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Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

SENATE—*Wednesday, December 17, 1975*

(Legislative day of Monday, December 15, 1975)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. STONE).

PRAYER

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

The law of the Lord is perfect, converting the soul: the testimony of the Lord is sure, making wise the simple.

The statutes of the Lord are right, rejoicing the heart; the commandment of the Lord is pure, enlightening the eyes.

The fear of the Lord is clean, enduring forever: the judgments of the Lord are true and righteous altogether.—Psalms 19: 7–9.

God of our Fathers and our God, in these tense and troubled times, when the day is long and the hours crowded with crucial concerns, may we find our wisdom in Thy word, be guided by Thy spirit and conclude with the psalmist, David:

Let the words of my mouth and the meditation of my heart, be acceptable in Thy sight, O Lord, my strength, and my redeemer.—Psalms 19:14. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, December 16, 1975, be approved.

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

NO COMMITTEE MEETINGS DURING SENATE SESSION TODAY COMMENCING AT 9:30 A.M.

Mr. MANSFIELD. Mr. President, for the information of the Senate and on behalf of the joint leadership, no committees will be allowed to meet during the session of the Senate this morning beginning at the hour of 9:30 a.m.

I suggest that the attachés notify all members accordingly.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 531 and 536.

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

FARM CREDIT SYSTEM LOANS TO RURAL UTILITY COOPERATIVES

The bill (H.R. 7862) to amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts, was considered, ordered to a third reading, read the third time, and passed.

SURVIVOR ANNUITIES

The Senate proceeded to consider the bill (S. 2090) to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953, which had been reported from the Committee on Armed Services, without amendment.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of survivor annuities under subchapter I of chapter 73 of title 10, United States Code, and under prior corresponding provisions of law, the provisions of section 1331(e) of such title 10, relating to the date of entitlement to retired pay under chapter 67 of such title 10, shall be effective as of November 1, 1953.

SEC. 2. No benefits shall be paid to any person for any period prior to the date of enactment of this Act as a result of the enactment of this Act.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I yield, not to exceed 2 minutes, to the distinguished Senator from Vermont (Mr. LEAHY) on my time.

Mr. LEAHY. I thank the distinguished majority leader.

THE SELECTIVE SERVICE BUDGET

Mr. LEAHY. Mr. President, although the draft ended in 1973 more than $220 million of taxpayers' money has been spent since that time to support a virtually defunct organization. For fiscal year 1976 alone we have appropriated $37.5 million for the Selective Service budget, and even that sum was $11 million less than the amount requested by the administration. Enough is enough.

Therefore, it was good news to learn that the Office of Management and Budget has recommended to the President that the Selective Service budget for fiscal year 1977 be pared from the projected $28 million to $6 million. I am hopeful that even that figure can be reduced when the Congress next considers appropriations for that purpose.

I cannot imagine what the 2,500 employees of the Selective Service System in the 686 regional, State, and local offices, which consume the bulk of its budget, have been doing to warrant the expenditure of these huge sums since 1973.

These offices, which were once responsible for the continual registration and classification of millions of young Americans, no longer bear those responsibilities. As of last April registrations have ceased. Since June 30, 1973, the Selective Service has not possessed the legal authority to induct young men into the Armed Forces, and it appears that is the way it will stay: the all-volunteer military has been officially pronounced a success by the President and the Pentagon.

We no longer have use for a vast network of regional, State, and local offices to communicate with registrants on a regular basis. A skeletal bureaucratic structure can administer those remaining Selective Service functions which may contribute to our national readiness at a fraction of the amount spent in past years.

As I have stated several times in this Chamber, since 1960 the Federal Government has given birth to 236 new agencies, bureaus, and departments, and during the same period only 21 were abolished. It is because of situations like this—maintaining a full-blown Selective Service System long after its primary functions have ceased—that we cannot seem to stem this bureaucratic tide. It is one of the reasons that the cost of running the Federal Government has burgeoned from $93 billion in 1960 to $370 billion in 1976. The Selective Service System is a vivid example of an agency refusing to face the reality that

it has outlived the essential purposes for which it was created.

