taft
Domenici	McClellan	Talmadge
Durkin	McClure	Thurmond
Eagleton	McGee	Tower
Eastland	McGovern	Tunney
Fannin	McIntyre	Weicker
Fong	Metcalf	Williams
Ford	Mondale	Young

NAYS—0

NOT VOTING—6

Buckley	Hollings	Montoya
Hart, Philip A.	Inouye	Stennis

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

The resolution of ratification was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the amendments to seven regulations contained in Chapters II, III, IV and V of the International Convention for the Safety of Life at Sea, 1960, and an amendment replacing and superseding the regulations in Chapter VI of the Convention, all of which were adopted on November 20, 1973, by the Assembly of the Inter-Governmental Maritime Consultative Organization (IMCO) at its Eighth Session (Ex. K, 93–2).

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Resolution of Ratification on Executive K, 93d Congress, 1st session, Amendments to the International Convention for the Safety of Life at Sea, 1960?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) and the Senator from Michigan (Mr. HART) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 454 Ex.]

YEAS—94

Abourezk	Garn	Morgan
Allen	Glenn	Moss
Baker	Goldwater	Muskie
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Beall	Hansen	Packwood
Bellmon	Hart, Gary	Pastore
Bentsen	Hartke	Pearson
Biden	Haskell	Pell
Brock	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Helms	Randolph
Burdick	Hruska	Ribicoff
Byrd, Harry F., Jr.	Huddleston	Roth
	Humphrey	Schweiker
Byrd, Robert C.	Jackson	Scott, Hugh
Cannon	Javits	Scott, William L.
Case	Johnston	
Chiles	Kennedy	Sparkman
Church	Laxalt	Stafford
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Stone
Curtis	Mansfield	Symington
Dole	Mathias	Taft
Domenici	McClellan	Talmadge
Durkin	McClure	Thurmond
Eagleton	McGee	Tower
Eastland	McGovern	Tunney
Fannin	McIntyre	Weicker
Fong	Metcalf	Williams
Ford	Mondale	Young

NAYS—0

NOT VOTING—6

Buckley	Hollings	Montoya
Hart, Philip A.	Inouye	Stennis

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS

The resolution of ratification was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, adopted by the United Nations General Assembly on December 14, 1973, and signed in behalf of the United States of America on December 28, 1973 (Ex. L, 93–2).

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Executive L (93d Cong., 2d sess.), Convention on the Prevention and of Crimes Against Internationally Protected Persons?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE), is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Michigan (Mr. HART), are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

The yeas and nays resulted—yeas 94 nays 0, as follows:

[Rollcall Vote No. 455 Ex.]

YEAS—94

Abourezk	Garn	Morgan
Allen	Glenn	Moss
Baker	Goldwater	Muskie
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Beall	Hansen	Packwood
Bellmon	Hart, Gary	Pastore
Bentsen	Hartke	Pearson
Biden	Haskell	Pell
Brock	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Helms	Randolph
Burdick	Hruska	Ribicoff
Byrd, Harry F., Jr.	Huddleston	Roth
	Humphrey	Schweiker
Byrd, Robert C.	Jackson	Scott, Hugh
Cannon	Javits	Scott, William L.
Case	Johnston	
Chiles	Kennedy	Sparkman
Church	Laxalt	Stafford
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Stone
Curtis	Mansfield	Symington
Dole	Mathias	Taft
Domenici	McClellan	Talmadge
Durkin	McClure	Thurmond
Eagleton	McGee	Tower
Eastland	McGovern	Tunney
Fannin	McIntyre	Weicker
Fong	Metcalf	Williams
Ford	Mondale	Young

NAYS—0

NOT VOTING—6

Buckley	Hollings	Montoya
Hart, Philip A.	Inouye	Stennis

The PRESIDING OFFICER. Two-thirds of the Senators present and voting, have voted in the affirmative, the resolution of ratification is agreed to.

PROTOCOL FOR THE CONTINUATION IN FORCE OF THE INTERNATIONAL COFFEE AGREEMENT OF 1968, AS EXTENDED

The resolution of ratification was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Protocol for the Continuation in Force of the International Coffee Agreement of 1968, as Extended, adopted by the International Coffee Council in its Resolution Number 273 of September 26, 1974 (Ex. B, 94–1).

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Executive B, 94th Congress, 1st session, Protocol for the Continuation in Force of the International Coffee Agreement of 1968, as Extended?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) and the Senator from Michigan (Mr. HART) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 456 Ex.]

YEAS—94

Abourezk	Garn	Morgan
Allen	Glenn	Moss
Baker	Goldwater	Muskie
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Beall	Hansen	Packwood
Bellmon	Hart, Gary	Pastore
Bentsen	Hartke	Pearson
Biden	Haskell	Pell
Brock	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Helms	Randolph
Burdick	Hruska	Ribicoff
Byrd, Harry F., Jr.	Huddleston	Roth
	Humphrey	Schweiker
Byrd, Robert C.	Jackson	Scott, Hugh
Cannon	Javits	Scott, William L.
Case	Johnston	
Chiles	Kennedy	Sparkman
Church	Laxalt	Stafford
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Stone
Curtis	Mansfield	Symington
Dole	Mathias	Taft
Domenici	McClellan	Talmadge
Durkin	McClure	Thurmond
Eagleton	McGee	Tower
Eastland	McGovern	Tunney
Fannin	McIntyre	Weicker
Fong	Metcalf	Williams
Ford	Mondale	Young

NAYS—0

NOT VOTING—6

Buckley	Hollings	Montoya
Hart, Philip A.	Inouye	Stennis

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

AGREEMENT WITH THE FEDERATIVE REPUBLIC OF BRAZIL CONCERNING SHRIMP

The resolution of ratification was read as follows:

Resolved, (Two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement between the Government of the United States of America and the Government of the Federative Republic of Brazil concerning shrimp, with an agreed minute and a related exchange of notes concerning interim undertakings, signed at Brasilia on March 14, 1975 (Ex. D, 94–1).

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Executive D, 94th Congress, 1st Session, Agreement with the Federative Republic of Brazil Concerning Shrimp?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Mexico (Mr. MONTOYA), are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Michigan (Mr. HART) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), is necessarily absent.

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 457 Ex.]

YEAS—94

Abourezk	Garn	Morgan
Allen	Glenn	Moss
Baker	Goldwater	Muskie
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Beall	Hansen	Packwood
Bellmon	Hart, Gary	Pastore
Bentsen	Hartke	Pearson
Biden	Haskell	Pell
Brock	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Helms	Randolph
Burdick	Hruska	Ribicoff
Byrd, Harry F., Jr.	Huddleston	Roth
	Humphrey	Schweiker
Byrd, Robert C.	Jackson	Scott, Hugh
Cannon	Javits	Scott, William L.
Case	Johnston	
Chiles	Kennedy	Sparkman
Church	Laxalt	Stafford
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Stone
Curtis	Mansfield	Symington
Dole	Mathias	Taft
Domenici	McClellan	Talmadge
Durkin	McClure	Thurmond
Eagleton	McGee	Tower
Eastland	McGovern	Tunney
Fannin	McIntyre	Weicker
Fong	Metcalf	Williams
Ford	Mondale	Young

NAYS—0

NOT VOTING—6

Buckley	Hollings	Montoya
Hart, Philip A.	Inouye	Stennis

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

AMENDMENTS TO CERTAIN ARTICLES OF THE CONVENTION ON THE INTERGOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

The resolution of ratification was read as follows:

Resolved, (Two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Amendments to Articles 10, 16, 17, 18, 20, 28, 31 and 32 of the Convention on the Inter-Governmental Maritime Consultative Organization, which were adopted on October 17, 1974, by the Assembly of the Inter-Governmental Maritime Consultative Organization (IMCO) at its Fifth Extraordinary Session held at London from October 16 to 18, 1974, (Ex. F, 94–1).

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Executive F, 94th Congress, 1st session, Amendments to Certain Articles of the Convention on the Intergovernmental Maritime Consultative Organization?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Michigan (Mr. HART) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 458 Ex.]

YEAS—94

Abourezk	Garn	Morgan
Allen	Glenn	Moss
Baker	Goldwater	Muskie
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Beall	Hansen	Packwood
Bellmon	Hart, Gary	Pastore
Bentsen	Hartke	Pearson
Biden	Haskell	Pell
Brock	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Helms	Randolph
Burdick	Hruska	Ribicoff
Byrd, Harry F., Jr.	Huddleston	Roth
	Humphrey	Schweiker
Byrd, Robert C.	Jackson	Scott, Hugh
Cannon	Javits	Scott, William L.
Case	Johnston	
Chiles	Kennedy	Sparkman
Church	Laxalt	Stafford
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Stone
Curtis	Mansfield	Symington
Dole	Mathias	Taft
Domenici	McClellan	Talmadge
Durkin	McClure	Thurmond
Eagleton	McGee	Tower
Eastland	McGovern	Tunney
Fannin	McIntyre	Weicker
Fong	Metcalf	Williams
Ford	Mondale	Young

NAYS—0

NOT VOTING—6

Buckley	Hollings	Montoya
Hart, Philip A.	Inouye	Stennis

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

NOMINATION OF MAJOR GENERAL SLAY TO BE LIEUTENANT GENERAL

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to vote on Calendar No. 178.

The question is, Will the Senate advise and consent to the nomination of Major General Alton D. Slay to be Lieutenant General, U.S. Air Force? On this ques-

tion, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, may we have order? We cannot hear the names.

The PRESIDING OFFICER. The clerk will suspend and the Senate will be in order. Senators will take their seats and cease talking.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. HOLLINGS), and the Senator from New Mexico (Mr. MONTOYA), are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Michigan (Mr. HART), and the Senator from Mississippi (Mr. STENNIS), are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), and the Senator from Ohio (Mr. TAFT), are necessarily absent.

The result was announced—yeas 49, nays 43, as follows:

[Rollcall Vote No. 459 Ex.]

YEAS—49

Allen	Fong	Morgan
Baker	Garn	Moss
Bartlett	Glenn	Nunn
Bellmon	Goldwater	Pastore
Brock	Griffin	Percy
Bumpers	Hansen	Randolph
Burdick	Hart, Gary	Scott, Hugh
Byrd, Harry F., Jr.	Helms	Scott, William L.
Byrd, Robert C.	Hruska	Sparkman
Cannon	Jackson	Stafford
Chiles	Johnston	Stevens
Curtis	Laxalt	Symington
Dole	Long	Talmadge
Domenici	McClellan	Thurmond
Eastland	McClure	Tower
Fannin	McGee	Young
	McGovern	

NAYS—43

Abourezk	Haskell	Nelson
Bayh	Hatfield	Packwood
Beall	Hathaway	Pearson
Bentsen	Huddleston	Pell
Biden	Humphrey	Proxmire
Brooke	Javits	Ribicoff
Case	Kennedy	Roth
Church	Leahy	Schweiker
Clark	Magnuson	Stevenson
Cranston	Mansfield	Stone
Culver	Mathias	Tunney
Durkin	McIntyre	Weicker
Eagleton	Metcalf	Williams
Gravel	Mondale	
Hartke	Muskie	

ANSWERED "PRESENT"—1

Ford

NOT VOTING—7

Buckley	Inouye	Taft
Hart, Philip A.	Montoya	
Hollings	Stennis	

So the nomination was confirmed.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the President of the United States be immediately notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Without objection, the Senate will resume the consideration of legislative business. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I yield to the distinguished Senator from Minnesota.

SENATE RESOLUTION 288—RELATING TO THE UNITED NATIONS AND ZIONISM

Mr. HUMPHREY. Mr. President, I send to the desk a resolution reported this morning by the Committee on Foreign Relations, Senate Resolution 288, relating to the United Nations and Zionism, together with a list of cosponsors, and I ask unanimous consent for the immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, may we have the resolution reported?

The second assistant legislative clerk read as follows:

RESOLUTION RELATING TO THE UNITED NATIONS AND ZIONISM

Whereas the United States, as a founder of the United Nations Organization, has a fundamental interest in promoting the purposes and principles for which that organization was created; and

Whereas in article 1 of the Charter of the United Nations the purposes of the United Nations are stated to be:

"To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

"To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

"To be a center for harmonizing the actions of nations in the attainment of these common ends."; and

Whereas such purposes are threatened with being nullified and subverted by the resolution adopted by the Third Committee of the United Nations General Assembly on October 17, 1975, which resolution wrongfully associates and equates Zionism with racism and racial discrimination, as was pointed out so well by the United States representative to the Third Committee, when he said: "Under the guise of a program to eliminate racism, the United Nations is at the point of officially endorsing anti-Semitism, one of the oldest and most virulent forms of racism known to human history.": Now, therefore, be it

Resolved, That the United States Senate strongly condemns the resolution adopted by the Third Committee of the United Nations General Assembly on October 17, 1975, in that said resolution wrongfully associates and equates Zionism with racism and racial discrimination; and urges the United Nations General Assembly to disapprove that said resolution, if and when it is presented for a vote before that body.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ALLEN. Mr. President, I have no objection to the resolution. I concur in its adoption.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a list of cosponsors be added. There are some 25 additional cosponsors, and all of those who may wish to be joined.

Mr. SYMINGTON. Mr. President, if the Senator will yield, I ask unanimous consent that my name be included as a cosponsor.

Mr. HUMPHREY. The Senator from Georgia (Mr. NUNN), the Senator from Arkansas (Mr. BUMPERS) also asked to be added on, as did the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Washington (Mr. MAGNUSON), the Senator from Missouri (Mr. EAGLETON), and Senators ALLEN, TALMADGE, HELMS, and MORGAN, all will be added as cosponsors along with those who are on the list.

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

The list of cosponsors of Senate Resolution 288, Zionism resolution is as follows:

Humphrey, Brock, Javits, Ribicoff, Case, Jackson, Bentsen, Hugh Scott, Chiles, Stone.

Allen, Baker, Bayh, Beall, Biden, Brooke, Robt. Byrd, Church, Cranston, Dole.

Domenici, Philip Hart, Haskell, Inouye, Johnston, Kennedy, Leahy, Magnuson, McGee, McGovern.

McIntyre, Metcalf, Mondale, Nelson, Packwood, Percy, Proxmire, Schweiker, Stevenson, Talmadge, Tunney, Williams.

Huddleston, Nunn, Bumpers, Symington, Cannon, Eagleton, Muskie, Helms, Burdick, McClellan, Montoya, and Weicker.

Mr. HUMPHREY. Mr. President, there is no need for any long and extended discussion or debate on this. The Government of the United States through its representatives at the United Nations has made it very clear that we take strong exception to the vote in the Social, Humanitarian and Cultural Committee of the United Nations on the issue of Zionism. We say it is a stain on that world body and represents a fundamental setback to the worldwide struggle against racism.

The committee's condemnation of Zionism by a vote of 70 to 29 with 27 abstentions marks a grave development in the politicization of an organization dedicated to peace and human understanding.

The attack on Zionism was a crude device to confuse issues which affect peace in the Middle East. To condemn Zionism is to condemn a central philosophical thrust in modern Jewish thought. The idea of a Jewish homeland as a haven free of persecution and oppression was a concept first endorsed by President Truman and subsequently supported by his successors. It is an idea that my father supported as a member of the South Dakota legislature. It is an idea to which I have been devoted since before I entered active politics. I support Israel because it is a small democracy which has consistently struggled for the freedom of its people.

I am grievously distressed that the concept of a Jewish homeland is now being questioned in the United Nations 27 years after its founding. Moreover, Zionism as a concept is linked by the enemies of Israel to the issue of racism. Zionism is not a racist philosophy. To say that it is perverts the truth and weakens

those in this country and around the world who are dedicated to the destruction of all forms of racism in national and international life. Let us not forget that it was Israel that had one of the most extensive programs in agricultural and rural assistance in Africa before African States were forced to break relations with it. Israel is not a racist state in thought or in deed. It is not a state that discriminates on the basis of race as some members of the U.N. do.

It is indeed sad that the United Nations has taken this action against a member state which has every right to exist and to be free of persecution in this world body. I sincerely hope that the vote in the Social, Humanitarian and Cultural Committee will be reversed by the General Assembly. All those states who recognize and cherish freedom will refuse to be party to this destructive act. All those states who view the U.N. as a body where disputes are settled rather than exacerbated will refuse to vote in favor of the resolution. As I have said before, the American people and their representatives in Congress will not sit back as Israel is attacked and vilified on groundless bases. I am not unaware of the disputes in the Middle East which may be the subject of future negotiations. Until these negotiations occur, the peace will be endangered by these unfair and distasteful attacks on a U.N. member state and its people.

By the number of cosponsors who have already indicated their desire to be associated with this resolution, which calls upon the United Nations General Assembly to resist this motion and this resolution of the committee, to disapprove of that resolution, I know that the Senate of the United States is prepared to put itself on record in opposition to the resolution of the Social, Humanitarian and Cultural Committee of the United Nations, and to ask the General Assembly to support the charter.

SEVERAL SENATORS. Vote, vote, vote!

Several Senators addressed the Chair.

Mr. JAVITS. Mr. President, if the Senator will yield for a point of fact, the House of Representatives has a comparable resolution sponsored by the majority leader, Mr. O'NEILL, which has several hundred cosponsors.

Mr. PERCY. Mr. President, a news agency in Baghdad last week reported that Arab diplomacy had achieved "a new political triumph" when a U.N. committee passed a draft resolution defining Zionism as a form of racism.

I think this is a dangerous misinterpretation for those Arab governments whose representatives actively lobbied for passage of the resolution. Surely they themselves must realize that the Arab-Third World bloc was seriously split over this issue. As an example of this, a dozen African governments which routinely support the Arab cause felt that this resolution was so devoid of moral and legal justification that they could not vote for it.

It is my own strong belief that the Arab governments which lobbied for this resolution were really lobbying against the Sinai agreement which has set in motion a process of conciliation between Israel and Egypt for which some Arab States are not yet prepared. The resolution is meant to perpetuate the hostility between the Arab world and Israel at a time when one Arab State, to its credit, has sought to diminish this hostility and work toward a peaceful resolution of differences with Israel.

Surely the calculated definition of Zionism as a form of racism is not meant to be taken literally, because it is an absurd formulation.

For myself, I can only view this definition and the resolution which embodies it as very sad. It is sad that the United Nations has become so politicized that a resolution of this sort can be passed even in committee. It is sad that some governments will use such a resolution to strike a political blow at Israel just at a time when the Sinai accord has given us reason for hope and optimism that, at long last, progress is being made in resolving the Mideast dispute.

It is saddest that this action at the United Nations is such an unfriendly act toward the overwhelming majority of Jewish people, wherever they live, who have seen in the creation and success of the State of Israel the answer to an age-old dream and the achievement of a refuge for Jews denied full freedom elsewhere in the world.

As one who seeks justice for both Israel and the Arab States, I deeply regret the promulgation of this resolution which is so patently unjust. I urge the governments which gave their support to this resolution in committee to reconsider their action before it is considered in plenary session, because it is counterproductive for Mideast peace, it is harmful to the United Nations, and it is insulting to the Jewish people.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Senators who may wish to add their names as cosponsors be permitted to do so.

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

The resolution (S. Res. 288) was agreed to.

The preamble was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar under Department of State, with the exception of Mr. Helmut Sonnenfeldt.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF STATE

The assistant legislative clerk proceeded to read sundry nominations in the Department of State.

Mr. MANSFIELD. I ask unanimous consent, with the exception already noted, that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

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

(All nominations confirmed today are printed at the end of the Senate proceedings.)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the nomination of Mr. Helmut Sonnenfeldt, of Maryland, to be a career minister.

The PRESIDING OFFICER. The nomination will be stated.

NOMINATION OF HELMUT SONNENFELDT, OF MARYLAND, TO BE A CAREER MINISTER OF THE DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of Helmut Sonnenfeldt, of Maryland, to be a career minister of the Department of State.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER FOR VOTE TO OCCUR AT 2 P.M. TOMORROW ON NOMINATION OF HELMUT SONNENFELDT TO BE A CAREER MINISTER

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending nomination occur at the hour of 2 p.m. tomorrow afternoon.

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

ORDER LIMITING DEBATE ON NOMINATION OF HELMUT SONNENFELDT TO BE A CAREER MINISTER

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the debate on the pending nomination not go beyond the hour of 4 p.m.

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

ORDER DESIGNATING THE CONTROL OF TIME FOR DEBATE ON NOMINATION OF HELMUT SONNENFELDT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be equally divided between the Senator from North Carolina and the majority leader or whomever he may designate.

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

Mr. HELMS. I thank the distinguished majority leader for his cooperation in sending forth all of the nominations for Foreign Service officers except that involving Mr. Helmut Sonnenfeldt.

Mr. President, on July 15, the President sent the nominations of eight Foreign Service officers and one Foreign Service Information officer to the Senate for confirmation as Career Ministers and Career Minister for Information, respectively. On July 30, the Committee on Foreign Relations reported eight of the nine nominees, and eight of them have just been confirmed by this body.

At that point, a number of disturbing facts came to my attention. It appeared that the president of the American Foreign Service Association had written to the Foreign Relations Committee before the names were reported, asking to testify with regard to the promotion slate and to irregularities in the procedures associated with it. As is well known, AFSA is the official employee organization of the Foreign Service and represents the interests of the members of the Foreign Service. The president of AFSA received no reply to his request.

It is noteworthy that the preliminary screening of the candidates for Career Minister was done by a board that included the former staff director of the Foreign Relations Committee, Dr. Carl Marcy.

At that point, I asked the leadership that the nominations be held at the desk until the truth or falsity of certain facts could be ascertained. A key element was the president of AFSA's assertion that AFSA had no record that the membership of the Career Minister Review Board was drawn from a pool of names previously submitted to AFSA under the terms of a contractual agreement dated June 29, 1973. If this were so, then it would be clear that the procedures leading to the nominations were improper.