I agree that the Selective Service should maintain a staff sufficient to prepare a military draft in the case of national emergency. However, draft registration now takes place only once a year, and 2,500 employees to do a day's work strikes me as excessive, to put it mildly.

I urge President Ford to accept the OMB recommendations, and save overburdened taxpayers $22 million a year that would better be left unspent.

I thank the majority leader.

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan seek recognition?

Mr. GRIFFIN. No.

ORDER OF BUSINESS

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

THE OKLAHOMA SENATORIAL CONTEST

Mr. BARTLETT. Mr. President, on November 5, 1974, a general statewide election was conducted in Oklahoma. Three candidates were on the ballot: First, Ed Edmondson, Democratic nominee; second, Senator HENRY BELLMON, Republican nominee, and third, Paul Edward Trent, an independent. The results were as follows:

Senator BELLMON, 390,997 votes, Mr. Edmondson, 387,162 votes, and Mr. Trent, 13,650 votes.

No recount was requested by either Mr. Edmondson or Mr. Trent, and no allegation of fraud in the election was made by either Mr. Edmondson or Mr. Trent. However, Mr. Edmondson filed an action in the district court of Tulsa County questioning the legality of the election. The case was heard by a specially appointed judge, and Senator BELLMON was found to have won.

This decision was appealed to the Oklahoma Supreme Court, and the court affirmed the district court's decision for Senator BELLMON, and from there Mr. Edmondson brought the case to the U.S. Senate, apparently feeling the law and the courts of his own State were inadequate.

This election was conducted under Oklahoma law, and therefore, Oklahoma law must prevail. Provision has been made by the Oklahoma legislature for situations such as this. It is quite specific, and the State supreme court has found no difficulty in applying this statute. Title 260. § 395.3 provides as follows:

> When a petition alleging irregularities other than fraud is filed, said petition must allege a sufficient number of irregularities and of such a nature as to (1.) prove that the contestant is lawfully entitled to be issued a certificate of party nomination or certificate of election, or to have his name appear on the runoff primary ballot, or (2.) prove that it is impossible to determine with mathematical certainty which candidates are entitled to be issued certificates of party nomination or certificates of election, or to have their names appear on the runoff primary ballot.

The question posed by this election is whether a number of voters sufficient to alter the outcome of the election have been denied their right to vote by irregularities in Tulsa County. The Oklahoma Supreme Court has found that:

> The right of a qualified elector to vote and to have his vote counted is basic and fundamental. When an election has been conducted in good faith and no elector misled, and a true and fair return of the election has been canvassed and made, the will of the people, as indicated by their votes at such election, cannot be defeated by irregularities (particularly those resulting from some act or acts on the part of the election official) which are not sufficient to change the results of the election. (Potter v. Oklahoma City, 446, page 384)

The case filed by Mr. Edmondson was initiated in the district court of Tulsa County, the site of the alleged violations. The judge was appointed by the supreme court and made certain findings of fact prior to his determination. The findings of fact summarized are as follows:

First. Voting machines were not programed to allow single-lever, straight-party voting for either candidate.

Second. That no evidence showed that any voter was denied the right to vote a mixed-, split-, or straight-party vote by reason of the voting machine configuration or format.

Third. The evidence offered by Mr. Edmondson was insufficient to establish that "it is impossible to determine with mathematical certainty" who was the successful candidate for the U.S. Senate.

Fourth. That there was no evidence of malfunction on voting machines that materially affected the results.

Fifth. That there was no evidence of any irregularities that warrant calling a new election or awarding the election to Mr. Edmondson.

The trial court held that Mr. Edmondson was not entitled to a certificate of election, that the Tulsa machines were in substantial compliance with Oklahoma law, that Senator BELLMON received the greatest number of votes with mathematical certainty, and that there were no irregularities of such a nature as to invalidate or render illegal the votes cast in the election.

From this decision, Mr. Edmondson filed a motion for new trial in the trial court, which was denied. Then an appeal was taken to the Oklahoma Supreme Court for final determination. The supreme court sustained the trial court with specific holdings on each of the issues raised. These holdings are as important as the final sustaining of the trial court action.