At this point, the August recess of Congress intervened. On September 23, Mr. Nicholas A. Veliotes, Special Assistant for Employee Management Relations at the State Department, responded to AFSA, and admitted that the names for the Career Minister Review Board had not been drawn from a list previously submitted to AFSA. However, Mr. Veliotes asserted that the Career Minister Review Board was not a selection board within the purview of the AFSA/State agreement of June 29, 1973, since this particular board had been established by the Board of the Foreign Service, and not the Department of State.

In my opinion, this was a very disturbing contention. On October 2, I wrote to the Secretary of State, Dr. Kissinger, outlining a number of questions that arose from the Veliotes correspondence. Under date of October 11, the Secretary responded to me.

His response outlined a situation which, frankly, is even more dubious than had been previously evident.

But there is a very strange circumstance connected with the Secretary's letter. Although dated October 11, it was hand-delivered to my Washington office on the afternoon of October 14, during the Columbus Day recess. I was in Raleigh that day. When I opened the Raleigh Times that afternoon, behold, it carried a column by Evans and Novak which made it clear that Evans and Novak had had access to the Secretary's reply before that reply was even delivered to my office in Washington.

In his reply, the Secretary rejects the implication that there was any political manipulation involved in the promotion list. Yet his very reply is compromised by the crudest type of political manipulation rampant in Washington, the highly selective "leak" to favored reporters. It is interesting that that particular Evans and Novak column was published in North Carolina, but it did not run in Washington, D.C. It is also interesting that one of the dubious nominations on the promotion list has been investigated for leaking confidential information in a series of incidents going back to 1954.

The contents of the Secretary's letter, however, is more significant than what was done with it. For in the letter he affirms that the promotion procedure for the upper two classes of the Foreign Service—that is, that of Career Minister and Career Ambassador—is different from the procedure for the first eight classes.

Mr. President, I do not find any statutory basis for this distinction.

In the statutes (22 U.S.C. 861), the Foreign Service is one of six divisions of personnel under the law. The Foreign Service itself is also divided:

> There shall be ten classes of Foreign Service officers, including the classes of career ambassador and of career minister (22 USC 867).

The law treats the appointment and promotion of all 10 classes in the same way. There is no distinction in the method of appointment; all 10 classes are appointed by the President by and with the advice and consent of the Senate (22 U.S.C. 901 and 906).

In the statutes on promotion, no distinction is made between the upper two classes and the lower eight. In 22 U.S.C. 991, we find that:

> All promotions of Foreign Service officers shall be made by the President, in accordance with such regulations as he may prescribe, by appointment to a higher class, by and with the advice and consent of the Senate. Promotions shall be by selection on the basis of merit.

If we read carefully, we see the phrase "Foreign Service officers." We do not see "Foreign Service officers up to class 1." Indeed, the law is specific: "All promotions of Foreign Service officers." And further, "promotion shall be by selection on the basis of merit."

Now "selection on the basis of merit" is a phrase that does not in itself provide the procedure for promotion. That procedure is spelled out two sections further down in the law, in 22 U.S.C. 993:

> The Secretary is authorized to establish, with the advice of the Board of the Foreign Service, selection boards to evaluate the performance of Foreign Service officers, and upon the basis of their findings the Secretary shall make recommendations to the President for the promotion of Foreign Service officers.

Once again we read "the performance of Foreign Service officers," not "the performance of Foreign Service officers up to class 1." And again, "the promotion of Foreign Service officers," not, "the promotion of Foreign Service officers up to class 1."

There is nothing in here about class 1 or class 2 or any class. Yet the Secretary wrote to me on October 11 that this section of the act provides for the establishment of selection boards "with regard to the promotion of Foreign Service officers up to class 1."

Mr. President, in my judgment, if the Secretary uses the authority invested in under this statute, elementary principles of fairness and law require that he exercise that authority uniformly. He acts for one class, he should act for all, or he is denying equal protection and due process for every Foreign Service officer who passes through the selection boards.

Now what authority does the Secretary cite for making this false distinction? He cites 22 U.S.C. 902, which says:

> The Secretary shall, on the basis of recommendations made by the Board of the Foreign Service, from time to time furnish the President with the names of Foreign Service officers qualified for appointment to the class of career ambassador and the class of career minister together with pertinent information about such officers, but no person shall be appointed into the class of career minister who has not been appointed to serve as a chief of mission or appointed or assigned to serve in a position which, in the opinion of the Secretary, is of comparable importance.

Mr. President, this is not from the statutes on promotion, but from the statutes on appointment. Procedurally, there is nothing here which is inconsistent with the promotion statute we have already examined, 22 U.S.C. 993. In 902, we read, again:

> The Secretary shall, on the basis of recommendations made by the Board of the Foreign Service, from time to time furnish the President with the names of Foreign Service officers qualified for appointment, etc.

In 993, we read:

> The Secretary is authorized to establish, with the advice of the Board of the Foreign Service, selection boards . . . and upon the basis of their findings, the Secretary shall make recommendations to the President for the promotion of Foreign Service officers.

The two statutes must be read together if they are going to make any sense. One calls for the "recommendations" of the Board of the Foreign Service, the other calls for the "advice" of the Board of the Foreign Service. The Secretary then sends the names which result from this process to the President. The only differences are that 902 provides minimum qualifications for the class of Career Minister, while 993 specifically sets up selection boards for "the promotion of Foreign Service officers."

The simple intent of the law seems to be that every class, that is all 10 classes, must pass through statutory selection boards. If the Board of the Foreign Service has some special function to perform for the classes of career minister and career ambassador, it is simply to

review the work of the statutory selection boards for those classes. It is at best a final review; it is more likely superfluous.

But according to the Secretary's letter, the Board of the Foreign Service has its own nonstatutory advisory unit, the Career Minister Review Board, whose work is "parallel" to the work of the selection boards on the first eight classes.

Mr. President, is work of the Career Minister Review Board really parallel? If we examine the process, it seems to function like a selection board. For example, this year it took a list of 22 candidates and cut them down to 8 nominees. It is really performing "selection on the basis of merit," to quote 22 U.S.C. 991. Yet the Secretary boldly says in his letter that the Career Minister Review Board is not guided by objective published guidelines in its selection process.

The Secretary writes:

> In fact, the Career Minister Review Board receives no specific precepts from the Department, or from the Board of the Foreign Service to which alone it answers.

Are we supposed to believe that such a process is objective, and untainted by the wishes of the Board of the Foreign Service? Is it not rather likely that the Board dictates to the Career Minister Review Board whom it wants on the list? Is it not at least possible? Such a Board cannot make an objective judgment when it is tied to the Board of the Foreign Service, "to which alone it answers."

Mr. President, such a procedure was never intended. Indeed, even when the Career Minister Review Board was set up as the creature of the Board of the Foreign Service by State Department Regulations, the regulations themselves said—at 567.2:

> In making its recommendations, the Career Minister Review Board shall be guided by the qualifications prescribed for career minister as incorporated in the published Precepts furnished the most recent Selection Board considering Foreign Service officers of Class 1.

Mr. President, it is perfectly plain that the Secretary's account of his stewardship over the Career Minister Review Board is directly contradictory to the established regulations. The Secretary says one thing, the regulations say something quite different. It very much appears as though the Secretary has no notion of having an independent promotion procedure at all.

Mr. President, the matter of the regulations is most important. The State Department denies that it has any contractual obligation with AFSA whatsoever as to the regulations. It makes this assertion because the basis of the "precepts" or guidelines was negotiated in the same contract with AFSA in which State agreed to provide AFSA with lists of names from which would be drawn the selection boards. The Department of State admitted that it has not submitted such lists with regard to the Career Minister Review Board; therefore, the Department of State must argue that it has no obligation with AFSA either as regards name lists or guidelines.

What it comes down to is a process blatantly open to political manipulation, with handpicked review boards answerable only to the Board of the Foreign Service and the Secretary of State.

Perhaps that is why five of the eight nominees are associates of the Secretary. But perhaps it is not.

Perhaps it is all something that grew up higgledy-piggledy as the prestige ranks were added to the career concept. Perhaps the procedure has never been examined carefully.

Yet to this date there is no substantive grievance procedure under law for Foreign Service officers who are betrayed by the systems.

Mr. President, I find it very affecting that an unfair labor complaint has been filed against the Secretary because of this promotion list. It has been filed by Mrs. Cynthia Thomas, an employee of the Department whose husband was a tragic victim of an unfair promotion system.

I hope that Mrs. Thomas' complaint will be the occasion for a complete reexamination of all these procedures.

One place to start would be to bring the upper two classes of career minister and career ambassador under the statutory selection board process as the law provides, yet which has never been implemented by the Department of State.

On October 24, I received a reply to my most recent letter to the Secretary signed by Deputy Secretary Robert S. Ingersoll. In his letter, Mr. Ingersoll is singularly insensitive to the basic issues involved.

Mr. President I ask unanimous consent that my correspondence with the Secretary and his Deputy, the Evans and Novak column published in the Raleigh Times of October 14, and the complaint of Mrs. Cynthia Thomas be printed in the RECORD at the conclusion of my remarks as Exhibit 1.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, there are two aspects to this promotion slate, the method of promotion, and the result. I think that everyone acknowledges that the Foreign Service was created to develop a career system of highly competent individuals, strongly motivated, and dedicated to professionalism. To this end, the ranks of the Foreign Service are rigidly pruned every year so that only the most able are retained and raised to higher rank. The Foreign Service, unlike Civil Service and other bureaucratic institutions, is based upon merit promotions and is frankly analogous to the career officer system of the military. Indeed, for this reason, those who serve in the Foreign Service are known as "officers," and their assignments are called "tours of duty."

The promotion system of the Foreign Service was also developed upon the military analogy, and for good reason. Just as military officers often serve abroad in difficult and unpleasant circumstances, so too the Foreign Service officer represents his country in every country under the sun. He is separated from his close relatives, his friends, his native surroundings. More important, he is often separated from the immediate presence of his high superiors and those who have the power to affect the future of his career.

In more typically bureaucratic institutions, in-fighting, maneuvering, and favor-seeking are characteristic of office or agency politics. Personal associations, job assignments, and close affinity with the decision-makers are often powerful elements in the advancement of careers. But the Foreign Service is supposed to be different. The statutes of the Foreign Service Act lay out a promotion system that is supposed to be impartial, to recognize merit, and to encourage Foreign Service officers to leave the thickets of Foggy Bottom to undertake difficult and remote assignments around the globe. Although it is useful for Foreign Service officers to serve occasional tours of duty in the United States to refresh their knowledge and understanding of the domestic situation, the very rationale of the Service is to serve abroad. The Foreign Service was not meant to be a source of personnel supply for the operating bureaucracy of the State Department.

To this end, the law lays down a system of annual efficiency reports on every officer—written by his immediate supervisor—which, together with security reviews and other pertinent data, are considered by the so-called "selection boards" which recommend candidates for promotion. The selection boards themselves are authorized by statute. The constitution of the selection boards as well as the guidelines or "precepts" for promotion are based upon an agreement negotiated with the American Foreign Service Association under Executive order.

The whole point of this exercise, established by law, regulation, and agreement, is to avoid any hint of self-serving or political manipulation by cliques within the service. Unfortunately, the lack of an adequate grievance procedure has not prevented the abuse of the promotion system. There is no counter-check to the exercise of power from those in higher authority, and it has been charged, with a fair show of evidence, that the Board of the Foreign Service, a statutory advisory group to the Secretary, has become an in-bred group that has lost its objectivity, and that even the American Foreign Service Association, until recently, suffered from the same malaise.

THE 1975 CAREER MINISTER LIST

The rank of Career Minister was created in 1946. Like the rank of Career Ambassador, it was intended to honor those who represented the very epitome of a Foreign Service officer, and carried with it important monetary and honorific prerogatives. Using the military analogy, upon which it was based, a Career Minister is equivalent to a three-star general, while a Career Ambassador is equivalent to a four-star general. Both ranks serve as a distinguished capstone to a long career of outstanding service abroad.

The 1975 Career Minister promotion list was sent to the Senate by the President on July 15, 1975. The list included:

Career Minister—Theodore L. Eliot, Jr., Ambassador to Afghanistan; Arthur A. Hartman, Assistant Secretary for European Affairs; Deane R. Hinton, Ambassador to Zaire; William E. Schaufele, Jr., Deputy U.S. Representative in the Security Council of the U.N.; Richard L. Scheider, Ambassador to Korea; Helmut Sonnenfeldt, Counselor of the Department of State; Wells Stabler, Ambassador to Spain; Viron P. Vaky, Ambassador to Colombia.

Career Minister for Information—Hans N. Tuch, Public Affairs Officer, Brasilia.

This list may be viewed in several ways. One way to look at it is to look at their career biographies and to note that at least five of the eight Career Minister nominees were closely associated with the Staff Director of the National Security Council in the period 1969–71. Now it is well known that Dr. Kissinger is an exacting task-master in his selection of personnel, but it is a remarkable coincidence that more than half the list were on his staff at the time of his ascendency. Out of all the career officers in the Foreign Service, he picked exactly those who have been chosen 5 or 6 years later by an impartial panel to be nominated as Career Ministers.

Mr. President, I ask unanimous consent that the biographies of the nine nominees be printed in the RECORD at the conclusion of my remarks as exhibit 2.

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

(See exhibit 2.)

Mr. HELMS. Another way of looking at the list is to note the remarkable variation in quality of the nominees. As I noted, nine nominees were sent down by the President. The Senate Foreign Relations Committee, however, only reported eight. The ninth one, Mr. Tuch, was not reported because of various allegations about his conduct in Brasilia. I have no information about whether or not those allegations are true, but I do understand that there is an official inspection team examining the allegations right now in Brasilia. Every man is innocent until proven guilty; yet where the allegations are sufficiently serious it is wise to withhold the conferring of honors until the allegations are cleared up.

A second nominee, Mr. Wells Stabler, is the subject of an official discrimination charge brought by a Spanish-American colleague and coworker, Mr. Ernest B. Gutierrez. Although the official charge was brought subsequently to the nomination, Mr. Gutierrez has sent letters of complaint to the State Department well before the President nominated Mr. Stabler. Again, I have no way of knowing whether the Gutierrez complaint is justified, but certainly the record ought to be cleared before honors are conferred.

Mr. President, I ask unanimous consent that correspondence relating to the Gutierrez matter be printed in the RECORD as exhibit 3.

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

(See exhibit 3.)

Mr. HELMS. Mr. President, a third nominee is Mr. Helmut Sonnenfeldt. I have discussed Mr. Sonnenfeldt on the floor of this Senate before. Suffice it to recall here that this individual still has outstanding charges against his reputation of the most serious sort. Nor are these charges of a passing or scurrilous nature. They occur in sworn testimony before two different committees by responsible citizens—his former coworkers in the State Department, in fact. In 1973 when this was discussed, at least eight such witnesses were ready to testify under oath. The nominee's responses under oath were evasive denials.

The incidents include derogatory testimony relative to: Security investigation for leaks to journalists in 1954–55; sworn allegations that contents of classified cables were given to Israeli diplomats at the height of the Lebanon crisis of 1958; leaks to the JFK campaign in 1960—based on authorized wiretaps; rejection of his application for a job in Intelligence and Research—State—where he would have had access to top secret classified information; granting of an application for same job after JFK became President; disappearance of files of 1958 FBI investigation of Sonnenfeldt; 1969–71 wiretaps of Sonnenfeldt under suspicion of NSC leaks; and failure of Presidential Counsellor Mollenhof to get State Department cooperation in attempts to investigate Sonnenfeldt.

More important to the present debate is the fact that Mr. Sonnenfeldt is a Foreign Service officer who has never seen any foreign service. The Career Minister rank is considered the capstone of a distinguished career in the Foreign Service, yet Mr. Sonnenfeldt has been in the Foreign Service for 5 years only. He began in civil service, then was converted to Foreign Service Reserve Officer where he got a higher pay scale without the danger of having to serve abroad. In 1970, after having been taken into the NSC by Dr. Kissinger, he was transferred laterally as an FSO–1 skipping the first seven classes where an FSO would normally have spent at least some service abroad. He was made an FSO–1 during a "reduction-in-force" affecting 10 percent of those being considered in selection boards. In other words, 10 percent were being fired simply for economy reasons, yet Mr. Sonnenfeldt was jumped over all other career officers to get a job in the highest rank—except for the career minister and career ambassador classes—at the highest pay. If he becomes a Career Minister, an honor given only to a chosen handful, he will immediately get increased pay, guaranteed tenure until 65, with an option for extension, and a bigger pension after that.

Although it has been suggested that the Secretary has the legal discretion to make exceptions, the statutory requirements for career Minister certainly contemplated a candidate with a distinguished career in the Foreign Service; they did not contemplate a Johnny-come-lately in the Service, a Foreign Service officer who has never seen any foreign service.

Mr. President, the Deputy Under Secretary of State has admitted in his letter to me that there is only one other case in the history of the Foreign Service—only one other case—where a career Minister has never served abroad. That individual, Mr. Joseph J. Sisco, had, however, served at the United Nations, which is considered an international post.

Mr. Sonnenfeldt stands alone as a Foreign Service officer who has never served abroad. His nomination makes a mockery of all that the Foreign Service stands for.

Mr. President, I ask unanimous consent that my remarks on the Senate floor of December 10, 1973, be printed in the RECORD at the conclusion of my remarks, along with the biography of Mr. Sisco, as exhibit 4.

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

(See exhibit 4.)

Mr. HELMS. Mr. President, I ask unanimous consent that a list of other documents pertinent to this discussion, including the AFSA/State agreements, and letters, precepts and regulations, be printed in the RECORD at the conclusion of my remarks as exhibit 5. This material is so voluminous that it would consume several pages of the RECORD, therefore, inasmuch as it is available to interested parties, and since I am retaining a complete file on the subject, I will not ask that it be printed in the RECORD. The list of pertinent material is, however, important to future consideration of this matter.

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

(See exhibit 5.)

EXHIBIT 1

[From the Raleigh (N.C.) Times, Oct. 14, 1975]

JESSE HELMS ATTEMPTS TO VETO PRESIDENT

(By Rowland Evans and Robert Novak)

WASHINGTON.—Totally discredited security allegations first made against State Department counselor Helmut Sonnenfeldt two years ago are behind a new move to block his promotion by President Ford as a foreign service career minister.

An unpublicized objection by right-wing Republican Sen. Jesse Helms of North Carolina has held up Senate confirmation of Sonnenfeldt and seven other top diplomats as career ministers ever since the Senate Foreign Relations Committee approved their nominations last July.

After keeping the nominations from the Senate floor in early August, Helms finally wrote Secretary of State Henry Kissinger Oct. 2. Because the quasi-official American Foreign Service Assn. (AFSA) had not been consulted, Helms contended, the nominations were illegally submitted to the Senate. AFSA is headed by right-winger John Hemenway, who was routinely "selected out" of the foreign service several years ago.

Helms' letter to Kissinger claimed the State Department violated foreign service "procedures" when President Ford nominated Sonnenfeldt and the seven other diplomats—including Assistant Secretary of State Arthur Hartman—to the highest foreign service rank.

But Helms' real reasons are unsupported charges made against Sonnenfeldt in 1973, when he was nominated by then President Nixon as Under Secretary of the Treasury, that he had leaked national security information. Helms was a key witness against Sonnenfeldt, who was strongly defended by conservative Republican James Buckley of New York after making his own investigation.

The Senate Finance Committee approved

of Sonnenfeldt's nomination following months of delay, but Kissinger brought him into the State Department as counselor before the Senate acted on the Treasury nomination.

The Foreign Relations Committee is now studying Kissinger's reply to Helms, contending that promotion procedures agreed to between the State Department and AFSA give AFSA no right even to be consulted on career minister nominations, much less any right of veto.

SOUR START

The Ford-Reagan confrontation in New Hampshire's Republican presidential primary begins on a strident note thanks to confusion over just what President Ford said to former Gov. Hugh Gregg at a picnic lunch in Amherst, N.J., Sept. 11.

Gregg got the distinct impression the President asked him to run his campaign there. Ford campaign sources say the President informed them he made no such offer. Former Sen. Norris Cotten, an old friend of the President who introduced him to Gregg in Amherst, was present for part of the conversation and remembers Mr. Ford talking about Gregg being a good man to "take hold" of his New Hampshire campaign.

SON WON'T CAMPAIGN?

There was no follow-up to the picnic conversation, and Gregg ended up as Ronald Reagan's state chairman. Ford sources say Gregg went with Reagan only because he could not run the Ford campaign; Gregg contends the President's men reneged on the President's offer. Thus, another New Hampshire primary begins with the sour tone typifying that state's Republican party.

A footnote: Until Oct. 5, Ford campaign managers were planning major campaigning by Jack Ford for his father throughout New Hampshire. Since his admission of using marijuana, however, Ford operatives wonder whether Jack would go over with Granite State Republicans and are delaying speaking plans for him there.

DRYING UP

Overshadowed by congressional emasculation of the CIA but perhaps even more damaging to the national interest is the sudden drying up of valuable intelligence through exposure of National Security Agency (NSA) techniques.

Formerly super-secret methods used by the NSA in monitoring commercial international phone and teletype circuits became common knowledge soon after they were given to congressional investigations of the intelligence community. Thus forewarned, foreign users of commercial channels for transmitting information of great interest to the U.S. government switched to more secure means.

Losing this information is viewed at the Pentagon as considerably more serious than Defense officials care to admit. While lacking hard proof of who leaked the NSA information, these officials believe it almost surely came from the staff of the House Intelligence Committee headed by Rep. Otis Pike of New York.

NOT FROM PIKE'S STAFF

"I firmly believe none of this came from our staff," Pike told us. The fact remains, however, that descriptions of NSA monitoring techniques appeared in public prints (including a long account in the Sept. 8 Newsweek) soon after the secret material was handed over to Pike's staff.

Several foreign nations who had been using commercial channels switched to private couriers. One result: The U.S. government has lost valuable information about Arab strategy in international oil price manipulations. But even more important information, directly related to U.S. security, also is gone.