First. As to the absence of straight-party levers:

> We hold that while the use of the voting machines, which did not permit straight-party voting as required by statute, constitutes an irregularity, it did not constitute such an irregularity to void the election or make it impossible to determine with mathematical certainty which candidate received the greater number of state-wide votes and is entitled to a certificate of election.

Second. As to the erroneous instructions:

> We hold the erroneous instructions did not void the election or make it impossible to determine with mathematical certainty which candidate received more state-wide votes and entitled to a certificate of election.

Third. As to the position of the Senate race on the ballot:

> Assuming that the failure to place the United States Senate race in the upper left panel does constitute an irregularity, it is not such an irregularity as would vitiate or invalidate the Tulsa County election. This irregularity does not make it impossible to determine with mathematical certainty which candidates received the greater number of state-wide votes and is entitled to a certificate of election.

Fourth. And ultimately:

> The candidate receiving the most statewide votes for the office of United States Senator can be determined with mathematical certainty and that candidate is entitled to be issued a certificate of election. Bellmon is that candidate.

Mr. Edmondson filed a motion for rehearing before the Oklahoma Supreme Court, which was denied. Therefore, the final determination under Oklahoma law stands. In fact, there was no division among the justices, the decision was 9–0. Of the nine judges, eight are Democrats and one is a Republican.

Now the Senate is asked to review a decision made by two Oklahoma courts on Oklahoma law, a decision which was fully concurred in by all justices.

There are precedents that have been established by this body, which buttress the decision by the Oklahoma courts, and will aid us in determining that Senator BELLMON won the election.

The precedents of the Senate indicate that where irregularities, election errors or even election fraud have been found to occur, not attributable to the respondent, the Senate would not declare the seat vacant.

The leading case in this area is *Patrick J. Hurley* v. *Dennis Chavez,* Senate Election, Expulsion and Censure Cases (Document No. 92–7), Case No. 159.

There were findings of "irregularities" such as "criminal conduct against the rights of voters" and "violations by election officials," but despite all of this, the Senate refused to deny Senator Chavez his seat.

Needless to say, there have been no such findings in the case before this body, but a statement from Senator Hennings, Jr., in the Chavez case does succinctly state the rule in the case at hand, "The Senate should not 'disenfranchise voters because of failure of the election officials to fully comply' with 'technical election statutes'."

Let us briefly consider the contentions upon which the election challenge is based, for even a cursory examination will reveal these contentions to be wholly without merit.

Mr. Edmondson claims that ballot placement may have caused him to receive fewer votes than he might have, had the Senate race been placed in the upper left-hand corner of the elective office panel, where the Governor's race appeared. The Governor's race did, in fact,

attract more total votes. However, there is no evidence that different positioning of the Senate race would have affected the outcome of the election. First, the difference between votes cast in the Governor's race and the Senate race was only 1,436. If we assume illogically, but for the sake of debate, that the placement of the Senate race in the upper left-hand corner of the panel would have attracted an additional 1,436 votes, and every one of them voted for Mr. Edmondson, the challenger would still have lost the race by 2,399 votes.

Second, historical analysis of voting patterns in Tulsa County indicates that in elections where both a Governor's race and Senate race appear, the Governor's race attracts more votes regardless of ballot placement. Only three times in recent history have both races been voted on in the same election, in 1962, 1966, and 1974. In each of these the Governor's race attracted more votes than the Senate races. In fact, in 1966, the Senate race was placed in the upper left-hand corner of the elective office panel and still attracted some 9,000 fewer votes than the Governor's race. The fact is that this senatorial election drew the highest percentage of voters of any of the last six elections.

It is obvious that Mr. Edmondson was not disadvantaged by ballot placement. There is no reason to believe that the placement of the Senate race in the upper left-hand corner of the elective office panel would have resulted in a greater total vote case in the Senate race. Furthermore, there is absolutely no evidence that Mr. Edmondson would have benefited by a greater total vote, had that been the case.