WASHINGTON, D.C.,
October 20, 1975.

Senator HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: The enclosed document concerns a principle of far more importance than the individuals now being considered for the rank of career minister. It concerns a charge against the Secretary of State for improperly promotions to Career Minister.

My formal charge against Secretary Kissinger is premised on one basis principle: either we have a career diplomatic service or we do not.

If we really have a career diplomatic service, then the rules to attain the highest rank in that service, career minister, must be appropriate, must be known, must not shift from year to year, and must be followed and applied equally to all. I testified in 1971 before the Senate Foreign Relations Committee concerning the moral imperative that promotion rules apply equally to all in the U.S. diplomatic service and I stand on that same principle today. So do all of my colleagues, the men and women of the Foreign Service, and all thinking Americans.

I am not a career Foreign Service Officer, but my husband was and the rules were applied to him inequitably; today I am an FSRU–5 and my concern is for the future of the diplomatic service. Is there a future for that service if unwise, capricious appointments to the highest rank are made which affect the tone of the service?

My charge against Secretary Kissinger therefore poses questions I can not myself answer. What is the operating principle behind the Career Ministers List of 1975. I see only "pragmatism." Just exactly who, if not the Secretary of State personally, is accountable for such a disorderly approach to such an important matter? I and my colleagues in the Foreign Service would like to know.

The regulations require that a response be filed to my charge within fifteen (15) days. I shall keep you informed.

Sincerely yours,

CYNTHIA A. THOMAS.

Enclosure: Charge of an Unfair Practice Against Henry A. Kissinger.

FORMAL CHARGE AGAINST THE SECRETARY OF STATE OF AN UNFAIR PRACTICE UNDER EXECUTIVE ORDER 11636

Under the provisions of 3 FAM 651 (Appendix C, p. 8) I charge the Secretary of State of an unfair practice under Executive Order 11636. In accordance with Section 803.3(a) of the regulations, the following information is provided:

(1) Employee Bringing Forth the Charge: (Hereinafter referred to as the Complainant).

Cynthia Ann Thomas, employee, Department of State, 4741 Fulton St., N.W., Washington, D.C. Telephone: 966–6615.

(2) Foreign Affairs Agency Against Whom the Charge is Made:

US Department of State, 21st and C St., N.W., Washington, D.C. Telephone 655–4000.

(3) Statement of the Facts:

I charge the Secretary of State, Henry A. Kissinger, with deliberately and knowingly violating Section 13(a) (6) of Executive Order 11636 which states that management *shall not:*

(6) refuse to consult, or confer, with a recognized organization as required by this order.

The specifications of my charge against the Secretary are set forth below:

On July 15, 1975 the President sent nine names forward to the Senate for confirmation to the rank of Career Minister. These names were submitted to the President by the Secretary of State prior to that date, ostensibly on the basis of promotion boards and panels which, after examining precepts for eligibility for advancement, determine which officers are most worthy of promotion.

The American Foreign Service Association, of which the Complainant is a member in good standing, signed an agreement on June 29, 1973 with the Department of State which requires, *inter alia*, that the AFSA receive "a list of *all* potential Foreign Service, other agency and public candidates for membership" on the selection boards and panels which determine promotion.

In fact, the names of prospect members of the 1975 Career Minister Review Panel were not communicated to the AFSA at any time during this procedure. This is a clear violation of the June 20, 1973 agreement.

Although the Career Minister Review Board is selected by the Board of the Foreign Service (just as other selection boards might be selected by different organizational entities under the Secretary) it is clear that the persons serving on it are subject to the AFSA/STATE Agreement on June 29, 1973 and that their names must be submitted in list form to the AFSA. In fact the June 29 Agreement specifically mentions the Career Ambassador and Career Minister Review Boards in connection with exempting them from a certain provision of the Agreement, thus making it clear that the Agreement applies. (Section 2 of the AFSA/STATE Agreement, para (a)).

In addition to the fatal defect that the June 29, 1973 Agreement was violated and that, therefore, the entire CM list is improperly constructed, I charge the secretary with making at least one appointment on the list of a man not qualified to be a career minister. He has never served abroad in a single diplomatic post. His appointment not only violates the precepts for promotion to CM (Again a subject of AFS/STATE Agreement), but that appointment does violence to common sense. Career Ministers in the diplomatic service without any career diplomatic service? It is a contradiction in terms.

This charge is submitted by me directly to the Secretary because there is no hope that the Board of Governors of the American Foreign Service Association as presently constituted would make a complaint in this matter. The Board under the previous leadership and, indeed today, has such close ties to management in the Department of State that they are disposed not to challenge even the most flagrant personnel abuses in some areas. This may account for the fact that abuses of the Career Minister Boards, which have operated only one previous year, have not yet been challenged by AFSA. Thus, in the second year of their operation, I shall request that the President of AFSA make a personal determination whether he finds that the charge I make is accurate and reasonable within his best belief and information. I will also ask whether he personally wishes to interpose any objections to my charge going forward. Finally I shall request that the President of AFSA agree to being identified as a party to this complaint, in view of his position, even though his Board may not choose to take a position or might take a position against mine.

Thus, the Secretary of State has directly violated at least one, and more likely two AFSA/STATE formal agreements without notifying AFSA or even indicating an intention to consult prior to violating the agreements, should the violations have been outside of his control.

Either we have a career diplomatic service or we do not. If we really have a career diplomatic service then the rules to attain

the highest rank in that service must be appropriate, must be known and must be followed. In fact, the Career Minister Review Board receives no instructions from the Department of State or from the Board of the Foreign Service. It has been permitted to "wheel and deal" presumably with direct instructions from the Secretary or other persons unknown and unnamed and it is for that reason in addition that the Complainant charges the Secretary with an unfair practice under E.O. 11636. Having established that the Secretary is responsible for the failure to name the CM Review Board from a list of personnel as indicated in the STATE/AFSA Agreement of June 29, 1973, it seems evident that the Secretary also has permitted the CM Review Board to make its selections independent of the precepts for CM which have jointly been agreed upon by AFSA and STATE. There could be no other reason for the existence of a "Review Board" whose membership has no restraints put upon it and which is without instructions as to precepts. Such loose arrangements provide a device for manipulating the list.

Just what are the operating principles behind the Career Minister Review Board? The Secretary can not have it both ways. He can not both have an agreement with AFSA setting standards and then claim that that agreement does not bind him to meet those standards in the case of CMs and, for that matter, Career Ambassador.

(4) This charge is forwarded to the President of AFSA, as noted above. I then request its return to me for service.

(5) I declare, under the penalties of the Criminal Code (106 USC 1001) that the contents of this complaint are true and correct to the best of my knowledge and belief.

CYNTHIA ANN THOMAS,
Complainant.

CERTIFICATE OF THE PRESIDENT OF THE AMERICAN FOREIGN SERVICE ASSOCIATION

As requested by Mrs. Thomas I have examined the charge she makes against the Secretary of State in connection with the Career Ministers List of 1975. To the best of my knowledge and belief her charge is accurate in every detail. There is no doubt in my mind, after I have gone into the matter in considerable detail, that neither the precepts nor the technical arrangements have been followed in drawing up the CM list that was forwarded to the Senate on July 15, 1975. Mrs. Thomas correctly identifies the CM Review Board as a source of trouble since its only function appears to be to set aside the judgments made by the rank order listing of Board I. It does no good to follow all of the rules in selecting Board I, which, in turn, follows the precepts, if a second panel called a "Career Minister Review Board" reexamines the evidence but is neither bound by precepts nor other rules. In fact the CM Review Board *is*, in my judgment, bound both by the AFSA/State Agreement of June 29, 1973 *and* the CM precepts. Political manipulation and nepotism is inevitable if this is not the case.

I interpose no objections to the charges made by Mrs. Thomas and I offer my good offices to the investigating authorities who should look into those charges.

I consent and agree to the fact that I am a party to this complaint; in drawing up this certificate, I wish to note that I am certifying for myself and not for the Board of the AFSA.

JOHN D. HEMENWAY,
President, AFSA.

CERTIFICATE OF SERVICE

I certify that I have, this date, personally served a copy of this charge upon the Office of the Secretary of State. I have also filed this original and four copies of the complaint with the Employee-Management Relations Commission.

October 20, 1975.

CYNTHIA ANN THOMAS,
Complainant.

EXHIBIT 2

THEODORE L. ELIOT, JR.

Eliot, Theodore Lyman Jr.—b NY 1/24/28, m. Harvard U BA 48 MPA 56. PRIV EXPER 48–49. STATE Dept S–13 5/49. Colombo clk 7/50. S–11 8/50. O–6 3/51. Stuttgart info off 9/52. cult off 9/53, O–5 3/54. Dept Russ lang-area trainee FSI 3/55. Harvard U 9/55, O–4 2/56, O–5 7/56. Moscow admin off 9/56, pol off 12/57. O–4 2/58. Dept int rel off 6/58. staff asst to under sec of state for econ aff 3/59. spec asst to under sec of state 7/59, det spec asst to sec of treas Treas Dept 1/61. Tehran-fin off 8/62. O–3 2/63. O–2 5/66. Dept country dir Iran 7/66, O–1 3/69, spec asst to sec and exec sec of dept 8/69. (w—Patricia Peters).

ARTHUR A. HARTMAN

Hartman, Arthur A—b NY 3/12/26, m. Harvard U BA 47. US Army 44–46 overseas. PRIV EXPER resch asst U Mich 48. ECA Paris S–12 econ 10/48, S–9 11/49, S–7 5/51, S–5 asst econ commr 4/52, US del to EDC Conf 6/53–9/54, FOA 8/53, STATE S–5 pol off (USRO) 1/54, R–4 1/56. Saigon econ off 2/56, O–5 7/56. Dept int rel off 5/58, for aff off 7/58–4/59, O–4 3/60, staff asst to under sec for ecom aff 2/61, spec asst to under sec of state 1/62, O–3 2/63. London chief econ sect 7/63, O–2 5/66. Dept spec asst to under sec and staff dir Sr Inter Dept Group 8/67, spec asst-staff dir Under Secs Comm 2/69, dep dir for coord 8/69, O–1 4/70. Presidential Mgmt Improvement Cert 70, distinguished honor award 72. Brussels (USEC) DCM min-couns 7/72. (w—Donna Ford).

DEANE R. HINTON

Hinton, Deane Roesch—b Mont 3/12/23, m. U Chicago AB 43. US Army 43–45 2d lt overseas. STATE Dept FSO unclass 7/46. Damascus pol off 10/46, O–6 11/46, O–5 4/48. Mombasa prin off 3/49, O–4 6/51. Dept det econ trng Fletcher Sch Law-Diplo 9/51. Paris fin aff off 7/52. Dept intell resch spec 1/56, O–3 act chief Div of Resch for W Europe 2/56, chief 3/56. Brussels (USEC) fin aff off 9/58. Dept det Nat War Coll 8/61, int econ 6/62, O–2 2/63, dir off of Atlantic Pol-Econ Aff 7/63, O–1 5/66, superior honor award 67. Guatemala det dir AID, couns econ develop 9/67. Santiago det dir AID, also couns econ aff 10/69. Dept det to White House 3/71. Det Counc Int Econ Pol 10/72, Langs Fr. Span. (w—Angela Peyraud).

WILLIAM E. SCHAUFELE, JR.

Schaufele, William E., Jr.—b Ohio 12/7/23, m. Yale U BA 48, Columbia U MIA 50. US Army 42–46 overseas. Frankfort on Main S–7 resident off 9/50. Pfaffenhofen 12/50, O–6 3/51. Augsburg 1/52. Dusseldorf labor aff off 7/52. Munich visa off, econ off 8/53, O–5 3/55. Dept int econ 2/56, O–6 7/56, coll prof Sch of Int Studies FSI 5/57, O–5 2/58, coll prof Sch of For Aff FSI 6/58, Moroccan desk off 4/59. Casablanca pol/labor off 5/59, O–4 2/61. Bukavu prin off 3/63, O–3 4/64. Dept off-in-chg Congo (Leopoldville) aff 6/64, dep dir Off of Central African Aff 10/65, alt country dir for Central Africa, Malagasy Rep and Mauritius 6/66, O–2 4/67, country dir for W Central Africa 10/67. Quagadougou AEP to Upper Volta 9/69, O–1 4/70. USUN sr ad to US rep to UN 8/71, mem US del 26th sess UN–GA (NY) 71, mem US del 27th sess UN–GA (NY) 72.—USUN. (w—Heather Moon).

RICHARD L. SNEIDER

Sneider, Richard Lee—b NY 6/29/22, m. Brown U AB 43, Columbia U MIA 48. US Army 43–46 1st lt overseas. PRIV EXPER 41, 46: resch interne NY Civ Ser Commn 41, jr pol anal Counc of For Rel 46. STATE Dept P–3 for aff spec 8/48, P–4 10/49, GS–11 10/49, GS–12 intell resch spec 4/51, GS–13 intell spec 5/52, for aff off 8/52. Tokyo R–4 pol off 3/54, O–4 3/55, O–3 1/57. Dept off-in-chg Jap aff 11/58, det Nat War Coll 8/61. Karachi counc pol aff 6/62, O–2 2/63. Dept pub aff ad 8/65. Dept country dir Japan 6/66, O–1 5/68, det Nat Security Counc 5/69. Tokyo 9/69. DCM-min 1/70, superior honor award 70. Dept dep asst sec Bu East Asian-Pacific Aff 8/72. (w—Ruth).

HELMUT SONNENFELDT

Sonnenfeldt, Helmut—b Germany 9/13/26, n 45, m. Johns Hopkins U BA 50 MA 51, US Army 45–46 overseas. PRIV EXPER 44–45, 52: photog cml co 44–45, transl lang ser 52. STATE Dept CAF–3 clk 12/47–7/47, GS–7 intell resch anal 12/52, GS–9 3/55, GS–11 intell resch spec 5/56, GS–12 6/58, GS–13 for aff off US Disarmament Admin 11/60–9/61. ACAD GS–13 for aff off 9–11/61. Dept GS–14 chief Bloc Int Pol Activities Div 11/61, GS–15 11/62, R–2 2/65, dep dir Off of Resch-Anal for Soviet Bloc 5/65, dir off of Resch-Anal for Soviet Bloc 8/66, R–1 4/67, superior honor award 68, det Nat Security Counc 1/69, O–1 8/70.

WELLS STABLER

Stabler, Wells—b Mass 10/31/19, m. Harvard U AB 41. STATE Dept FS aux 10/41, div asst 3/42, desk off for Ecuador 1/44, asst to exec sec on pol aff Comm on Post-War Prog 5/44. Jerusalem pol off 10/44, S–11 11/46, O–6 5/47. Amman Am rep 7/48, charde d' affaires a.i. 3/49, O–5 4/49. Dept 8/49, off-in-chg Egypt and Anglo-Egyptian Sudan aff 10/49, O–4 6/51, act dep dir Off of Near E Aff 10/52. Rome pol off 2/53, O–31/57. Dept off-in-chg United Arab Rep-Sudan aff 4/57, off-in-chg Swiss-Benelux aff 9/58, off-in-chg Ital-Austrian aff 5/59. Paris pol off 9/60, O–2 4/64. Dept Sr Sem in For Pol FSI 8/65, country dir Italy-Austria Switzerland 6/66, O–1 5/68. Rome DCM, min 7/69. Dept dep asst sec Bu Eur Aff 2/73. Langs Fr. Ital. (w—Emily Atkinson).

HANS N. TUCH

Tuch, Hans Nathan—b Germany 10/15/24, n 43, m. U Kansas City BA 47, Sch Adv Int Studies MA 48. US Army 43–45 overseas. PRIV EXPER 48–49: for rep for bank 48–49. Wiesbaden S–9 cult aff 10/49, Frankfort cult off. S–7 9/50, cult off 9/52, 12/54. Agcy 2/55, S–4 12/55, Russ lang-area trng 9/56, S–3 12/56. Munich asst pol ad 7/57–6/58. Moscow R–4 cultural attache 6/58, S–2 12/59. Dept 8–10/61. Agcy cR–4 10/61, for aff off 11/61, cR–3 12/61, cR–2 1/63, dep asst dir (Soviet Union and E European) 3/63, act asst dir 6/64, Sofia det Dept of State couns, dep chief mission 7/65. Berlin dep pub off 7/67, iO–2 10/68. iO–1 3/69. Rio de Janeiro couns pub aff 11/70. Brasilia couns pub aff 7/71. Langs Bulg. Ger, Russ.—USIA. (w—Ruth Lord).

VIRON P. VAKY

Vaky, Viron Peter—b Tex 9/13/25, m. Georgetown U BSFS 47, U Chicago MA 48. US Army 44–46 overseas. GOVT EXPER 48–49: voc appraiser Vets Admin 48–49. STATE Dept O–6 7/49. Guayaquil consular officer 9/49, O–5 6/51. Buenos Aires econ officer 12/51, O–4 5/54. Dept int rel off 9/55, O–5 7/56, O–4 1/57, info spec 7/58, Bogota political officer 7/59, O–3 2/61. Dept det Nat War Coll 8/63, O–2 4/64. Guatemala couns-dep chief mission 7/64. Dept mem Pol Plan Counc 8/67, dep asst sec Bu Inter-Am Aff 8/68, act asst for Inter-Am aff 1/69, O–1 3/69, Counc 5/69, det diplomat-in-residence Georgetown U 70–71. San Jose AEP to Costa Rica 9/72. Lang Span. (w—Luann Colburn).

EXHIBIT 3

AMERICAN FOREIGN SERVICE ASSOCIATION,
Washington, D.C., October 1, 1975.

Hon. JOSEPH M. MONTOYA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONTOYA: This letter is written in behalf of a foreign service colleague who evidently has been cheated out of an assignment as Consul General in Seville.

In response to the request of Mr. Ernest B. Gutierrez, I have forwarded to your office several detailed papers concerning the career abuse this dedicated civil servant has suffered.

Unfortunately, just now the Foreign Service does not even have a primitive form of grievance legislation. The Department of State has, in effect, canceled due-process.

In another letter written today I have candidly set forth a course of action which, I believe, might help bring a measure of justice to Mr. Gutierrez while, at the same time calling attention to yet another abuse in the personnel system of the Department of State.

It may help to be able to assure you that, speaking as AFSA President, my personal view is that Mr. Gutierrez is a highly competent consular officer deserving of every assistance. I hope you will look for ways to assist him not only because he is a constituent of yours, but because you may be assured that his professional association, AFSA, and I as President intend to see that justice is done for Mr. Gutierrez.

Sincerely yours,

JOHN D. HEMENWAY,
President.

Enclosure: NCAEG letter dated 1 October, 1975.

NATIONAL CONFEDERATION OF AMERICAN ETHNIC GROUPS,
Washington, D.C., October 1, 1975.

Hon. JOSEPH M. MONTOYA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONTOYA: Since my chance meeting with you on September 30th in your office, I have had the opportunity to provide your assistant, Miss Pat Braun, with details concerning the evident discrimination in the Foreign Service against Ernest B. Gutierrez, a constituent of yours. These materials have been supplied to you with the knowledge and permission of Mr. Gutierrez, who approached me for assistance as President of the American Foreign Service Association.

I shall address another letter to you today on the stationery of that association. This letter is written on NCAEG stationery because of the obvious discrimination aspects of this matter and to facilitate candor in my written statements since, as President of the American Foreign Service Association, certain of my board members would resent complete honesty in a matter of this kind.

In my personal judgment, Mr. Gutierrez is a highly qualified, capable consular officer who has been shunted aside to make room for a candidate for the post in Seville preferred by the Ambassador, Wells Stabler. The post of Consul General in Seville is designated for consular officers. Gutierrez meets that qualification, whereas the man named in his stead, Mr. R. Fouche, does not. The post is that of Consul General and Mr. Gutierrez's rank of FSO-3 is senior enough, whereas Mr. Fouche's rank of FSO-4 is not. (Foreign Service Ranks go from FSO-1—the highest—to FSO-8—the lowest.)

Frankly, Senator, the State Department is going to ignore any overture you make on behalf of your constituent and my sorely pressed colleague in the Foreign Service, Mr. Gutierrez—and fellow ethnics—unless you take vigorous action. Mr. Wells Stabler, the subject of Mr. Gutierrez's complaint of discrimination has been named a career minister on the list forwarded to the Senate for confirmation on July 15, 1975. I believe you should request postponement of the vote on this nomination until the facts are determined in the Gutierrez matter. As I told your assistant, Miss Braun, the list has already been held up by another senator who was concerned over the qualifications of the men designated career ministers. I am aware of plans to charge the Department of State with an unfair labor practice in connection with the manner in which that list was formulated.

My strong recommendation to you, in addition to requesting that confirmation of the career minister list be held up, is that you write to the Department of State urging immediate transferral of Mr. Gutierrez to Seville as Consul General—a post for which he is personally well-qualified and to which he has dedicated a life long career in preparation. That such a qualified man should be denied the crowning achievement of his consular career while the man perpetuating this injustice is designated a career minister is an injustice which the Senate if it were informed would not tolerate. Rest assured I will give you every assistance in supporting Mr. Gutierrez in this matter.

Sincerely yours,

JOHN D. HEMENWAY,
Assistant Director.

OCTOBER 1, 1975.

ENDORSEMENT

The above letter, which was prepared by my Assistant Director, has been personally approved by me for transmission to Senator Montoya as the official position of the NCAEG.

J. J. SUSTAR,
Executive Vice President.

GUADALAJARA, MEXICO,
May 31, 1975.

Hon. EARL D. SOHM,
Office of Equal Opportunity, "M" Room 7207, Department of State, Washington, D.C.

DEAR MR. MINISTER: The purpose of this letter is to enter my formal complaint against the action just taken by the Department of State in assigning, in a discriminatory fashion against me, another officer as Principal Officer at Seville, Spain, a post for which my name had been entered previously and for which I aspired in vain for the past nine months.

The discriminatory action taken in this assignment is twofold: One is that this is a consular-designated post and my name was entered long before the assignment was given to an officer from the political cone. The other is that because of my ethnic background the position was denied me despite my being fully qualified for the assignment.

The background on the developments as they occurred is as follows:

On February 28, 1974 I asked for a transfer from this post and the Department approved it. (The reasons for asking for a transfer are contained in the attached copy of my letter of even date to the Director General of the Foreign Service.) I have been recommended many times during the past seven or eight years to be Consul General and Principal Officer and I naturally aspired for this on my next transfer. In late July my Personnel Counselor told me that Seville, Spain, would be open during the summer of 1975 and asked me if I could wait until then. I told him I would be willing to wait for that post. I felt that Seville is a post which offered gool challenge and responsibilities and a good opportunity to become Consul General at a place where I would have to be on the alert at all times and to make good contacts for the Service. The plan was that I would leave Guadalajara in March or April and, after getting some leave, would attend the Executive Management Course before proceeding to Seville. My Counselor did not, of course, tell me that the assignment was a sure thing but did say that I had all the qualifications and that I had a good chance. Later on, in January, I was the only candidate from the consular cone.

In December 1974 I wrote to the then Ambassador-designate informing him that I was being considered for the position and asking him for his support. He replied that he would keep my name in mind but that he could not give me any encouragement at that time. In January 1975, when it became time to assign an officer to Seville, it turned out that someone in the Department decided than an officer from the political cone should be assigned there. The Office of the Administrator for Security and Conuslar Affairs gave its support to my candidacy, stating that I am fully qualified for the position.

Because I realized that this was a case of discrimination due to my ethnic origin and that someone who did not have a Spanish surname was being given preference I called Senator Montoya, whom I have known since 1948 when he was Lt. Governor of New Mexico, and asked him to inquire on my behalf. This is the first time I have ever called on him to do anything for me as I had always hoped that when a person has the qualifications and does his duty he would receive due recognition solely on the basis of merit; a belief that I fully realize now it not so. After the Senator expressed his interest in my behalf things began to look better for me, but then I was told that the Embassy in Madrid wanted an officer from the political section in Madrid sent to Seville so my chances again began to look grim. I then read an article about President Ford's statement, a small part of which appeared in the April issue of the Newsletter, in which he called for action on Equal Opportunity stating that "minorities represent only 5.2% and women only 4.5% of federal employees at the GS-13 level and above". The President added that he had reason to believe that the abilities of people with Spanish surnames have not been adequately tapped. In view of this I called Minister Earl Sohm, whose office referred the matter to Mr. Samuel Pinckney, Deputy Assistant Secretary for Equal Opportunity. Mr. Pinckney gave me some encouragement when he told me that a meeting had been held in the Department and that as a result a telegram was being drafted to the Embassy in Madrid saying that the Department was prepared to proceed with my assignment and adding that I was the most qualified candidate. I felt then that something constructive would be done in the area of equal opportunity. After waiting for about ten days I called my Personnel Counselor and he told me that the telegram had not been sent. It appears that someone at a high level in the Department had not approved it.

On Monday May 12 I spoke on the telephone to the Director of the Visa Office, Mr. Julio Arias. I told him that it seemed to me that someone was trying to block my assignment to Seville. He told me that my Personnel Counselor, Mr. Robert A. Bishton, was doing everything he could to get me assigned there (I am grateful to Mr. Bishton. He has done everything possible to get me this assignment). He added that he had accompanied Bob Bishton just a few days before to see Mr. Walentinowicz, the SCA Administrator, about the assignment and that the only question at that time was whether an officer from the Political Cone was going to be assigned as the Ambassador wanted or myself from the consular cone.

On May 22 I spoke to Mr. Appling and Miss Ann Campbell. They said that the Ambassador had asked for other names from the consular cone to look at their records. On May 29 I talked to Mr. Pinckney. He said

that the Ambassador had seen two other files of consular officers and that he still wanted Mr. Fouche.

My disappointment became even greater when I learned that the officer in the political section in Madrid, Mr. Fouche, is an O–4; the position is O–3. Sending a Class four officer to a class three position is a good way to line him up for a promotion. Not that I have anything against his being promoted (Mr. Fouche has an impressive academic background and since he has not been promoted in five years his promotion would be only fair). But it is patently unfair to do so at the expense of another person who is fully qualified. Mr. Fouche might be fully qualified as well but the question is: Why is it that if this position is supposed to be for a consular officer O–3 and you have an officer who meets these qualifications they have to send an officer who is a class four and from another cone? This means he doesn't have either of the two principal requisites for the job but does have the strong support of a high officer who wants him there.

The two strikes against me are my being in the consular cone and having the name Gutierrez. I have experienced discrimination all my life, of course, but tried to do my duty and to cast such things aside figuring that somehow I would receive recognition. In this manner I managed to achieve the rank of FSO–3. Some supervisors go along with having someone with the name of Gutierrez or Rodriguez, etc., working with them all right—no problem. But when a person from a passive minority group, such as mine, comes close to achieving a certain executive level, even if not a high one, he runs into a brick wall irrespective of his qualifications, dedication and hard work. There are still some people that cannot accept the fact that a person with a name such as "Gutierrez" can be an American Consul General. As of now I have been an FSO–3 since 1967 even though I have been recommended many times for a promotion and to head a Consulate General and have even been told many times that I have ranked close to the top 10% by the Selection Boards. In August 1974 I was told by my Counselor that if the Director General had approved the number of promotions proposed in the Consular Cone from Class 3 to 2 I would have been promoted.

I am sending the original of this letter to the OEO in the Department and a copy, with covering letter, to AFSA since one complaint (OEO) is on the basis of race discrimination and the other on the basis of a consular-designated post being taken away for the political field.

I am lacking only four years for my retirement. Nevertheless, I am going to follow through on these complaints to the fullest. It could also be of some help to my consular colleagues as a whole (what meaning will the list of consular-designated posts have, if any, to officers in the consular cone if at any moment a high official could put an officer they like in a position and just cast aside a person who has come to aspire for a position solely on the basis of merit?). Also, perhaps it could be of help to other Americans of Mexican descent, which by the way I must clarify: We are not Mexican-Americans but Americans of Mexican descent.

If any justice is done in this matter the post in Seville should be given to me.

A reply at your earliest convenience is most important.

Very truly yours,

ERNEST B. GUTIERREZ.

EXHIBIT 4

JOSEPH J. SISCO

Sisco, Joseph John-b Ill 10/31/19, m. Knox Coll BA 41, U Chicago MA 47 phD 50. US Army 41–45 1st lt overseas. GOVT EXPER 50–51. STATE Dept. GS–9 for aff off 1/51, GS–11 2/52, GS–12 7/52, staff asst 8/53, GS–13 5/54, GS–14 for aff off (int org off) 5/55, GS–15 off-in-chg Gen Assembly and Security Counc aff 7/56, O–3 7/56, off-in-chg UN pol aff 1/57, dep dir Off of UN Pol and Security Aff 8/58, superior ser award 60, O–2 2/61, dir Off on UN Pol and Security Aff 7/61, dep asst sec of state for int org aff 11/63, O–1 cons gen 4/64, asst sec of state for intr org aff 9/65, Nat Civ Ser League career ser award 66, CM 7/68, asst sec of state for Near E-S Asian aff 2/69 Rockefeller Foundation award 71. (w-Jean Head).

[From the CONGRESSIONAL RECORD, December 10, 1973]

WITHDRAWAL AND RENOMINATION OF HELMUT SONNENFELDT

Mr. HELMS. Mr. President, as the distinguished majority leader announced on Friday, the time for the debate on the nomination of Mr. Helmut Sonnenfeldt to the post of Under Secretary of the Treasury has been vacated. The Secretary of State has announced that Mr. Sonnenfeldt has been renominated to the post of State Department Counselor.

The withdrawal of this nomination is a timely one. As the Members of this body are aware, the nomination was to have been voted on today under a unanimous-consent agreement. Until the moment when I learned of the withdrawal of the Treasury nomination, there was grave doubt in my mind that the nomination after pending for 7 months was in fact still bona fide. When Mr. Sonnenfeldt appeared before the Senate Finance Committee on October 1, he confirmed that there have been discussions with him about his going to the State Department after being confirmed in the Treasury post. Numerous newspaper articles have since appeared alleging that it was not Mr. Sonnenfeldt's desire to go to Treasury at all, but only to secure a pro forma confirmation by the Senate.

These persistent allegations cast doubt upon the integrity of the confirmation process, and, had they been borne out by events, would have held the Senate up to ridicule. We had had enough criticism about the actions of our Government not being in accord fundamentally with what they seem to be on the surface. This nomination has become an embarrassment to the Senate. Clearly, if a nominee has no intention to assume the duties for which he is to be confirmed, then the honorable thing to do is to withdraw. That appears to be what has happened, and I am gratified that there will be no mockery of Senate procedures.

Nevertheless, none of the substantive issues have been settled with regard to the longstanding allegations against the character and fitness of the nominee in question. The hearing record of the Committee on Finance contains sworn statements by reputable witnesses which are in complete contradiction to the testimony of the nominee. For the most part this not hearsay evidence, but eyewitness testimony of those who participated in the events or security review of the nominee. Moreover, witnesses who can corroborate this testimony with direct and material evidence have been named and are available. I would suggest that any future Senate confirmation procedure would necessarily seek to resolve these contradictions.

It has been frequently asserted that the charges against Mr. Sonnenfeldt have been dismissed and discredited. I think it would be more correct to say that they have been simply disregarded, without regard to their truth or falsity. Unfortunately, the charges are serious enough and the available evidence so strong as to constitute an indictment of the man's fitness for high office. I am not a one-man investigating team, nor is it my intention to defame the character of any man. Yet the facts already upon the committee record are such that it is neither fair to the man nor to the country to confirm him to high public office without substantial refutation.

I will attempt to state the facts as they are upon the record, but first I want to indicate that, despite the persistent accusations of security violations throughout his career, he has never been accused of disloyalty to his country. Nor do I impugn his loyalty. Under Government personnel regulations, however, the concept of security includes both loyalty and suitability for the job intended. It is his suitability that has been questioned and continues to be questioned. And his suitability is questioned precisely because there is much evidence that he has repeatedly disregarded the regulations governing the use of classified information available to sensitive positions. The breach of security regulations is serious in itself, but the fact that he appears to have been less than candid about these problems in his career in his statements to the committee impugns his fitness for office. Moreover, it cannot help but raise doubts in the minds of foreign diplomats with whom he deals as to the integrity of diplomatic correspondence and negotiation.

Mr. Sonnenfeldt has suggested in his testimony that the fact of his continuous advancement in his career is proof enough of the falsity of the charges against him. An alternative view is that his advancement indicates the deterioration of personnel security practices in the face of an onslaught of political favoritism and manipulation of outside channels. It is also unusual that records of investigations of Mr. Sonnenfeldt, including investigations he has admitted to, seem to have disappeared without a trace.

The hearing record also shows that Mr. Sonnenfeldt repeatedly responded to questioning with evasive and nongermane answers in areas not associated with the security questions, as though he wished to shift responsibility for or participation in imprudent policy decisions. Some of this was undoubtedly due to his lack of expertise in financial areas, as the senior Senator from Virginia, Mr. BYRD, has mentioned several times on this floor. But in other examples, I suggest that it stems from the same lack of candor that he displayed in discussing his security problems. Now that he has been nominated to the post of State Department Counselor, his foreign policy concepts are more relevant.

For example, when he was asked whether as the chief Soviet expert in State he had written an official intelligence estimate discounting the view that the Soviets were planning to put missiles in Cuba, Mr. Sonnenfeldt first tried to spread the responsibility throughout the group of intelligence experts which he headed, and then explained:

"My own view, as I recall it now, was that there was a possibility of this occurring. I had not considered this a strong likelihood because I thought that the outcome of the Soviets doing this would be, as indeed it was, namely, that they would be forced to withdraw their missiles by our counteraction, and for that reason, my judgment was that, while the possibility existed, that when the Soviets calculated the risk, that they would probably in the end not do it."

When all of the bobbing and weaving has been removed, this is a remarkable statement, that is especially relevant to foreign policy considerations today. For it expresses the belief that Soviet policy is based upon the same rational calculations as we ourselves might make, and that the Soviets would be deterred from rash actions by the sure knowledge that we would respond.

Now hindsight is easier than foresight, and anyone can make an error of professional judgment. I do not fault him for a mistake.

Yet it is pertinent to inquire whether his view of Soviet policy calculations has been tempered since then. In his role as a senior adviser on Soviet policy in the National Security Council his view was doubtless important in the SALT negotiation policy, and we know as a fact that he played a key role in the United States-Soviet trade agreement. His role in the disastrous wheat deal is also important.

Before the Senate Finance Committee, Mr. Sonnenfeldt insisted that he "was not directly involved" in the negotiation of the wheat deal, but only "peripherally involved." He continued to minimize his participation throughout the lengthy questioning. Yet the conclusion that he played a policy role is inescapable. For example, when the NSC directives of January and February 1972 were read to him calling upon the Department of Agriculture to begin immediately to set up a program for handling grain sales to the Soviet Union, Mr. Sonnenfeldt replied:

"I would guess that those were connected with some early soundings beginning during former Secretary of Commerce Stans' mission to Moscow in November-December of 1971, about the possibility of selling some grain to the Soviet Union, again against the background of our trying to move some of our surpluses, and from what you have read, the first one seems to be saying that if this happens, the Secretary of Agriculture should take the lead."

Mr. Sonnenfeldt in his response did not associate himself with Secretary Stans' mission to Moscow, yet a photograph on page 1 of the Washington Post of November 25, 1971, identified Secretary Stans and Mr. Sonnenfeldt together in Moscow. Since the Secretary made no pretensions to being an expert on the Soviet Union, and Mr. Sonnenfeldt was the senior adviser in this field, it is hard to escape the conclusion that Mr. Sonnenfeldt did, indeed, have a major role in developing the policy guidelines on the wheat deal. This conclusion again brings into question his professional judgment about Soviet policy calculations.

His professional judgment is called into question because the hearing record shows he did not anticipate the tactics which the Soviets would use in their attack upon our grain markets, including the technique of parallel secret negotiations with Government negotiators and grain market traders and the cumulative purchase of separate bids. When asked whether any consideration had been given to the impact of the deal upon the American economy and the American consumer prior to the consummation of the deal, Mr. Sonnenfeldt replied:

"I don't believe anybody felt that it would have any noticeable impact on domestic prices at all because we were dealing with surpluses. So that—in that deal—had that been consummated, had that been the totality of Soviet purchases, there would not have been any impact."

* * * * *

"But I am not aware that any review was made of the probable impact on domestic prices of the Government deal which, as I say, was one spread out over three years, connected with surpluses, related to surpluses, and not likely to have any impact on American domestic prices."

What we have here is a senior policy adviser who is apparently aware neither of the probable Soviet responses to a policy decision, nor of the impact of that policy decision upon the United States, and does not even ask for a study of that impact. I need not point out that this is a policy decision that has resulted in the Soviets strengthening their food position and their economic position at the expense of U.S. prestige and the American consumer's pocketbook.

Since Mr. Sonnenfeldt freely admits that he played a major role in the negotiation of United States-Soviet trade agreement, I suggest that the consequences of that agreement be examined with a skeptical eye.

But let us now turn to some general considerations about the nature of the evidence which weighs not against his professional judgment, but against his suitability for a high sensitive information. It has been suggested that this evidence consists of hearsay and of one man's word against another. There is considerably more to it than that.

The first type of evidence consists of sworn statements before the Finance Committee by individuals who had eyewitness knowledge of security violations or who interrogated him in the official course of their duty.

The second type of evidence consists of sworn statements concerning the contents of investigatory materials compiled by other State departmental officials.

The third type of evidence consists of tape records and transcripts of wiretap surveillance over extended period of time on widely separated occasions.

Unfortunately, only two such witnesses were called before the Finance Committee in impromptu fashion. At least five or six more such witnesses, who had official contact with the nominee in the course of their duties, are reportedly available to corroborate the testimony already given, if subpoenaed.

The distinguished chairman of the Finance Committee indicated on the floor on December 5 that he had requested the indicated tape recordings or transcripts from the administration and had been denied access on ground of executive privilege.

Although I do not agree with all the denunciations of executive privilege which have been made in some quarters, I certainly see no excuse whatsoever for executive privilege to be invoked in this case. No personal records or correspondence of the President or the President's Office are involved. Most of the evidence requested involves only lower level bureaucrats in the State Department and the time is several administrations back. The President, in his letter to the Watergate Committee of July 25, 1973, indicated that he would not invoke executive privilege except for personal records, and even that has been modified. I would respectfully suggest that this is no time to invoke executive privilege to protect a bureaucrat.

I would also point out that the integrity of the witnesses who have come forward is of exceptionally high caliber. Mr. Otto Otepka is well known as a State Department security expert who laid his own career on the line to stand by the impartiality of his work and its nonpolitical character, and risked character assassination and loss of income when he was subpenaed by a Senate committee to tell the truth. His many hours of testimony on previous occasions have stood the test of veracity and integrity, and he was appointed to a high post in his administration and confirmed by the U.S. Senate.

Mr. Stephen Koczak, who is an eyewitness to security violations, was for many years a distinguished Foreign Service officer, and is now research director of the American Federation of Government Employees. In that capacity, he has appeared before Senate and House committee more than 100 times.

Both of these witnesses are obviously aware of the importance of accuracy and truthfulness of sworn testimony and cognizant of the solemn responsibilities of such testimony.

I would respectfully suggest that the Foreign Relations Committee should call Mr. Otepka and Mr. Koczak and allow them to supplement their testimony under oath, as they indicated they were willing to do before the Finance Committee.

I would also suggest that the following witnesses be called under oath to testify to any direct and material evidence which they have with regard to the security violations under discussion:

Mr. Francis Niland, Chief, Intelligence Analysis Unit, Department of Justice;

Mr. Herbert Lampe, Division of Investigations, Office of Security, Department of State;

Mr. Donald Daley, Assistant Chief of Investigations, Office of Security, Department of State;

Mr. Robert Berry, former Chief of Division of Investigations, Office of Security, Department of State;

Mrs. Eunice Powers, former stenographer in the Division of Investigations, Office of Security, Department of State;

Mr. John Hemenway, former employee of Bureau of Intelligence and Research, Department of State.

Let us now turn to the facts as known today.

1. THE 1954–55 LEAKS

In 1954 and 1955, Mr. Sonnenfeldt was investigated for leaking classified information to several journalists, including Mr. John Scali, now U.S. Ambassador to the U.N., and Mr. Marvin Kalb, of CBS. In sworn testimony before the Finance Committee, Mr. Otto Otepka, a former State Department security officer, stated under oath that during a security investigation of Mr. Sonnenfeldt he dealt with summaries of the traffic on wiretap surveillance of the nominee. The surveillance established conclusively that Mr. Sonnenfeldt had, indeed, given the classified information to the journalists, but the State Department would not allow the evidence to be used because of the way in which it was obtained. The name of State Department electronics expert who conducted the surveillance for a period of over a year, Mr. Herbert Lampe was not called to testify.

2. THE 1958 INCIDENT

Mr. Koczak's testimony states that in 1958 Sonnenfeldt was observed giving highly classified information to foreign nationals having to do with U.S. troop movements and the composition of the government of a third nation. Although the leaking of classified material is now considered to be more fashionable, the actions described by Mr. Koczak were extremely serious, for the following reasons:

First. Mr. Sonnenfeldt was an employee of the Bureau of Intelligence and Research of the Department of State, which reviews raw data from agents abroad. The information was thus not something stamped secret by some bureaucrat to hide his mistakes from the public; it was intelligence of the most sensitive kind that could jeopardize the lives of foreign officials, the work of agents in place, and even the success of U.S. policy.

Second. The time of the incident was the height of the Lebanon crisis.

Third. The location was a social function honoring an Israeli diplomat who was returning home. Thus with a broad cross-section of people present there was no way to be sure that the setting had not been penetrated by agents of other nations.

Fourth. All employees of the Bureau of Intelligence and Research were under orders to secure prior permission and subsequently report any such meetings with foreign nationals. Mr. Koczak had served in Israel and had numerous Israeli friends and was given permission to attend the function. Mr. Sonnenfeldt had never served abroad, and, according to Mr. Koczak, did not seek permission, nor did he report afterwards.

Fifth. The information given over consisted of the contents of telegrams analyzing the makeup of the Lebanese Government, and relating to the U.S. troop landings at that time. Mr. Koczak had seen an earlier Israeli Government undermined by the breach of diplomatic cable traffic, and re-

ported the incident to his superiors, giving the identification numbers of the telegrams compromised.

Sixth. On its own initiative, the FBI sent an agent to see Mr. Koczak about the Sonnenfeldt case. The agent was reportedly concerned because there was evidence of continuing contact with Israeli intelligence agents over a long period of time. The FBI, in a letter to Representative JOHN ASHBROOK, has confirmed that an FBI agent visited Mr. Koczak on the Sonnenfeldt matter and has identified him.

Seventh. The Secretary of the Treasury, Mr. Shultz, in listing the review of security investigations of Mr. Sonnenfeldt, made no mention of the 1958 investigation. The distinguished chairman of the Finance Committee said that he found no adverse security information in the nominee's file. Since the FBI has admitted that there was an investigation, the question arises as to whether or not the file was purged of adverse information.

Mr. Sonnenfeldt's response under oath to these allegations was vague and general, asserting that he was first confronted with them in a security investigation 2 years later.