Mr. Edmondson's challenge is also based on the contention that voting machines contained instructions on how to vote a straight party ticket using levers at the bottom of each column of the elective office panel, when in fact no such levers existed. The challenger would have us believe that those who wished to vote a straight Democratic ticket on column 6 were misled by the instructions, and failed to do so.

He suggests that these voters erroneously believed the selector tab in the U.S. House of Representatives race would accomplish the function of the lever described in the instructions on voting a straight party ticket. Thus, according to Mr. Edmondson, a significant number of voters who intended to cast a straight party vote, voted for the democratic candidate for the U.S. House of Representatives, believing this action also registered a vote for Mr. Edmondson.

In considering this contention, we have found no evidence that such mass confusion occured as a result of erroneous instructions on voting a straight party ticket.

First. A single lever to permit straight party voting in Tulsa County has not been used in a statewide race since 1968. In other words, the voters were accustomed to voting in this manner.

Second. At least for 4 days before the election, Mr. Edmondson's Tulsa County campaign manager contacted the county election board and requested the secretary of the board to advise all voters on how to vote a straight party ticket, since "we no longer use a single party lever." The board secretary, Danny McDonald, notified voters through news media that voting machines would not be programed to permit straight party voting by use of a single lever. Mr. Edmondson knew before the election that there would be no single party lever and chose not to complain until he lost the election.

Third. McDonald, full-time secretary of the three-member board—two Democrats, one Republican, repeatedly asserted that he is an active Democrat and campaigned after hours for Edmondson in both his 1972 and 1974 Senate races. McDonald testified that the voting machines were programed in what he thought to be a legal and proper manner.

Fourth. Although there was not a single lever on the congressional ballot—Senate and House race—party symbols were placed by each candidate's name. A straight party ticket could be voted by moving two selectors instead of one lever. In order to vote for HENRY BELLMON, the senatorial selector on the voting machine had to be moved past Mr. Edmondson's name.

Given these facts and circumstances, we must conclude that the presence of erroneous information regarding straight party voting did not create any confusion among voters which worked to the disadvantage of the challenger. Even if a remote possibility existed that this was the case, and one accepts Mr. Edmondson's contention of confused voters moving the selector tab to the Democratic candidate in the U.S. House race believing this also registered a Democratic vote in the Senate race, this would not have affected the outcome of the election. The maximum number of Tulsa County voters who could have made this error is 3,440 or the number of persons who signed poll books but did not cast a vote in the Senate race. Under this absurd scenario of mass confusion in the voting booth, Mr. Edmondson would have been denied a total of 3,440 votes, not enough to overcome his losing statewide margin of 3,835.

The challenger in this case, Ed Edmondson, has charged that HENRY BELLMON won in Tulsa County in 1974 because in some way he managed to manipulate the voting machinery. In a news conference September 24 in Washington, Edmondson said—

> Every passing week is providing new evidence that the Tulsa voting irregularities were a glaring case of executive suite, white collar election manipulation.

This statement was made in spite of the fact that the Tulsa County election machinery, like the entire election machinery of the State of Oklahoma, is controlled by the majority party. In this case, the Tulsa County election board secretary and his principal assistant, by their own testimony, were supporters of Mr. Edmondson in his Senate race.

The truth of the matter is that HENRY BELLMON won because he had a good campaign organization and he was the overwhelming preference of the Tulsa County voters.

In fact, in his three statewide races, he has always run well in Tulsa County. In the 1962 Governor's race, he carried Tulsa County by almost 30,000 votes. In the 1968 Senate race, he won by almost 22,000 votes, and in 1974 by the same margin.

The actual figures are as follows:

1962	
Bellmon	62,387
Atkinson	32,826
	29,561
1968	
Bellmon	82,113
Monroney	60.225
	21,858
1974	
Bellmon	72,145
Edmondson	49,775
	22,370

In fact, a study of Tulsa County election statistics shows that the vote in 1974 was consistent with the history of voting in that county. Tulsa County voters vote for the man, and not for the party. With a predominantly Democratic voter registration, Tulsa County has gone Republican in every Presidential election since 1940. The Republican candidate for Governor has carried Tulsa County in every election since the 1940's except for one year—1958.