3. THE 1960 LEAKS

In 1960, at the height of the political campaign between John F. Kennedy and Richard Nixon, Mr. Sonnenfeldt came under investigation because of evidence that he was leaking classified information to the Democratic campaign. Accord to Mr. Otepka, who conducted the interrogation, Mr. Sonnenfeldt's telephone was tapped over a long period of time, and he was placed under personal surveillance. Among the events included in this investigation was an occasion in which he was observed during working hours leaving the home of the late Marguerite Higgins, the journalist, with the late Robert F. Kennedy, who at that time was working in the Presidential campaign. Mr. Otepka's secretary, Mrs. Eunice Powers, was engaged in the transcribing of the wiretap traffic on Mr. Sonnenfeldt. According to Mr. Otepka, the available evidence positively established that Mr. Sonnenfeldt was communicating evidence to persons with whom he had no authority to deal in connection with his official duties at the State Department.

Mr. Sonnenfeldt admits that he was interrogated at this time, but denies that he knew anything about the allegations. Thus, although both sides in the controversy admit there was an investigation at this time—and an investigation of some thoroughness and expense—no record of it appears to remain in the nominee's file. Like the 1958 investigation, the 1960 investigation is not mentioned in the review of investigations confirmed by the Secretary of the Treasury.

Nor is either investigation mentioned in the security investigations index maintained by the Civil Service Commission. Under the Federal personnel security program, which is still in force under Executive Order 10450, all security investigations must be reported to the central file kept by the Civil Service Commission, so that any subsequent investigation can review the earlier evidence. This further raises the question of whether or not the nominee's file was purged of adverse information.

4. TRANSFER TO ACDA

In 1960, the nominee applied for the job of Deputy Director of the Soviet International Affairs Division of the Bureau of Intelligence and Research of the State Department. But, according to Mr. Otepka, the Director of that office, Mr. Hugh Cumming, determined, in the light of the ongoing investigations of the nominee, in political activity, that he could not continue in his duties at the Bureau where he would have constant access to the communications intelligence traffic of the United States. After the election, Mr. Sonnenfeldt then transferred to the Arms Control Agency of the State Department—now Arms Control and Disarmament Agency—where he could be cleared for activity of lower sensitivity.

5. TRANSFER BACK TO INR

Early in 1962, the nominee came back to the Bureau of Intelligence and Research as head of the Soviet International Affairs Division. Thus the nominee had been rejected as Deputy Director because of doubts that he could maintain the necessary security standards and was sent to ACDA in a less sensitive position; but within a year, he came back to be Director of the same highly sensitive office.

The question then arises as to whether or not the leaking of classified data to a Presidential candidate helps or hinders a man if that candidate wins the election. Unquestionably, the security standards were applied in a different way to his case when the new administration was in full swing. It is highly significant that evidence of the 1960–61 investigation seems to have disappeared from his file, although the nominee admits that an investigation took place.

It should also be noted that the deterioration of the whole State Department security program advanced markedly in 1961, as has been shown in the voluminous hearings of the Internal Security Subcommittee of the Judiciary Committee.

6. FAVORITISM IN PROMOTION

In 1969, Mr. Sonnenfeldt was chosen to join the National Security Council as an associate of Dr. Kissinger. Up to this time, he had been classified as a Foreign Service Reserve officer. Mr. Sonnenfeldt transferred into this position in 1965 from civil service, thereby becoming eligible for a higher pay scale. Technically he was classified as Foreign Service Reserve officer—maximum U.S. duty—FSRO—MUSD. By maximum U.S. duty was meant that he would enjoy the privileges of the Foreign Service, but would never have to serve outside of the United States. In 1967 he was promoted to FSRO–I, still maximum U.S. duty.

In 1969, when Mr. Sonnenfeldt learned that he was going to a prestige appointment with the National Security Council, he applied for a lateral transfer from the Reserve to the regular Foreign Service officer classification—from FSRO I to FSO I. This is an appointment that is the highest rank a Foreign Service officer can attain, aside from the rank of Career Minister and Career Ambassador, and is usually reserved for a handful of the most distinguished men of the corps. It is a rank that usually comes only after many years service abroad.

This lateral transfer caused consternation among the Foreign Service because it came at a time that there was a reduction in force in the Foreign Service of about 10 percent. Thus while meritorious candidates were being riffed, Mr. Sonnenfeldt's position at the NSC enabled him to move into a coveted spot, at that time, the first FSO–I lateral appointment in nearly a year.

The question then is whether political favoritism played a role in this appointment, and whether the security investigations of 1958 to 1960–61 were considered in the appointment.

Mr. President, these matters of possible favoritism were gone into thoroughly at the time of his appointment by the distinguished senior Senator from South Carolina, Mr. THURMOND, and I ask unanimous consent that his remarks of March 26, 1970, on the Senate floor be printed in the RECORD at the conclusion of my remarks.

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

7. THE 1969–71 WIRETAPS

Mr. HELMS. In 1969 and subsequently, the President and Dr. Kissinger became concerned over the alarming leaks of highly sensitive information from the National Security Council, and, as is now well known, telephone taps were put on several employees of the National Security Council and newsmen with whom they are alleged to be in communication.

Two of these taps were put on Mr. Sonnenfeldt and Mr. Marvin Kalb of CBS, both of whom had been wiretapped in connection with previous investigations.

Dr. Kissinger has indicated that nothing came of these wiretaps.

In view of the close association between Dr. Kissinger and Mr. Sonnenfeldt, the question arises as to whether or not Mr. Sonnenfeldt or Mr. Kalb received advance information that their phones were being tapped. Such information would have enabled those under surveillance to establish a record of innocent conversations while the leaking could have been done through other means.

At the very least, the transcripts of these tapes should be made available to the proper committees under relevant safeguards so as to determine the substantive content.

8. THE MOLLENHOFF INVESTIGATION

During the same period as the NSC investigation, Mr. Clark Mollenhoff, then a special counsel to the President, attempted several times to conduct an investigation into the Sonnenfeldt case, but failed to get cooperation from Dr. Kissinger. Mr. Mollenhoff's statement before the Finance Committee was as follows:

"My contact with this was simply passing on information when I was special counsel to the White House to Dr. Kissinger and through General Haig relative to this matter, and I viewed it seriously at the time but made no value judgment. I passed it to them and they exhibited great concern, indicated they were going to do something at some point but I could never get a satisfactory explanation back over a period of time and I just dropped it."

9. CONCLUSION

Mr. President, the facts on the public record indicate a recurring pattern in this case of allegations impugning the security suitability of Mr. Sonnenfeldt throughout his career. Yet not only the facts developed in those security investigations and the resolution of those investigations, but even the fact that the investigations were held seems to have disappeared from the nominee's personnel records. The question is not resolved as to whether favoritism in high places has served to coverup unfavorable aspects of the nominee's personnel history.

Fortunately, the uncertainties in this case should not be difficult to resolve. The Foreign Relations Committee can call the relevant witnesses and check out the contradictions that already appear under oath. Or if the committee prefers, the question could be referred to the Senate Internal Security Subcommittee which has demonstrated much expertise and objectivity over the years in developing information on State Department security practices.

Finally, Mr. President, I repeat that I have not desired to cast any reflection upon the loyalty and suitability, and either one alone might make a person ineligible for high office. If a person has a repeated history of leaking sensitive information over the years, he is certainly not suitable for a sensitive post. For example, if it can be established that Mr. Sonnenfeldt has a history of leaking classified information to Israeli diplomats, how could the Soviets trust him in dealing with the Middle East crisis? Whatever his intentions, the suspicions would remain.

I submit, Mr. President, that Mr. Sonnenfeldt's nomination, even to his new post, does not resolve the situation, and that his name should receive the closest possible scrutiny.

The remarks of Senator THURMOND follow:

THE STRANGE NOMINATION OF MR. SONNENFELDT

Mr. President, on March 11 the list of nominations received by the Senate included the name of one Helmut Sonnenfeldt of Maryland for appointment as a Foreign Service officer of class I.

This is a most unusual appointment. The Foreign Service is supposed to be composed of career diplomats who have served their country around the world and have their special status recognized through the Foreign Service rating system. The rating of FSO I is normally the highest rank which a career diplomat can achieve aside from the exceptional positions of Career Minister and Career Ambassador, reserved for a handful of the most distinguished members of the corps. Thus, it appears that we have Mr. Sonnenfeldt entering the Foreign Services at the highest rank normally achieved by others after years of service abroad. Thus, this unusual appointment threatens the status and achievement of the many dedicated Foreign Service officers who have served with distinction. It is an affront to the career system and a threat to the stability of impartial ratings and of the morale of those who have worked their way up through the ranks to achieve their present positions.

Mr. Sonnenfeldt's appointment is especially outrageous in view of the fact that at the present itme, due to the economy measures being taken throughout the Government, the Foreign Service Corps is currently affected by a reduction in force of approximately 10 percent. This means that about one out of 10 of every career Foreign Service officer reviewed for promotion is "selected out"—that is, severed from the Service. So at the very time when many Foreign Service officers are being severed from the Service because of the high rate compelled by the reduction in force, Mr. Sonnenfeldt, who has never served abroad, is entering into the Foreign Service Corps at the highest possible level.

Mr. President, as I have pointed out, this is a highly unusual situation. In fact, it is a unique situation. I am informed that in the fiscal year of 1970—that is, since June of last year—only three men have made lateral entry into the Foreign Service; two of them at the relatively low class III level and only one at the class I level. That sole individual is Mr. Sonnenfeldt.

We can see, therefore, that Mr. Sonnenfeldt is an exceptional case who is given special treatment at a time when many others are losing their jobs.

I have mentioned that Mr. Sonnenfeldt has never been abroad. I have received information concerning Mr. Sonnenfeldt's personnel history. Originally, he was in civil service status—and in 1965 he was converted from a GS–15 to Foreign Service Reserve Officer II—maximum U.S. duty.

The FSRO was originally conceived by Congress as a means for the temporary use abroad of persons who were particularly qualified in one aspect or another and whose qualifications filled a need for a particular job overseas.

At this period, Mr. William Crockett, who was then Deputy Under Secretary for Administration in the State Department, began to use this wise provision of the law as a means for enlarging his domestic staff without specific congressional authorization. He invented the category of FSRO—maximum U.S. duty—meaning a Foreign Service officer would never be assigned to foreign service. Those who accepted such a service would enjoy a higher pay scale than in civil service, without having the burden of serving abroad. On Mr. Crockett's part, it relieved him of observing civil service regulations with regard to job rights and categories.

Mr. Sonnenfeldt thus entered the Reserve Officer Corps under this highly unusual situation as a FSRO class II—maximum U.S. duty. I am told that in 1967 he was promoted to the rank of FSRO I—maximum U.S. duty—by a special panel dealing only with officers of this unusual category. The same panel recommended that he be converted from FSRO I to FSO I; that is, to permanent status. But the board of examiners reportedly refused to do so because he had not personally applied for the job, and there was no certificate from the Director of the Foreign Service that he was needed. It is significant that, if he had personally applied, then he would have been liable for duty overseas.

Under these cricumstances, he was appointed to the National Security Council staff in 1969 in what is essentially a political policymaking position. From the prestige status of this political appointment, he applied for conversion to FSO I in September 1969. He is, in effect, starting at the top. It is hard to escape the assumption that questions of political influence have overshadowed the merit system of the FSO.

It is particularly interesting that Mr. Sonnenfeldt received this special treatment, despite the fact that his wife is known as an antagonist to the present administration. I find it very disturbing that a top assistant in the National Security Council staff, responsible for formulating and advising on our international policy, should be chosen from a milieu which is antagonistic to the work of the President. I do not question the right of Mrs. Sonenfeldt to engage in political activity, but the question arises whether she acted with the approval or at the direction of her husband. Under the Hatch Act, no Government employee may do indirectly what he is forbidden to do directly. In any event, I find it particularly strange that a top policy adviser is picked from such a political context and, on top of that, given preferential and unusual treatment which threatens the justice and fair workings of the Foreign Service Corps.

EXHIBIT 5

MATERIALS PERTINENT TO JULY 15, 1975
CAREER MINISTERS LIST

A. Copy of the AFSA/STATE Agreement of June 29, 1973 which was violated when none of the CM Review Panel was submitted to AFSA for commentary. The entire promotion list may therefore be illegal.

B. List of the members of the Class 1 Selection Board.

C. CM Review Panel members who were not cleared with AFSA as required.

D. Department of State notice of the men who were promoted.

E. Letter to Mr. Veliottes (PER/PE) requesting the numbers and names of FSO–1 considered for promotion and noting that none of the members of the CM Review Panel were submitted to AFSA, as required by the AFSA/STATE Agreement of June 29, 1973. This information will have to be cleared for release by DG Carol Laise, by Under Secretary for Management Larry Eagleburger or Secretary Kissinger.

F. Response from Mr. Veliottes, Special Assitant for Employee Management Relations, Department of State.

G. Regulations current for 1974 and 1975 concerning the promotion of career ministers and formation of the Career Minister Review Board.

H. 1974 CM promotion precepts which require, among other things, "total integrity" of CM candidates.

I. 1975 CM promotion precepts signed by Hemenway for AFSA and Eagleburger for STATE which require that a CM should normally serve overseas in foreign service as an FSO–1 or 2. (These precepts will be used this year and indicate that the career service believer should be minimal requirements for CM).

J. Letter from Deputy Secretary of State, Robert S. Ingersoll, pertaining to the nomination of nine career Foreign Service officers for promotion to the rank of Career Minister.

Mr. NELSON. Mr. President, I wish to just speak very briefly in behalf of the nominee.

The Finance Committee had occasion about 2 years ago to conduct hearings on the nominee whose name at that time was pending before the Finance Committee because, I believe, he was nominated for a high position in the Treasury, and some allegations were made respecting Mr. Sonnenfeldt. The Finance Committee conducted, I believe it was 2 days of hearings. I sat through these hearings, listened to all of the testimony on both sides, and concluded myself that there was no substantial evidence of any kind to support the allegations that had been made against him.

I think he has a long and distinguished record in the government. He is very able and a fine public servant. When the hearings were concluded, the Finance Committee voted to confirm his nomination. I believe it was unanimous. There might have been one dissenting vote.

Then prior to the name coming to the floor he was nominated for another position over in the State Department and his name, therefore, went for hearings over to the Foreign Relations Committee. They recommended his confirmation, and he was confirmed for that position at that time on the floor of the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, will the Senator yield 1 minute?

Mr. SPARKMAN. I yield 1 minute to the Senator from Louisiana.

Mr. LONG. Mr. President, I suppose I spent more time than anyone looking at the qualifications of Mr. Helmut Sonnenfeldt and the allegations by some of those who, for one reason or the other, objected to his confirmation when he was nominated for a high position in the Treasury. I examined and delved more deeply into his nomination than any other I had occasion to act on in my 26 years in this body, it was my conclusion that the man should be confirmed.

Having spent a great number of hours seeking to track down all of the allegations, some of which seem to be based more on resentment on behalf of certain persons that they did not have more influence in the Government than they had, it concluded that this man was able, talented and had a great deal to offer this country and, therefore, that he should be confirmed.

I will vote to confirm him in this new position.

Mr. HELMS. Mr. President, I wonder if I might inquire of the distinguished majority leader, I am perfectly willing to vitiate, if he is, the order for the yeas and nays on this nomination. I largely wanted to make my objections a part of the RECORD on the Sonnenfeldt nomination.

Will the distinguished majority leader move to vitiate the action? If he does, I am satisfied to have a voice vote.

Mr. MANSFIELD. Mr. President, I appreciate the graciousness of the Senator.

Mr. President, I ask unanimous con-

sent that the order for the rollcall vote on the pending nomination be vitiated.

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

Mr. MANSFIELD. I call for a vote on the nomination of Mr. Sonnenfeldt.

The PRESIDING OFFICER. As in executive session.

Mr. MANSFIELD. As in executive session.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Helmut Sonnenfeldt of Maryland?

The nomination was confirmed.

Mr. MANSFIELD. Mr. President, I request that the President be notified.

The PRESIDING OFFICER. The President will be so notified.

LEGISLATIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate return to legislative session.

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

H.R. 6184 HELD AT DESK PENDING FURTHER ACTION

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that the message on H.R. 6184, to amend section 40 of the Bankruptcy Act, be held at the desk pending further action.

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

Mr. MANSFIELD. This has been cleared on both sides.

ORDER OF BUSINESS

Mr. MANSFIELD. What is the pending business?

The PRESIDING OFFICER. There is no pending business.

EXECUTIVE PROTECTIVE SERVICE

The Senate continued with the consideration of the bill (H.R. 12) to amend title 3, United States Code, to provide for the protection of foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business, which was delayed until 4 o'clock, now be laid before the Senate and made the pending business again.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

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

Mr. BUCKLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, as we interrupted our debate on this bill, I believe that I correctly state the posture of the debate when I say that the Senator from North Carolina had withdrawn his objection to the first amendment adopted by the committee.

Mr. MORGAN. Mr. President, that is correct, and I agree to the first amendment.

The PRESIDING OFFICER. The first committee amendment is agreed to.

The question is now on agreeing to the second committee amendment.

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 15, strike "(c)" and insert "(d)" in lieu thereof;

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The second committee amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the third committee amendment. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 18, strike "(d)" and insert "(e)" in lieu thereof;

The PRESIDING OFFICER. The question is on agreeing to the third committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the fourth committee amendment. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, at the beginning of line 22, insert "(a)";

The PRESIDING OFFICER. The question is on agreeing to the fourth committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the fifth committee amendment. The clerk will report.

The assistant legislative clerk read as follows:

On page 3, line 4, strike "facilities."." and insert "facilities.";

The PRESIDING OFFICER. The question is on agreeing to the fifth committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the sixth committee amendment. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, line 5, insert the following: "(b) Not more than $3,500,000 may be transferred to State and local governments as reimbursement for any fiscal year.";

The PRESIDING OFFICER. The question is on agreeing to the sixth committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will now state the next committee amendment.

The assistant legislative clerk read as follows:

On page 3, line 11, strike "(e)" and insert "(f)" in lieu thereof;

The PRESIDING OFFICER. The question is on agreeing to the seventh committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the eighth committee amendment.

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, at the beginning of line 12, insert "(c).";

The PRESIDING OFFICER. The question is on agreeing to the eighth committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the ninth committee amendment. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, line 12, strike "(d)" and insert "(e)" in lieu thereof;

The PRESIDING OFFICER. The question is on agreeing to the ninth committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the 10th committee amendment. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, line 14, strike out lines 14 through 23.

Mr. MORGAN. Mr. President, on that I ask for a division.

The PRESIDING OFFICER. Division is requested. The question will come first on striking lines 14 through 23. The question is on agreeing to the committee amendment.

Mr. MORGAN. That is the amendment, Mr. President, I believe the Senator from New York and I both agreed to accept. It merely makes the director and assistant director career employees with the correct designation rather than being subject to being designed by the President. I believe there is no objection to putting that back in.

Mr. BUCKLEY. No objection whatever.

The PRESIDING OFFICER. Without objection, part 1 of the committee amendment is agreed to.

The clerk will now state part 2.

The assistant legislative clerk read as follows:

On page 4 begining with line 1 down through line 12 strike out section 3 of the committee amendment.

Mr. BUCKLEY. I will agree to that, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. MORGAN. Mr. President, first of all, I ask for the yeas and nays on the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. MORGAN. Mr. President, let me have a word to say while we are waiting for enough to get a quorum.

The PRESIDING OFFICER. Do you suggest the absence of a quorum?

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

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. MORGAN. Mr. President, this bill, as it is now amended, boils down to two or three simple things.

First of all, the bill will increase the number of persons in the Executive Protective Service from 850 to 1,200. This is a substantial increase. I believe it is sufficient to take care of any additional needs that we may have in this country because of visiting dignitaries.

Another provision which I think is appropriate is that it does designate the Director and the Assistant Director of the Secret Service as career employees.

The part that I am objecting to, which I think is bad precedent, Mr. President, is that it would allow the Federal Government to pay up to $3.5 million a year to any one of six cities for police protection for dignitaries visiting those cities.

Why I think it is wrong is first of all it establishes a bad precedent. Who will say how these police will be controlled? Are we going to pay this price regardless of how they are controlled? If not, is the Federal Government going to conduct their activities?

Second, the dignitaries, as we pointed out this morning, are visiting all over the country. President Sadat was in Williamsburg yesterday. The Emperor of Japan was in Williamsburg, Norfolk and a dozen other cities. This would discriminate against every city in America where dignitaries visit except those six who have at least 20 or more embassies or representatives.

While this bill is limited in this regard to $3.5 million, it is a foot in the door. The city of New York sought the United Nations, as I pointed out this morning. The United States did not want the United Nations in this country. They first recommended Geneva. After the campaign was conducted to have it put in this country, President Truman recommended that it be put in San Francisco, and even offered a site in San Francisco. The city of New York lobbied for it. They got it. They get all of the benefits that come from it.

Mr. President, it sets a bad precedent. We might as well face it, it is just one more effort in the way of bailing out New York City.

I am on the Banking, Housing and Urban Affairs Committee, and we are considering that very question. If we ever are going to do it, we should do it through an orderly process and not through this method.

For that reason, Mr. President, I send forward an amendment which would strike out the provisions of the bill which would reimburse the city of New York or any one of the other five cities up to $3.5 million a year for police protection and leave the bill otherwise. It would increase the number of personnel from 850 to 1,200 and would make the Director and Assistant Director career employees.

I ask unanimous consent to dispense with the reading of the amendment and call for a vote, if there is no further debate.

Mr. BUCKLEY. Mr. President, this, of course, is the essential vote.

The PRESIDING OFFICER. Apparently we have a parliamentary problem. Until the committee amendment is acted upon, the offered amendment is not yet in order.

Mr. MORGAN. I thought we had adopted it.

The PRESIDING OFFICER. The yeas and nays have been ordered on the committee amendment and it has not as yet been disposed of.

Mr. MORGAN. I thought the yeas and nays were on final passage of the bill.

The PRESIDING OFFICER. There is some confusion at the desk.

Mr. MORGAN. I ask unanimous consent that the yeas and nays be transferred to the final passage and I would also ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Let us dispose of the first. Without objection, it is so ordered, concerning the yeas and nays on final passage.

Now the question is on part 2 of the committee amendment.

Part 2 of the committee amendment was agreed to.

The PRESIDING OFFICER. Now the amendment is in order.

Mr. MORGAN. The amendment that I offered?

The PRESIDING OFFICER. Yes.

Mr. MORGAN. I offer the amendment.

Mr. BUCKLEY. Mr. President, I oppose the amendment for the reasons that I stated at some length——

The PRESIDING OFFICER. Will the Senator kindly withhold until the amendment has been stated by the clerk?

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an amendment as follows:

Strike out all after Page 1, Line 2 down through and including Page 2, Line 14 and all after Page 2, Line 17 down through and including Page 3, Line 13.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, I rise in opposition to the amendment, which would strike the guts of the bill.

Mr. MANSFIELD. Will the Senator yield briefly?

Mr. BUCKLEY. Yes.

Mr. MORGAN. 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.

Mr. BUCKLEY. Mr. President, I will quickly summarize the salient points. I know some Members are anxious to leave as they have other appointments.

Mr. President, I urge the defeat of the amendment that is offered by the Senator from North Carolina (Mr. MORGAN), and I urge that H.R. 12 be passed as it was reported from the Committee on Public Works.

The bill, approved in committee on a strong bipartisan vote, 9 to 2, provides a cost-effective approach to stem the political terrorism that may threaten the safety of foreign diplomats visiting the United States.

As reported, H.R. 12 strengthens the ability of the Executive Protective Service to protect diplomatic missions in New York City or New Orleans or Los Angeles, when protection is needed because of a situation of extraordinary protective need.

This authority extends in the bill to the cities where the danger would be most acute, cities where 20 or more legations are located. The President has case-by-case authority to provide this protection in other cities. The interpretation of what constitutes an extraordinary protective need rests, in the bill, with the Secretary of the Treasury.

I believe that it is important that the EPS provide extraordinary protection outside Washington in unusual instances, such as occurred when Yasir Arafat visited New York last year. H.R. 12 is designed to provide that safety, and at a cost below what that protection would cost the taxpayers if it were provided under existing procedures.

I would point out that the cost of this provision is limited to $3,500,000 yearly.

I urge the defeat of the amendment of the distinguished Senator from North Carolina (Mr. MORGAN).

Mr. President, I would reiterate five essential points: No. 1, this perfects the mechanism for protecting foreign diplomats visiting the United States, when we have extraordinary dangers, and only where there are extraordinary dangers.

No. 2, the Secretary of the Treasury is the sole judge as to whether or not a situation warranting the reimbursement of extraordinary police protection at the local level should be granted.

No. 3, it is a cost-effective way of protecting our foreign visitors.

No. 4, there is a tight limit of $3,500,000 yearly.

No. 5, this applies to 7 major cities in this country that have 20 or more missions.

I will not speak any further to this point because I think the earlier record speaks for itself.

Mr. JAVITS. Will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. JAVITS. I would like to support Senator BUCKLEY in this debate and the points which he has made, which are absolutely essential.

I am here to express my strong support for H.R. 12 which amends the legislation establishing the Executive Protective Service.

In 1970, Public Law 92–217 was enacted which established the Executive Protective Service, changing the name of the White House Police and adding the responsibilities of protecting foreign diplomatic missions in the Washington, D.C. area and in other areas as the President directs on a case by case basis. Protection in other areas would only be authorized when local authorities are not capable of providing it at the desired

level. The Executive Protective Service has served its purpose well in Washington, D.C. and has lessened the burden on the local police force concerning protection of foreign missions.

However, since 1970 it is become apparent that adequate protection of foreign missions should be extended to areas other than Washington, D.C. over the last several years because of the continuing crisis in the Middle East, Executive Protection Service officers have been assigned to protect the missions of various Arab countries and of Israel in New York City. This situation is certain to continue for the foreseeable future.

Protection of a large number of foreign diplomatic missions often involves large numbers of local police and high expenditures of local money. This is especially true in the case of New York City in which is located approximately 84 different diplomatic missions. In 1947, Mayor Beame of New York indicated that the city was incurring a cost of $3.1 million to protect diplomatic missions including $700,000 spent during the visit of Yasir Arafat to the United Nations. These types of expenses are clearly national in character and should not be left to cities such as New York to pay on its own.

H.R. 12 would authorize an increased level of executive protective service personnel up to 1,200 officers. This would be an increase of 350 over the present level. In addition the bill provides the Secretary of the Treasury with authority in cases of extraordinary need to provide protection for foreign diplomatic missions located in metropolitan areas, other than Washington, D.C., where there are 20 or more such diplomatic missions headed by full time career officers. Presently this would cover missions in New York City, Chicago, Los Angeles, Houston, New Orleans, and San Francisco. A request would be required from the particular metropolitan area for executive protective service personnel or as an alternative reimbursement would be provided for use of local or State personnel, equipment and facilities.

I believe that H.R. 12 is a responsible solution to an evergrowing problem. It is important that foreign diplomatic missions be protected particularly when international terrorism has become commonplace. At the same time it is unfair to have local governments shoulder the entire burden of protection of these missions. I urge the Senate to approve this bill.

Mr. MORGAN. Mr. President, there seems to be some confusion as to what we left in the 10th committee amendment. I ask unanimous consent that the vote by which part one of the 10th committee amendment was agreed to be reconsidered, and that part one of that committee amendment be rejected.

Mr. JAVITS. Mr. President, reserving the right to object, I would like to make a parliamentary inquiry in that regard.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is it a fact that the amendment as introduced is defective and subject to a point of order, because it relates to a part of the bill which has already been acted on?

The PRESIDING OFFICER. That is not correct.

Mr. BUCKLEY. Apparently the Senator from North Carolina missed the Senator's question.

Mr. JAVITS. I asked the Chair, as a parliamentary inquiry, whether it is a fact that this amendment is subject to a point of order because it relates to a part of the bill already acted on.

The PRESIDING OFFICER. The amendment now pending is in order, since it affects much more of the bill than has already been acted on.

Mr. JAVITS. Then may we know what the unanimous-consent request is?

Mr. MORGAN. Let me restate it. The committee report recommended that section 2 of the House bill be deleted. I thought that we rejected that. I ask unanimous consent that the vote by which that part of the committee amendment was accepted be reconsidered.

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

Mr. MORGAN. I now move, Mr. President, that part one of committee amendment number 10 deleting section 2 be acted on and be voted down.

Mr. JAVITS. Mr. President, is this subject to a Senate vote, or what are we doing here? I do not quite follow it. May we know what this motion is?

The PRESIDING OFFICER. The action requested by the Senator from North Carolina would restore the language on page 3, lines 14 through 23.

Mr. JAVITS. That would be restored by agreeing to the request? Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. 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 question is on agreeing to the amendment.

The amendment was not agreed to.

The PRESIDING OFFICER (Mr. LAXALT). The question now recurs on agreeing to the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) and the Senator from Michigan (Mr. HART) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. TAFT) is necessarily absent.

The result was announced—yeas 33, nays 57, as follows:

[Rollcall Vote No. 460 Leg.]

YEAS—33

Allen	Garn	McClellan
Burdick	Glenn	Morgan
Byrd, Harry F., Jr.	Goldwater	Nunn
Byrd, Robert C.	Griffin	Packwood
Cannon	Helms	Randolph
Church	Hruska	Scott, William L.
Dole	Huddleston	Sparkman
Eastland	Inouye	Talmadge
Fannin	Laxalt	Thurmond
Fong	Leahy	Young
Ford	Magnuson	
	Mansfield	

NAYS—57

Abourezk	Hart, Gary	Pearson
Baker	Hartke	Pell
Bartlett	Haskell	Percy
Beall	Hatfield	Proxmire
Bellmon	Hathaway	Ribicoff
Brock	Humphrey	Roth
Brooke	Jackson	Schweiker
Buckley	Javits	Scott, Hugh
Bumpers	Johnston	Stafford
Case	Kennedy	Stevens
Chiles	Long	Stevenson
Clark	Mathias	Stone
Cranston	McClure	Symington
Culver	McGee	Tower
Curtis	McIntyre	Tunney
Domenici	Mondale	Weicker
Durkin	Moss	Williams
Eagleton	Muskie	
Gravel	Nelson	
Hansen	Pastore	

NOT VOTING—10

Bayh	Hollings	Stennis
Bentsen	McGovern	Taft
Biden	Metcalf	
Hart, Philip A.	Montoya	

So Mr. MORGAN's amendment was rejected.

Mr. BUCKLEY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, previously, we asked for a rollcall vote on final passage. I ask unanimous consent that the order for the rollcall vote be vitiated.

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

Mr. MANSFIELD. Mr. President, for the information of the Senate, the last rollcall vote was the last one for today.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill, H.R. 12, was read the third time and passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, of not to exceed 20 minutes, with statements therein limited to 5 minutes each.

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

ORDER FOR RECOGNITION OF SENATORS TOMORROW AND FOR CONSIDERATION OF S. 2498

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow, Mr. GRIFFIN, Mr. MANSFIELD, and Mr. MCCLURE be recognized, each for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business, of not to exceed 30 minutes, with statements therein limited to 5 minutes each; that at the conclusion of routine morning business, the Senate proceed to the consideration of Calendar No. 409, S. 2498, the Small Business and Small Business Investment Acts amendments of 1975.

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

LOW LABELING LOOPHOLES

Mr. MAGNUSON. Mr. President, many of us who are concerned with the problems of consumers in the marketplace are all too familiar with such terms as "confusing labeling," "inaccurate labeling," "misleading labeling," and even "deceptive labeling."

There is yet a new labeling menace in the marketplace which, in my opinion, can be confusing, inaccurate, misleading and deceptive, all at once. Even the name given to this practice is difficult to decipher. The Federal Trade Commission calls it "low labeling," yet it probably should be called "high labeling." The FTC calls it deplorable, yet they also say that it is legal.

What makes the practice of low labeling doubly deplorable is that it occurs in relation to one of the most potentially beneficial consumer information programs regulated by the Government. It occurs on the care labeling of wearing apparel, and is very difficult for consumers to detect.

What is low labeling? The FTC defines it as "the use of extraordinarily cautions—textile care—instructions when they are, in fact, not needed" and which "often may be done at a higher cost to the consumer." Plain and simple, I call it inaccurate labeling which wastes consumers' money.

How does low labeling work to the consumer's detriment? The FTC has cited two examples in a public notice on areas in need of strengthening in its trade regulation rule on care labeling of wearing apparel.

The first example is a care label on clothes which instructs consumers to "dry clean only," even though the clothes may be laundered in a washing machine at home. Obviously, unneeded dry cleaning could cost consumers more money directly. It could also result in the indirect cost of wasting a consumer's valuable time and effort in taking clothes to a dry cleaning facility.

Yet dry cleaners, themselves, are having many problems with inaccurate or incomplete care labels. A trade group reported to the FTC an instance of six different care label instructions appearing on six identical jackets. One of these care labels stated that the jacket must be dry cleaned, but then stated that the solvents used by dry cleaners could not be used on the jacket. What does the dry cleaner tell consumers?

The costs of the second FTC example of low labeling now being practiced may not be as obvious at first glance. Under this example, the care label will tell consumers "do not bleach," yet the clothes on which that label appears will be bleach safe.

The FTC has received surveys which indicated that "do not bleach" labeling appears most frequently on baby clothes, and ironically bleach manufacturers claim that two additional functions of bleach are to sanitize and deodorize—functions which take on increased importance to energy-conscious consumers who launder clothes in cold water.

Finally, Mr. President, the most disturbing aspect of this whole situation is that the Commission claims that its rule has an unintended loophole in it. A pinhole would be a better description. The FTC says that it is powerless to act against low labeling under its present trade regulation rule—even though that rule expressly mandates that care labels should fully and clearly inform consumers how to regularly care for and maintain wearing apparel for ordinary use and enjoyment of the articles. This is shocking to me, and I have told the FTC so.

I first wrote to FTC Chairman Lewis A. Engman on September 17, asking for a status report on the Commission's long-awaited attempt to clean up its present care labeling rule and for an opinion on whether what FTC calls low labeling is already a violation of that rule. On October 7, the acting Director of FTC's Consumer Protection Bureau, Mrs. Joan Z. Bernstein, responded to my letter. She stated that the Commission has before it a staff report and recommendations on the subject. She also reports that low labeling, although in violation of the spirit of the current rule and the subject of complaints from both consumers and industry, is not a violation of the letter of the present rule.

I have just recently sent another letter to Chairman Engman warning him that the entire care labeling program is in jeopardy and reminding him of the dangers of a regulator agency which places more emphasis on issuing regulations than on making sure that its regulations work as intended. I urged that an immediate interim guideline on this subject be issued, and that a proceeding to patch up the loopholes in the current rule be initiated.

Mr. President, because this subject is one of great interest and importance to consumers and large segments of the business community, I ask unanimous consent that the correspondence between the FTC and me be printed in the RECORD at this point.

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

COMMITTEE ON COMMERCE,
Washington, D.C., October 23, 1975.

MR. LEWIS A. ENGMAN,
Chairman, Federal Trade Commission,
Washington, D.C.

DEAR CHAIRMAN ENGMAN: I addressed an inquiry to you on September 17, 1975, regarding the status of anticipated changes in the Commission's Trade Regulation Rule on the Care Labeling of Textile Wearing Apparel. My letter also asked for your opinion as to whether the practice which your agency calls "low labeling" is a violation of the present regulation.

In response to my letter to you, I received a status report and opinion from the Commission's acting director of the Bureau of Consumer Protection, Mrs. Joan Z. Bernstein. I must assume that you share her viewpoint.

The practice of low labeling textile garments, according to Mrs. Bernstein's reply to me, has been the subject of complaint from both consumers and industry. I am very concerned about it, and I believe that the Commission should share this concern.

Low labeling is inaccurate labeling which could result in consumers wasting hard-earned money. More than that, it is a practice which could lead consumers to question the reliability of all care labels, thus resulting in the waste of a major regulatory effort which could, if properly implemented, be significantly cost beneficial.

Using the Commission's own examples of low care labeling—"Dry Clean Only" instructions on garments which could be laundered by less expensive means and "Do Not Bleach" instructions on garments which could be bleached safely—several things appear obvious to me.

First, reliance on an inaccurate dry cleaning instruction can cause consumers to waste money and, in some cases, time and effort in taking clothes to a dry cleaner, as the FTC, itself, maintains.

In addition, I have heard from many dry cleaners and their representatives who indicate that they, themselves, are being hurt by inaccurate and incomplete labels, and that they have given the FTC proof of this.

Second, I have also heard from bleach manufacturers who say that the Commission is aware of a survey which finds that the highest incidence of "Do Not Bleach" labeling appears on baby clothing. They claim that a high number of these labels appear on bleach-safe clothes. They also claim that this is particularly significant for energy-conscious consumers who launder in cold water and would otherwise use bleach to sanitize and deodorize clothing as well as help clean it.

Obviously, as soon as consumers learn they are being misled by certain care labels, they will distrust all care labels and question FTC's ability and resolve to enforce its own regulations.

Notwithstanding these factors, Mrs. Bernstein informs me that the Commission at this point can only "strongly discourage" low labeling and not prohibit it, because it comes within what is viewed as a loophole in the present regulation. She maintains that low labeling "clearly is in violation of the 'spirit' or intent of the Rule," but that it "does not appear to be in violation of the general language of the Rule."

For an agency which has been criticized in the past for construing its authority too broadly, this interpretation of the current Rule comes as a surprise, indeed.

The rule explicitly provides that care labeling must be that which "clearly discloses instructions for the care and maintenance of" wearing apparel. The Rule further provides, in a note explicitly made a part of the regulation, that such instructions must, "Fully inform the purchaser how to effect such regular care and maintenance as is necessary to the ordinary use and en-

joyment of the article, e.g., . . . bleaching, dry cleaning, and any other procedures regularly used to maintain or care for a particular article."

Quite frankly, if there is a hole in the regulation under which low labeling can be practiced, it does not appear to be a loophole. It is, at most, a self-inflicted pinhole. It seems absurd to me that a regulation which expressly requires clear and fully informative disclosure of care instructions can be interpreted by the agency which wrote it as allowing for what the Commission readily admits is unclear and uninformative disclosure.

Mrs. Bernstein informs me that there is a recommendation now before the Commission to rectify low labeling and other problems discovered during the Commission's experience with care labeling.

I would urge you to act quickly in this area. The very valuable concept of care labeling, itself, is at stake here. I realize that the Commission has been busy, especially in the rulemaking area where it recently has issued and proposed a significant number of potentially useful regulations. But you should be aware of the danger inherent in a regulatory agency laying more emphasis on issuing new rules than on making sure that the ones it has already issued work as intended.

If the Commission does have an interest in taking steps in this area, I would also like you to give consideration to the possibility of the Commission issuing an interim guideline designed to inhibit low labeling now and during the pendency of any formalized proceeding to amend the Care Labeling Rule.

I would appreciate knowing your personal views on this subject.

Sincerely,

WARREN G. MAGNUSON,
Chairman.

FEDERAL TRADE COMMISSION,
Washington, D.C., October 7, 1975.

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

DEAR SENATOR MAGNUSON: This is in response to your letter of September 17, 1975, regarding the status of the Commission's inquiry concerning the Trade Regulation Rule Relating to the Care Labeling of Textile Wearing Apparel and requesting an opinion as to whether "low labeling" constitutes a violation of the Rule.[1]

As you have noted, the Commission initiated a review of the current Rule on April 2, 1974, and published a Notice of Opportunity to Submit Written Comment and Data for the purpose of re-evaluating a number of provisions of the Rule. During the comment period, which ended on September 23, 1974, over 9,000 comments were received comprising more than 12,000 pages of public record. Generally, those commenting responded to select questions from the Request for Comment; a few individuals expressed an opinion on all questions asked.

The Commission staff analyzed the responses and prepared a report with recommendations to the Commission as to what changes, if any, should be made in the present Rule. That report has been completed and forwarded to the Commission for consideration.

As to whether "low labeling" constitutes a violation of the Rule, while it clearly is in violation of the "spirit" or intent of the Rule, it does not appear to be in violation of the general language of the Rule. The Commission recognized the potential problem of "low labeling" in the Statement of Basis and Purposes, and specifically "discouraged" low labeling as a practice to be avoided, if possible, in devising care instructions. Because the field of care labeling was relatively new to the Commission in 1972 when the Rule was promulgated, the Commission appropriately decided that the Rule should be simple and general, with a view toward modifying the requirements as the need arose and as the Commission and the staff gained administrative expertise in the field.[1] A care instruction under the present Rule may fulfill the requirements of the Note (where standards for care instructions are set forth) and still constitute "low labeling" in the sense as you described it. Technically, therefore, "low labeling" is not a violation of the letter of the Rule as it now stands although the practice is, indeed, "strongly discouraged."

The Commission has received a number of complaints about the practice, both from consumers and industry involved with either bleaching or drycleaning. I can assure you that solutions to the problem will be considered in connection with the staff's report on the Request for Comment and in any decisions made as a result.

I will be happy to discuss the matter further with you or your staff at any time.

Sincerely,

JOAN Z. BERNSTEIN,
Acting Director.

SEPTEMBER 17, 1975.

Hon. LEWIS A. ENGMAN,
Chairman, Federal Trade Commission,
Washington, D.C.

DEAR CHAIRMAN ENGMAN: On April 2, of 1974 the Commission published in the *Federal Register* an invitation for public comment on certain issues relating to its Trade Regulation Rule on Care Labeling of Textile Wearing Apparel. Your publication of these issues for comment was based upon "the Commission's continued concern with the efficacy of the Rule and its desire to keep pace with the needs of consumers, as well as the textile and cleaning industries, in this important area."

I could not agree more with your objectives. Providing consumers with accurate and informative care labeling of wearing apparel has been a long-held concern of mine. I feel that the Commission's Care Labeling Rule can be one of the most important and cost beneficial consumer protection regulations ever issued.

As you and the rest of the Commission recognized in your April 1974 invitation for public comment, experience with the rule has indicated areas in need of strengthening. I am particularly concerned that you take steps to assure that certain aspects of the rule do not result in consumers incurring more costs rather than saving money in accordance with the intent and capability of the Rule.

In this regard, one of the issues identified for attention in your April 1974 publication becomes of particular concern. The issue was stated as follows:

"Presently, the Rule's Statement of Basis and Purpose strongly discourages "low labeling", i.e., the use of extraordinarily cautious instructions when they are, in fact, not needed. Often, this may be done at a higher cost to the consumer. (Examples: Use of the phrase "Do Not Bleach" when, in reality, the item so labeled can be bleached without harm; use of the phrase "Dry Clean Only" when, in reality, the item so labeled can be refurbished equally well by another cheaper method)."

It appears to me that what you call "low labeling" is inaccurate labeling which results in unnecessary costs to consumers. In fact, such inaccurate labeling would appear to me to be in violation of the Rule as it stands now.

Since the comment period on your published Care Labeling issues ended approximately a year ago, I would appreciate a report from you on the status of the Commission's inquiries into this matter and the prospects of seeing the Commission propose a modification of the Rule to update it. In addition, I would be appreciative of your view as to whether inaccurate labeling which results in increased costs to consumers (i.e., "low labeling") is a violation of the current rule.

I look forward to your early response.

Sincerely,

WARREN G. MAGNUSON,
Chairman.

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[1] The Rule was described as ". . . only a first stage;" Chapter VI.A., sixth paragraph of the Commission's Statement of Basis and Purpose.

AUTO SAFETY

Mr. MAGNUSON. Mr. President, for almost a decade, the motor vehicle safety community has discussed and debated the various restraint alternatives available to the motoring public to protect against the second collision. To date, we have relied upon lap and shoulder belt systems which were accompanied by various reminder systems to encourage usage. I believe that most would agree that our success to date has been disappointing.

Thus far, the Department of Transportation's National Highway Traffic Safety Administration has put all of its faith in lap and shoulder harnesses. But the early systems were uncomfortable and cumbersome, with spaghettilike belt systems cluttering up the front seat, and consumers began to resist these lifesaving systems. Upon realizing the low level of belt usage, the Department then mandated various combinations of warning lights, buzzers, and ignition interlock systems in an effort to induce motorists to "buckle up." These appear only to have frustrated the public, resulting in greater resistance and hostility. This frustration culminated in congressional action to remove the mandated ignition interlock systems.

Where do we stand now? Currently, our new cars are equipped with lap and shoulder harnesses with an 8-second warning buzzer. Additionally, the Department requires an inertial-reel system, allowing the motorist freedom of movement. Despite the increased comfort, belt usage is still disappointingly low: the most recent studies indicate that we are achieving a usage rate of only 6 percent for the lap belt alone and 20 percent for the lap/shoulder belt combination. This gives us a total usage rate of only 26 percent—a little more than one-quarter of the motoring public. Unless we are able to achieve restraint system use to over 80 percent, the results will be catastrophic.

A recent study conducted by John Z. DeLorean, former corporate vice president of General Motors, has revealed that by 1980, 65 percent of new car sales will be compact- and economy-sized vehicles. The study further indicates that with this massive shift toward smaller, lighter, and intrinsically less safe vehicles, coupled with the increase in the number of drivers on the road, there will be a 35 percent increase in fatalities during the next decade unless we are able to achieve greater restraint protection for the motoring public. Smaller vehicles

are intrinsically less crashworthy because of the shorter distances available to decelerate the occupant and the greater likelihood of intrusion into the passenger compartment. Thus, assuming, once again, that no progress is made in achieving wider usage of an effective restraint system, the DeLorean study concludes that a vehicle occupant will be 38 percent more likely to be injured and 75 percent more likely to be killed in a smaller car versus a larger car.

While these statistics alone are staggering, a more sobering thought is the fact that we can do something about it, but the Department of Transportation seems to be dragging its feet. The solution is the passive restraint. Since late 1969, the Department has been proposing various forms of passive restraint requirements. A passive restraint system is one which will operate automatically and requires no action by the occupant. While there are many forms of passive restraints, the most common one is the so-called air cushion. The air cushion works automatically and only when needed—in an injury-threatening car crash. It is triggered by sensors as the crash begins and the bag inflates in less than 25/1000 of 1 second. The bag has the effect of spreading the force evenly across the protective crash occupant's body, rather than concentrating harmfully at a few points. During the critical split second of the crash, the bag becomes an energy absorbing shield between the protective crash occupant and the hazardous, hard, sharp interior structure that the occupant might otherwise smash against. The air cushion does its protective work during the instant of the crash, then it deflates—so rapidly that the protective crash occupant does not realize that the bag was there until after it is out of his way.

What is important about the air cushion is the fact that it is passive—that it works automatically—and it is entirely unobtrusive and inoffensive to the people it protects. The air cushion is stored completely out of sight when not needed, and it interferes in no way with the operation of the vehicle.

There are many who are concerned about the cost of air cushions and whether they represent a good safety investment for the Nation. While it is difficult to value a human life or debilitating injury, the DeLorean study provides us with an important evaluation of the costs and benefits we could expect from air cushion systems if they were installed in all motor vehicles. Consider the DeLorean conclusions: if manufacturers were to install the air cushion restraint system in a full-sized, six-passenger vehicle, with lap belts in all seating positions, it would raise the average price approximately $111.50. This amount includes an $11.50 profit per car for the manufacturer and a $22 profit per car for the dealer. Similarly, a consumer would have to pay an additional $90 for a four-passenger car with lap belts in all seating positions. This amount includes a $9.50 profit per car for the manufacturer and a $17.50 profit per car for the dealer.

What would be the savings? Installation of air cushion restraints in all vehicles sold to the public after 1977 would save 69,000 lives in the next 10 years—2.5 percent fewer deaths than that which the Nation will experience this year. Air cushion restraints fully equipped in the entire vehicle population would prevent 625,000 injuries and save 24,000 lives annually. If one were to compare the alternative of equipping all vehicles with air cushions and continuing with lap belt/shoulder harness systems—assuming current usage rates—the contrast is striking: the former system would result in 498,000 fewer injuries, 19,000 fewer fatalities, and discounted future societal benefits of $5.5 billion for each year.

What concerns me even greater, however, is the impact that delay of introduction of the restraint system requirement will have. The present Department of Transportation standard requires passive restraint systems in 1978. What happens if that effective date is delayed until 1981?

DeLorean Associates concludes that this delay would result in 37,600 needless losses of life during the decade. Delayed implementation would cost $18.6 billion in societal loss due to injuries and fatalities which could otherwise be prevented.

During the 3-year delayed period from 1978 to 1981, the investment of $1.4 billion per year for the early implementation of a passive air cushion restraint system will result in the $18.6 billion return, or nearly 350 percent return on investment. And what makes the entire proposition so attractive is the estimate that nearly $2 billion annually would be saved in insurance premiums resulting from health, accident, life, and auto insurance discounts.

It is time for the administration to finally "fish or cut bait" on passive restraints. In July 1969, the DOT issued an advance notice of proposed rulemaking suggesting that it would require passive restraints by January 1, 1972. But by the time the first rule was promulgated, the date had already begun to slip to January 1, 1973. In March 1971, the date slipped again, with the Department amending its standard to require passive protection in all 1976 model cars. In 1972, the U.S. court of appeals sitting in Cincinnati invalidated the standard on a technicality, and it was not until March 1974 that the Department saw fit to issue another proposal. But this time, passive protection would be required for all 1977 model year cars. Once again, all eyes are on the Department of Transportation and the Ford administration to issue a new proposal. Last spring, the Department held 5 days of hearings in which it solicited comments and recommendations on what course it should pursue. We are now approaching the end of 1975 and there is still no word from the Department of Transportation.

It is time for action. The DeLorean study has defined the costs of further delay. If the auto industry is to have adequate lead time in which to integrate the air restraint system into its vehicles, expeditious action from the Department of Transportation and the Ford administration is required now.

200 NAUTICAL MILE FISHERY CONSERVATION ZONE

Mr. MAGNUSON. Mr. President, shortly, the Senate will take up consideration of S. 961, my bill to establish a 200 nautical mile fishery conservation zone off the coasts of the United States. This bill is similar to the one which received a favorable Senate vote in the closing days of the 93d Congress. The vote was 68 to 27. This proposed new law has again been favorably reported by the Senate Commerce Committee October 7, and referred to the Senate Foreign Relations Committee for not to exceed 21 legislative days. By my calculation, S. 961 should be returned to the floor and placed on the calendar by November 12. The committee has scheduled a hearing on the bill this Friday, October 31. I am hopeful that the Foreign Relations Committee will report the bill favorably. Just recently also, the House of Representatives passed a 200-mile fishery zone bill by a 2 to 1 margin—208 to 101.

I think my colleagues are well aware of my interest in this legislation. In my opinion, it is the single most important fisheries bill ever considered in Congress. We have come to a crossroads in the history of fishing and fishery conservation: we can either continue to allow the overfishing of our finite fishery resources, or we can change the jurisdictional rules and institute meaningful conservation measures. It is that simple.

There is no dispute about the declining levels of fishery resources off our shores, nor about the depressed condition of our coastal fishing industry. There is also very little dispute about the lack of effective international action on the question of fishery conservation. And almost everyone agrees that international rules on fishery jurisdiction are changing, that past rules have lost the support of a large number of coastal nations and that the U.N. Law of the Sea Conference, if it ever can agree on other issues, will make the 200-mile concept an integral part of a new Law of the Sea treaty.

So it boils down to this: Can we afford to wait any longer, and, if we did wait, would international agreement on a Law of the Sea treaty come about in the next year or so? The answer to both questions is an emphatic no. Our fisheries have waited too long already for greater protection and a more meaningful conservation program. The sooner we begin to manage the fish off our shores, the sooner they will be returned to sustainable, rather than overfished, levels. The U.N. Conference on Law of the Sea will not reach agreement when it convenes for a third time in New York next March. Since there will be no treaty so long as disagreement persists on any major issue, the squabbling will continue. At the moment, the difference of opinion between the developed and the developing nations on how to deal with the deep seabed area is so wide as to preclude any possibility of mutual agreement on treaty articles on that issue next session. In frank conversation, our delegates concede this.

The fishery issue is unlike any other before that Conference. It has been the source of greatest internation conflict in the past, but consensus on 200-mile coastal jurisdiction now exists. It is the one issue on which a decision must be made soon if we are to cope with the advanced state of depletion in many of the world's fisheries. The manganese nodules will still be there 5 years from now; ownership of offshore oil is more or less settled. There is no great risk of harm to either resource if the debate continues. But there is a definite risk to the fisheries of the world if the fishery jurisdiction question is not settled soon.

Mr. President, I commend to my colleagues' attention an article on this subject which recently appeared in Newsday authored by Prof. H. Gary Knight of the Louisiana State University. Professor Knight is a member of the Department of State Advisory Committee on Law of the Sea and a knowledgeable expert on international law. He confirms the fact that a Law of the Sea treaty is a long way off—in his words, "possibly decades away." He also mentions that one viable U.S. option is to enact domestic legislation, an an interim basis, to protect our interests, including fish.

This is exactly what I propose. S. 961 is interim legislation which will expire when an international agreement on fishery jurisdiction is reached. It is first and foremost a conservation measure, with provisions creating a national fishery management program for this extended area of authority.

In addition, I believe the Senate should be aware of other nations' intentions in this regard. Iceland declared a 200-mile fishery limit on October 15. The President of Mexico has publicly announced his country's intent to pass a similar law. Other countries—a majority—by their statements in the Law of the Sea Conference, have evidenced their support for a 200-mile economic or fishery zone.

Finally, Mr. President, the National Advisory Committee on Oceans and Atmosphere, our principal citizen advisory committee on ocean policy, has recommended that legislation be enacted creating a 200-mile U.S. economic resource zone. Their fourth annual report reflects this view.

The overwhelming opinion in the House of Representatives is to establish this new law. I know many of my colleagues here in the Senate agree. Those who disagree base their opposition on too many ifs, ands, and maybes to be persuasive. The domestic fishing industry needs an opportunity to regain its stature and its economic soundness. Already the recent wave of inflation and drop in fish abundance have forced fishermen, in growing numbers, to seek Federal assistance as a way to continuing their livelihood. With fishery jurisdiction out to 200 miles, I believe they will be given a better chance to prove themselves once again. I urge that my colleagues support S. 961 and vote for its passage.

I ask unanimous consent that Professor Knight's article, a press release from the Embassy of Iceland, and the fisheries portion of the Fourth Annual Report of the National Advisory Committee on Oceans and Atmosphere be printed in their entirety at this point in the RECORD.

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

[From Newsday Magazine, Sept. 28, 1975]

KEEPING OUR SHARE OF THE OCEAN'S RICHES

(By H. Gary Knight)

Congress is apparently on the brink of enacting a law that would establish a 200-mile fisheries zone off the nation's coast.

Last fall the administration pulled out all the stops in opposition to a similar bill. Despite this effort, the Senate passed the bill by a vote of 68–27, but the House did not act before the end of the 93rd Congress. Congress is not likely to be frustrated on this subject again—on Thursday the Senate Commerce Committee unanimously approved a bill that would establish a 200-mile fishing zone around U.S. shores and forbid foreigners to take anything but surplus fish from those waters. It is also considering legislation to authorize U.S. citizens to mine mineral deposits from the deep ocean floor, beyond the continental shelf.

These legislative initiatives contrast with an even more comprehensive effort on the part of the State Department and other federal agencies to negotiate a widely acceptable international agreement dealing with just about every facet of the use of ocean space and the exploitation of ocean resources. It should come as no surprise to learn that Congress and the State Department have rather different views about the best way to protect the nation's ocean-related interests. In two areas—fishing and deep seabed mining—the issue will come to a head as Congress presses ahead on legislation that the administration views as antithetical to its foreign policy interests.

Why the sudden interest in the ocean? In the first place, the interest is not really new. The United States has long been a maritime power. We have for many decades relied on the sea for food and energy resources, and utilized its presence in the conduct of our foreign policy. But with increasing world population and its concomitant demand on the environment, more and more nations, especially those gaining independence since 1945, are turning to the sea to develop their economies.

In 1967, the Maltese ambassador to the United Nations, Dr. Arvid Pardo, initiated a debate on the status of deep seabed minerals, which led, at the UN's snail's pace, to the Third UN Conference on the Law of the Sea. That conference has now held 20 weeks of inconclusive meetings over the past two years. Talks are scheduled to resume in March in New York.

The upshot of all this sea diplomacy is that the United States, along with other technologically advanced nations, is being forced to negotiate its vital ocean interests in the one-nation, one-vote UN forum in which the economically underdeveloped nations have a commanding majority. As if that did not present enough difficulty, these countries have now involved the law of the sea negotiations in their push for a "New International Economic Order"—a euphemism for redistribution of wealth from the rich to the poor.

How do these domestic and foreign developments in the ocean affect U.S. citizens? Until quite recently, most U.S. coastal populations cared only about near-shore commercial and sports fishing and, in some areas, offshore oil and gas. Although these uses of the ocean remain important, new developments make public interest in the politics of the ocean even greater. The outcome of the law of the sea negotiations could affect such essential matters as the price of gasoline, the availability of certain seafoods, the cost of steel, the defense budget, and the preservation of the marine environment.

New Englanders and Alaskans, for example, have been concerned that foreign fishermen—especially the Russians and Japanese—are depleting the fish stocks upon which they have relied for a living. It has been established beyond doubt that many such species are being overfished and that some are in danger of total depletion. Whether this stems from intensive foreign fishing, or simply from the lack of a comprehensive management program by the U.S. government and the fishing industry, the reaction has been essentially xenophobic—thus the push for 200-mile fishing zone legislation that would allow the United States to order a reduction of effort by foreign fishermen.

Domestically this seems to be an appropriate solution, but it may, according to the State Department, cause international complications. For example, U.S. foreign policy experts argue that if the U.S. unilaterally establishes such a zone rather than waiting for an international agreement on fisheries problems to come from the Law of the Sea Conference, other nations will retaliate by cutting off the access of U.S. shrimpers who operate off the coast of Mexico and tuna seiners who operate in Latin American and African waters. Further, they argue, taking any unilateral action now endangers the chances for reaching agreement at the conference where many more issues—involving some vital national security matters—are at stake.

Proponents of the 200-mile zone, in turn, assert that the United States cannot wait on the conference to protect its coastal fishing industry because an agreement may be as long as five years off, if one can be reached at all. It is clear that if the conference agrees on anything it will be the right of coastal states to declare 200-mile fishing zones, and many nations have done so unilaterally already—Iceland announced such a zone to be effective in October, and such friendly nations as Canada and Mexico will not be far behind. In view of these developments, coastal fishermen believe that U.S. action would not really affect these inevitable developments.

Another interest group, the domestic mining industry, is also pushing hard for legislation. Howard Hughes' phony seabed mining operation notwithstanding (it turned out to be a cover for recovery of a Russian submarine), the industry does have the technology available now to proceed with actual mining operations. Such companies seek a law under which licenses can be secured from the federal government—much as oil companies do on the outer continental shelf—authorizing them to mine deep seabed minerals. These minerals exist in the form of potato-shaped nodules that contain high concentrations of manganese, copper, cobalt, nickel, and other minerals important to U.S. industry. Steel, for example, cannot be made without manganese. These companies point out that continued U.S. dependence on foreign sources of such raw materials is a threat to our economy, and they cite OPEC as an example of what can happen in resource cartels.

At the UN conference, however, the underdeveloped nations are trying to tie up control of the seabed through a complex international agency and licensing system that would give them effective control over these resources, in keeping with their objective of controlling all raw material markets.

Under existing international law, manganese nodules can be taken by anyone; as a result, ownership simply goes to the first possessor. Last year, Deepsea Ventures, the operating arm of an international consortium composed of Tenneco, U.S. Steel, and Belgian and Japanese partners, claimed the exclusive right to mine nodules from a 60,000-square-kilometer area in the Pacific Ocean. This

claim, the first of its kind, set off considerable controversy.

Legislation would not provide a total solution to the seabed mining companies' international problems, but it would at least keep them from wasting time and money over conflicting claims since mining rights would be allocated and registered by a federal agency. Many hope that other nations possessing seabed mining technology would enact similar legislation, thus paving the way for some sort of international registry office in which claims could be filed. This might help avoid the kind of "claim jumping" that took place in the 19th-Century gold rush.

Perhaps the most concerned player of all in the law of the sea game is the Defense Department. The trend toward extensive claims over ocean space—12-mile territorial seas, 100-mile pollution control zones, 200-mile fishing zones, and so forth—threatens, in the Defense Department's view, to restrict naval mobility and thus inhibit a vital aspect of our national defense system. Of greatest concern is the threat posed to passage through international straits that are now considered "high seas" but which would become territorial waters if the breadth of the territorial sea were to be established at 12-miles rather than three. The possibility of nuclear submarines having to surface when passing through the Straits of Gibraltar, or of the Sixth Fleet having to seek Indonesian permission to pass through the waters of that archipelago nation on its way from the Pacific to the Indian Ocean, causes naval strategists to become apoplectic.

Defense experts argue that the only way to ensure continued access to the world ocean for U.S. naval vessels is to negotiate a widely accepted international agreement on the topic. They fear that bilateral arrangements with individual nations would be too unstable, a point partly borne out by the recent closing of American military bases in Turkey. The counter argument is that in order to achieve these navigation rights for U.S. warships by international agreement, we would have to concede other issues to the underdeveloped nations, particularly with respect to resource interests.

Aside from these very serious questions of food, raw materials, and national security, there are a host of other ocean issues being considered both domestically and internationally. For example, the maritime industry shares some of the same fears as the Defense Department about freedom of navigation. Of most immediate concern to U.S. citizens is the possibility of underdeveloped nations placing restrictions or costly burdens on the movement of oil tankers bringing crude oil to the United States. Further, oceanographers could be greatly restricted in their investigations of the sea and its resources if many coastal states were to establish 200-mile resource zones and claim authority to regulate scientific research there. And if international minimum standards concerning pollution are not agreed upon, nations will be free to ignore the quality of their coastal environments. There are, in fact, over 100 items on the agenda of the Law of the Sea Conference.

These ocean debates may go on for many years, perhaps decades. It appears unlikely at this time that a comprehensive and widely accepted international agreement can be negotiated in less than five years, if ever. In the meantime, nations will continue to assert conflicting rights to use the ocean.

How should the United States go about protecting its interests in the ocean? Apparently the State Department is willing—against some very old advice to the contrary—to put all its eggs in one basket, the UN Law of the Sea Conference. After following the negotiations at the UN closely since 1967, and serving with the U.S. delegation to the Caracas session of the conference for eight weeks this summer, I have reached the conclusion that this approach is deficient.

The developing nations have not evidenced much real interest in negotiating solutions to technical sea law problems. Rather, they have been intent on using the conference for broader purposes, principally advancing the "New International Economic Order." Some have actually engaged in attempts to scuttle the conference entirely, while the United States struggles as much to hold it together as to negotiate for its own objectives.

These negotiations could drag on for decades, spewing out one agreement here, another there. Most nations would presumably begin to look for other means of protecting their ocean interests, and over the long run some order will arise from the apparent chaos. But unless the United States is willing to pursue other alternatives now, it could be the big loser in the game of oceanic politics.

There are good alternatives. First, the United States could begin bilateral and multilateral negotiations with the countries directly involved in our interests. For example, we could arrange with other nations possessing seabed mining technology for a system of claim registration that would preclude disputes over the right to mine nodules from the deep ocean floor. True, this would leave out the underdeveloped countries, but their only objective in seabed mining is to control production and cartelize the resource anyway, so why play into their hands by giving them the chance to make policy at all?

Or we could arrange with Canada for joint management of fisheries out to 200 miles from our coasts in the northwest Atlantic.

Or we could draw up a bilateral agreement with Indonesia or the Philippines that would designate certain "sealanes" through their island waters in which our military vessels would have a right of free navigation in moving from the Pacific to the Indian Ocean.

Such moves would not preclude our continuing to negotiate in the Law of the Sea Conference, nor would they irreparably injure our bargaining position there. In fact, they would probably strengthen it, for we would be making clear the truth that no one speaks and no nation wishes to hear—namely that the United States, with its economic and military power, can do quite well without a global ocean treaty.

Second, the United States could enact domestic legislation wherever that appears appropriate to protect our short-term interests, pending resolution of the issues on a regional or international basis. The 200-mile fishing bill is a good example, as is the deep seabed mining legislation.

Third, the United States could and should use force, or the threat of force if that will suffice, to protect rights that are already ours under international law. These include the right to navigate freely on the high seas, the right of innocent passage through territorial waters of other nations, the right to take fish from waters more than 12 miles from the coast, and the right to mine deep seabed mineral deposits beyond any nation's continental shelf. If we allow these fundamental existing rights to be usurped, we have little chance of securing more complex objectives in the international negotiations, for other nations will rightly perceive that we lack the political will to press hard for what we believe.

The handling of the Mayaguez incident was a good example of what we ought to do in such cases. The permissive attitude toward Ecuadorian tuna-boat seizures is a classic example of what not to do. If we had responded with force the first time such an Ecuadorian act of piracy took place, there would very likely have been no second incident.

Diversity of tactics and political will are the two necessities for an effective oceans policy. Without them, we play into the hands of the underdeveloped nations who are bent on plundering the wealth and destroying the political institutions of western civilization. These 100-odd poor countries—almost all without any semblance of representative government, due process of law, or concept of individual liberty—are truly the "New Barbarians." We must play a strong hand against them wherever possible, and the ocean's wealth provides one such opportunity.

Regardless of the final resolution, U.S. citizens have a great stake in the development of the law of the sea. Access to coastal fisheries, independence from foreign supplies of oil and hard minerals, military security, and a host of other national interests depend on how Congress and the administration approach these ocean issues over the next several years. It will not be a dull process.

[From the Embassy of Iceland, Washington, D.C.]

THE FISHERY LIMITS OFF ICELAND: 200 NAUTICAL MILES

On October 15, 1975 new Regulations took effect in Iceland, providing for fishery limits of 200 nautical miles around Iceland. The new regulations are based on the 1948 Law concerning the Scientific Conservation of the Continental Shelf Fisheries and the progressive development of international law at the United Nations Conference on the Law of the Sea. That Conference is the third of a series sponsored by the United Nations, the first and second having been held in 1958 and 1960. All of them owe their origin to a proposal made by Iceland at the 1949 General Assembly of the United Nations to the effect that the study of the Law of the Sea in its entirety should be entrusted to the International Law Commission. The Commission in 1956 proposed that the question of limits should be settled by an international conference.

During this period of over a quarter of a century a great development has taken place in the Law of the Sea. The old system was based on the thesis of a narrow territorial sea and no coastal state jurisdiction over foreign fishing beyond the territorial sea. This was in the interest of distant-water fishing nations who up to that time were in a position to control the development of international law in this field. This old and obsolete system had disastrous consequences for Iceland. Foreign fishing fleets, particularly from the United Kingdom and Germany, with increasingly sophisticated equipment frequented the Icelandic fishing banks in competition with the Icelandic fishing fleet. The foreign vessels caught almost one-half of the total demersal catch from the Iceland area through the years. Although the total catch has been relatively stable, it must be kept in mind that e.g. in 1952 the fishing capacity employed was only half of what it was in 1972. In other words in spite of double effort the total catch did not increase. The implications are obvious. It should also be recalled in this connection that a Special Committee of the International Council for the Exploration of the Sea and the Northwest Atlantic Fisheries Commission estimated in 1972 that the basic fish stocks in the North Atlantic area were either fully utilized or over-exploited and, moreover, that from an economic point of view the same total catch could be obtained even if the total fishing effort in the area were to be reduced by 50 per cent. The Icelandic nation which is completely dependent upon its coastal fisheries for its economic survival found that the situation has become intolerable.

Iceland and other coastal States have indeed for a long time sought to influence the development of the Law of the Sea. They have maintained that the coastal fisheries form an integral part of the natural resources of the coastal State and that a functional and progressively developing international law must be based on a recognition of that situation.

Already at the 1958 and 1960 Conferences

on the Law of the Sea, the majority supported the idea that there should be a zone of fisheries jurisdiction beyond the territorial sea, although no agreement was reached as to the extent of the zone. At the Third United Nations Conference on the Law of the Sea development has been continued and at the Caracas Session of the Conference in 1974 more than 100 States supported the view that the coastal State could establish an Exclusive Economic Zone of up to 200 nautical miles from baselines. This development was further fortified at the Geneva Session of the Conference which on May 9, 1975 resulted in a single negotiating text prepared by the Chairman of the Main Committees of the Conference in the light of discussions at the Conference. The system adopted by the single text is based on the distinction between the conservation of resources and the utilization of resources. All nations undertake to cooperate in the establishment of the necessary conservation measures in order to ensure the maximum sustainable yield of the fish stocks. As far as utilization of the fish stocks is concerned, the single negotiating text on the Economic Zone provides in Article 46 that the Exclusive Economic Zone shall extend up to 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. Article 50 provides that the coastal State shall determine the allowable catch of the living resources in its Exclusive Economic Zone and Article 51 provides that the coastal State shall determine its capacity to harvest the living resources of the Exclusive Economic Zone. Although it will take some time before the Conference of the Law of the Sea will conclude its work because of other problems involved, these principles are here to stay and there is no turning back as far as they are concerned. They have the support of the overwhelming majority of States participating in the Conference on the Law of the Sea.

The new Icelandic Regulations are in conformity with this development. They apply to fishery limits only. They do not deal with the territorial sea, pollution or scientific research. Nor do they deal with the delimitation of the continental sheif. All such matters are postponed for the time being. The question of fishery limits, however, could not be further postponed because the vital interests of the Icelandic people are at stake.

The average total demersal catch in the Iceland area has been 730,000 tons. Under a scientific management the total allowable catch should be reduced in order to prevent overfishing and allow for the recovery of the stocks, particularly the cod which is by far the most important species.

The present Icelandic fishing fleet consists of 63 trawlers and 4000 boats. Since the end of the Second World War Iceland has persistently sought to create a viable fishing industry both by investing in new vessels and gear, processing plants ashore, as well as maintaining and increasing research activities in order to be able to assess properly the productivity of the various fish stocks. The Icelandic experts concerned consider that even in the total absence of foreign fishing vessels from the grounds this fleet is quite capable of fully utilizing the fish-stocks under scientific management. Such management will primarily be directed towards the closure of nursery grounds in order to ensure the protection of young fish so that it may accumulate more weight before it is caught and at the same time an opportunity to spawn at least once.

The Government of Iceland has expressed its willingness to discuss the problems of the States whose nationals have been fishing in Icelandic waters.

Such discussions are now in process. In that connection it should be recalled that when the fishery limits were extended to 50 miles in 1972 such negotiations took place with a number of countries resulting in agreements for continued fishing by fishermen from the United Kingdom, the Faroe Islands, Belgium and Norway. These agreements will expire on November 13, 1975.

The progressive development of international law in the field of fisheries is wholeheartedly welcomed by the people of Iceland who for the last quarter of a century have increasingly feared that the old system would lead to the collapse of the very foundation of the country's economy. Under the system of the new Regulations this situation has been changed and Iceland can now participate fully in supplying food for other nations from its own natural resources in exchange for goods which other nations are in a better position to produce.

At the General Assembly of the United Nations the Foreign Minister of Iceland on September 29, 1975 said the following:

"It has been maintained in some quarters that the Government of Iceland should have waited for the completion of the work of the Conference on the Law of the Sea and that by acting now the further work of that Conference is made more difficult. My Government does not share this view. On the contrary, by adhering strictly to the principles overwhelmingly supported by the Conference, my Government has emphasized its respect for the Conference and it is our conviction that our action, as well as any similar action from other states, rather than hinder the work of the Conference, will promote its success in the near future".

October 1975.

A REPORT TO THE PRESIDENT AND THE CONGRESS

(By THE NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE)

(FOURTH ANNUAL REPORT, JUNE 30, 1975, WASHINGTON, D.C.)

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Staff: Abram B. Bernstein, Bruce W. Norman, John T. Willis, E. W. Seabrook Hull (Consultant).

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Senior Staff Assistant: David A. Katcher.

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE,
Washington, D.C., June 30, 1975.

To the President and the Congress:

SIRS: I have the honor to submit to you the Fourth Annual Report of the National Advisory Committee on Oceans and Atmosphere.

The Committee was established by P.L. 92–125, approved on August 16, 1971, and was directed to submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities.

This report is sent via the Secretary of Commerce as provided for by the statue.

Respectfully,

WILLIAM J. HARGIS, Jr.,
Chairman.

SUMMARY OF RECOMMENDATIONS

NACOA, noting that the Law of the Sea Conference has been unable to come to agreement after a protracted period of preparation and negotiation, and finding that pressure on living resources and the marine environment off our coasts requires urgent action to bring their use under positive rational management, recommends that:

Legislation be enacted asserting United States jurisdiction over resources within a zone, out to 200 miles off the United States coast, which should be identified as the Economic Resource Zone of the United States.

The United States undertake to create within its Economic Resource Zone, as a matter of policy, a model system for rational use of the zone and its resources which incorporates due regard for international obligations.

Management of fisheries within the Economic Resource Zone be based on the principles of conservation and full utilization of living resources, in that order, with preferential rights for U.S. fishing interests, both sports and commercial. Such principles must be based on the maximum biological yield, taking into account economic and environmental factors of concern to the United States within the Economic Resource Zone.

MANAGEMENT OF AN ECONOMIC RESOURCE ZONE

Although the Law of the Sea Conference failed of agreement in 1975, national extension of jurisdiction over fisheries to 200 miles is only a matter of time. We must give thought to the specifics of managing an extended resource zone if only to conserve living resources and to develop non-living resources in an environmentally and economically sound fashion. Several classes of activities are involved—those which interact with foreign policy such as fisheries and marine research, and those of purely domestic concern such as the development and transport of the oil and gas resources in the region which reaches out to the edge of the continental margin if beyond 200 miles. There is need to clarify the role of the Federal Government in the management of this zone and to enact legislation which, at the very least, regulates for the general good the activities of our own citizens. We discuss in some de-

tail the relations of coastal zone management to oil and gas development and the informational needs of coastal zone managers.

LAW AND THE SEA

Despite protracted periods of preparation and negotiation the Law of the Sea Conference has been unable to reach agreement. The pressures on the living resources and the marine environment are such that the feeling grows we cannot afford to wait, but must take action now, even if interim. We urge extension of national jurisdiction seaward to 200 miles noting that the United States will gain management jurisdiction over resources of considerable importance.

The first requirement is to identify the key policy issues on which we must take a stand. The United States should establish a model of management for coastal nations. The second is to take a stand that is in our long-range interests as well as in response to our immediate needs and to take it with due regard for the consequences for international affairs.

ISSUES WITH FOREIGN POLICY IMPACT

There are two groups of management issues involved in extended jurisdiction—be it de facto, by international agreement, or by legislation. One has to do with matters primarily domestic but involving foreign policy (fishing, research, deep sea mining); the other has to do with domestic entities only (oil and gas resource development).

Last year at this time we advocated patience with the slow pace of the Conference but not beyond the 1975 Session. Patience has been exhibited. Bills on fisheries management in an extended resource zone and on deep sea mining were poised in various committees of the Congress awaiting the outcome of the meeting in Geneva. The Conference did not produce agreement, and the committees are now working on this legislation. NACOA had advocated patience so as not to press national interests which might jeopardize international agreement over broad ocean areas. Now the issue is how to press national interests yet set an example of international responsibility in those areas over which we assert resource control.

The major new challenge is fisheries management. Instead of the living resources of the sea belonging to no one, a world consensus is developing which would place the exclusive jurisdiction of most fisheries and other living resources with the coastal nation. For the United States, with one of the longest coastlines of any nation and some of the richest fishing areas of the world ocean, this virtual ownership of vast fisheries resources, which may well be capable of producing on the order of ten million tons of food per year, presents a new opportunity for our people and a new responsibility for our Government.

Many of our fishery resources have been overfished. Some of the overfishing has been caused by U.S. fishermen, but in recent years serious depletion of some of the largest and most important resources found off our coast is traceable to the influx of hundreds of foreign fishing vessels.

The challenge is to initiate a new management program which stresses the conversion and rational allocation of these resources. A wise and forward looking program will rehabilitate our domestic fisheries while permitting controlled fishing by foreign fleets on those stocks not used or not fully used by U.S. fishermen.

The National Marine Fisheries Service of NOAA, in response to a recommendation from NACOA, has been developing a National Plan for Marine Fisheries. The Committee has had an opportunity to advise the Service, and we have been briefed on the development of the Plan from time to time. While the final version has not been completed, NACOA approves the broad approach being taken. We believe that this Plan, in conjunction with national legislation asserting jurisdiction over the living resources of a 200-mile Economic Resource Zone, and establishing some effective national control over fishing in this Zone by U.S. and foreign fishermen, will for the first time in our history, give our Nation and fishermen a greater opportunity to benefit economically and increase our food supply from these resources, while at the same time place on our Government the obligation to conserve and wisely use our fisheries.

Current fragmentation of authority between the States and the National Government must be corrected. This can be done, NACOA believes, by greater cooperation between the Federal Government and the States. Management should be lodged to a considerable degree at the State or local level but in compliance with national standards developed throughout the country. This would permit regional control to exist as long as country-wide standards were observed. Primary consideration of fishery management plans should normally begin in the various coastal regions but should not preempt national or federal action when this seems in the Nation's interest.

The Plan must take into account the special management requirements of highly migratory species such as tuna and must provide for protection and control of anadromous species, such as salmon, which migrate far beyond the 200-mile limit. This means that tuna-like species of fish must continue to be managed through international and multinational agreements. The opportunity for continued access to those resources must be afforded our fishermen. At the same time our program must protect both Atlantic and Pacific salmon since they migrate far to sea beyond the 200-mile Economic Resource Zone.

The proposed management of fisheries should follow certain principles:

Management should be by species wherever possible, and the jurisdictional base should extend throughout the areas of major economic distribution.

Initially, management should encompass only the more important species.

Continuing and effective monitoring of these species is necessary.

Harvesting, both sport and commercial, should be limited to the amount which may be taken without endangering the productivity of the resource being managed.

Full use of the resources located off our coast must be permitted, including use by foreign fishermen where our fishermen are not fully utilizing the allowable annual catch and where such use does not seriously interfere with the conservation of other fish stocks of importance to the United States. As our domestic capability to use a resource increases, it is understood that foreign fishing for those species will be reduced. Our Government must also negotiate with those countries off whose coasts our fishermen fish in order to provide continued access by U.S. fishermen.

NEW YORK CITY'S FINANCIAL PROBLEMS

Mr. HASKELL. Mr. President, during the past several weeks there has been a considerable discussion revolving around the problems of New York City.

It occurs to me that a polarization has taken place in which one side says, "Yes, let's guarantee the debt of the city by the Federal Government, with particular reference to the short-term debt which amounts to $5 billion." The other side says, "No, let's do nothing. Let's let the city stew in its own juice."

Mr. President, the polarization is unfortunate. I think it would be most irresponsible to step forward and guarantee the entire short-term debt. In that manner, we would be putting blessings upon an irresponsible city administration. Also, we would be exonerating the major financial institutions which underwrote the financing.

I happened to spend some time this weekend with a great friend of mine who recently retired after 50 years of service in Wall Street. He pointed out to me that the major banks of the city of New York not only invest in municipal bonds but also are the underwriters of municipal bonds, and they are dealers in municipal bonds and other obligations. As such they do not have the incentive to do what a prudent bank would do. For that reason, I feel it would be most improvident for the Federal Government to give a blanket guarantee; in the future no banking institution would have an incentive to look into the credit of the potential borrower.

We cannot condone improvident management and negligent banking practice. I suggest that we would be doing just that by guaranteeing a portion of the debt.

On the other hand, it seems to me that those on the other extreme, who say, "Let the city stew in its own juice," are wrong. I do not know that any people go quite that far. I cannot imagine that any of us want to see essential services stopped in New York—police protection, garbage collection, and the like.

Mr. President, between those extremes, it seems to me, there is a course that could be taken. We have heard a great deal of the horrors of default—of the ripple effect. The very competent economic writer in the Washington Post, Mr. Hobart Rowan, for example, on Sunday, pointed out the fact that the city of Rochester had to pay more money to borrow funds recently than it did 3 months ago. The city of Rochester has a triple-A rating.

On the other hand, in the October 23 issue of the New York Times we find that the State of Maryland last week borrowed money at less than it did 3 months ago.

I have not heard convincing arguments assuring the ripple effect or the economic consequences of default.

I suggest and hope that we in this body and the House work toward a method which would amend chapter 9 of the Bankruptcy Act. Specifically we must enact legislation which eliminates the two-third creditor consent requirement of the present Act. This would provide the court with a much greater flexibility to restructure New York's awesome debt burden.

I also hope that we will work toward an amendment of chapter 9 of the Bankruptcy Act that might allow for the scaling down of debt with some lesser approval than is now provided. If a city goes into default and applies for a petition of reorganization in a court, it gets all the protections of the court. The debtors cannot foreclose; the debtors cannot sue. If this is done and if a reorganization plan is adopted, the plan could have many features to it.

For example, the Budget Committee has pointed out that the State of New York requires its cities to pay 34 percent of welfare costs. The same table in the

Budget Committee's analysis shows that in my State of Colorado, the State requires cities to pay 9.4 percent. I recall that in Louisiana, the cities have to pay .2 percent.

For example, a plan might require the State to pick up a greater percentage of welfare costs. It undoubtedly would involve such things as deferral of the capital expenditures.

If this were done, it would be entirely appropriate for the Federal Government to guarantee, for a limited period of time, trustee certificates—which would really be bonds of the City of New York—in a limited amount to cover the overage of expenses and income in the interim period that we are getting the city on its feet.

I think I see hopeful signs that we are groping in this direction. I noticed in the paper this morning that the distinguished Senator from Illinois (Mr. STEVENSON) had a plan for restructuring debt. I do not know what the plan is. I certainly hope it is under the umbrella of the court, and I hope it involves amendment of the Bankruptcy Act.

I notice that the distinguished Congressman from New York (Mr. BADILLO) has a plan for amending chapter 9 of the Bankruptcy Act, and I notice that the President of the United States will be on television tomorrow night talking on the same subject. I hope that we do not give blessings to improvident management, and at the same time, we do not let 10 million people suffer because they had improvident management and, in my view, somewhat negligent financial institutions which were working with that management.

I yield the floor.

Mr. ALLEN. It seems to me that the suggestion of the distinguished Senator from Colorado contains much more merit than the guarantee of $6 billion worth of bonds. The plan suggested by him—that is, amendment of the bankruptcy law—would permit New York City to go into voluntary bankruptcy, working toward cutting down on the tremendous overhead of the city, cutting down on, possibly, the principal amount of bonds, cutting down on the interest rate, cutting down on some services, possibly the free university, free hospitals—things of that sort. Is that what the Senator has in mind?

Mr. HASKELL. Yes. I hate to pick out specifics. We notice, for example, that the city of New York—I forget the housing project it went into, but it went into a vast housing project that has fallen into bankruptcy. I prefer not to spell out the details of the plan.

We do notice, for example, that some of the salaries paid in the city of New York far exceed those of any other place.

Mr. ALLEN. The Senator is not suggesting any guarantee prior to bankruptcy, is he?

Mr. HASKELL. That is correct. My view is that to guarantee $6 billion of outstanding interest indebtedness, incurred, as I said, by improvident management and negligent financial institutions—and I stress negligent financial institutions, because had they been prudent, they would have given us early warning signals—would be a dreadful national mistake.

I also want to say I think it would be a terrible thing for us to sit by and have essential services stopped.

Mr. ALLEN. The Senator would permit so-called default by New York City, then?

Mr. HASKELL. That would be the triggering mechanism to get the whole reorganization going, yes.

Mr. ALLEN. I thank the distinguished Senator.

Mr. HASKELL. I yield the floor.

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

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

ORDER FOR RECOGNITION OF SENATOR HARRY F. BYRD, JR., TOMORROW

Mr. GRIFFIN. Mr. President, I ask unanimous consent that, following the other special orders which have already been scheduled or tomorrow, Senator HARRY F. BYRD, JR., be recognized for 15 minutes.

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

ADJOURNMENT

Mr. GRIFFIN. Mr. Presidentfi if there be no further business to come before the Senate, with the authority of the distinguished majority whip, I move that the Senate stand in adjournment, in accordance with the previous order.

The motion was agreed to; and at 4:41 p.m., the Senate adjourned until Wednesday, October 29, 1975, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate October 28, 1975:

UNITED STATES NEGOTIATOR ON TEXTILE MATTERS

Michael B. Smith, of Massachusetts, U.S. Negotiator on Textile Matters, for the rank of Minister.

DEPARTMENT OF LABOR

Ronald J. James, of Illinois, to be Administrator of the Wage and Hour Division, Department of Labor, vice Betty Southard Murphy.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

David W. Oberlin, of Virginia, to be Administrator of the Saint Lawrence Seaway Development Corporation for a term of 7 years (reappointment).

NATIONAL LABOR RELATIONS BOARD

Peter D. Walther, of Pennsylvania, to be a member of the National Labor Relations Board for the term of 5 years expiring August 27, 1980, vice Ralph E. Kennedy, resigned.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

The following-named persons to be members of the board of trustees of the Harry S Truman Scholarship Foundation for the terms indicated (new positions):

For a term of 2 years:

Jonathan Moore, of Massachusetts.

John W. Snyder, of the District of Columbia.

For a term of 4 years:

Walter E. Craig, of Arizona.

Elliott D. Marshall, of Virginia.

For a term of 6 years:

Christopher S. Bond, of Missouri.

Margaret Truman Daniel, of the District of Columbia.

John Portner Humes, of New York.

Richard A. King, of Missouri.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 28, 1975:

DEPARTMENT OF STATE

The following-named Foreign Service officers for promotion from class 1 to the class of Career Minister:

Theodore L. Eliot, Jr., of California.

Arthur A. Hartman, of New Jersey.

Deane R. Hinton, of Illinois.

William E. Schaufele, Jr., of Ohio.

Richard L. Sneider, of New York.

Helmut Sonnenfeldt, of Maryland.

Wells Stabler, of the District of Columbia.

Viron P. Vaky, of Texas.

(The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Major General Alton D. Slay, xxx-xx-xxxx xxx-... FR (major general, Regular Air Force), U.S. Air Force.

HOUSE OF REPRESENTATIVES—*Tuesday, October 28, 1975*

The House met at 12 o'clock noon.

Rev. Joseph F. Sefl, former national commander of the Czechoslovak Legion of Americans, pastor emeritus of Jan Hus Presbyterian Church of New York City, offered the following prayer:

Our Divine Father, who carest for Thy children of every race and nation, we acknowledge Thee to be the Lord of all beings as we proclaim "In God We Trust." Humbly we pray that Thy forgiving love cleanse and set us free, and guide all mankind into the way of peace.

We thank Thee for sending men of vision, dedication, and integrity to establish our country upon the ideals of liberty, justice, and brotherhood. We rejoice that Thou hast enabled us to aid others in their endeavor to form governments upon such ideals. Today we remember one of those nations, Czechoslovakia, whose founders, aided by our people, established a republic 57 years ago under the motto: "The Lord's Truth