A similar pattern may be found in U.S. Senate races. Former Senator Mike Monroney lost four times in Tulsa County. Former Senator Fred Harris lost Tulsa County to Republican candidates in 1964 and 1966. And Ed Edmondson, when he ran in 1972, got only about 40 percent of the vote. Interestingly enough this is about the same percentage Mr. Edmondson got in Tulsa County in 1974.

The irony of Mr. Edmondson's challenge is that members of his own party have consistently attempted to pass State legislation which would remove the straight party lever from Tulsa County voting machines. As Governor of Oklahoma, I vetoed a measure which would have required the removal of levers from machines in Tulsa County and in Oklahoma County. My action was based on the judgment that such legislation should be applied indiscriminately to all 77 counties, rather than applying only to two counties where Democrats envisioned some political advantage by the absence of the straight party lever.

It is significant to note that as a result of the persistence of Democrats in Oklahoma including many from Tulsa County, a statute was enacted in 1974 which allows the absence of straight party levers in cases where voting machines could not be altered without substantial modification, title 26, O.S. § 9–107. This status became effective January 1, 1975, for Statewide elections. In essence, therefore, an election held in Tulsa County would repeat the circumstances of the November 5, 1974 election.

The evidence in this case has clearly establish that HENRY BELLMON was not reelected to the U.S. Senate because of ballot placement or mass confusion over erroneous straight party voting instructions and the absence of a "straight party lever," or any other irregularities pleaded

by the challenger. Mr. BELLMON was re-elected because a majority of voters in Tulsa County and State-wide, familiar with the voting procedures and familiar with the candidates, consciously selected him as their representative in the U.S. Senate.

The Oklahoma District Court and the Oklahoma Supreme Court found that irregularities existed because of election board actions, but that these irregularities did not prejudice the rights of any Oklahoma voter. The Oklahoma voters have spoken on this matter and to alter or tamper with their decision would disinfranchise the majority. This is not the intention of the Oklahoma statutes, and it is not the intention of the Oklahoma courts.

We enter a new era with the jurisdiction of a new Federal election law. During campaigns, where workers are not under the direct personal supervision of candidates and are likely to make unintentional errors and violations, this body needs to reaffirm the precedent of Chavez, so that the true voice of the electorate will continue to be heard.

The other important point of Chavez, that is not stated in any findings of fact or opinions, is that Senator Robert Taft, the head of the then majority party took the lead in seating a minority party member, Senator Chavez, by a vote of 36 to 53. The choice is between raw ugly power and State laws reinforced by the legal precedents of this body.

So as we choose our weapons, I say to my colleagues, it is again time for the majority party to take the lead and to insure that people of a State—Oklahoma, in this case—are not disenfranchised. I call on you to read the facts of this case, the determinations made under Oklahoma law, and to affirm the precedents set forth by this body in the Chavez case.

Mr. President, I ask unanimous consent to have printed in the RECORD in connection with this matter the following material: Opinions of the Supreme Court, a statement by Senator BELLMON addressed to the Vice President, a report of investigation of the Oklahoma senatorial election content submitted by Judge James F. Schaener, a motion to dismiss submitted by Senator BELLMON to the Vice President, a memorandum entitled "Four Reasons for Dismissal of the Petition of Contest of Ed Edmondson," and a summation submitted on behalf of Senator BELLMON to the Committee on Rules and Administration.

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

OPINIONS OF SUPREME COURT

(Prepared for Publication by Office of the Chief Justice of Supreme Court)

Edmondson, Petitioner, v. State, ex rel. PHELPS, Chairman et al., Respondents. And Bellmon, Intervenor. No. 47982. December 19, 1974.

Petitioner (Ed Edmondson, the Democratic party's nominee for United States Senator in the November 5, 1974, General Election) filed a contest with the State Election Board challenging the announced results of that election. Edmondson placed in issue the legality of the election as conducted in Tulsa County by the use of voting machines.

A hearing was conducted and the Honorable J. Knox Byrum, Trial Judge, in effect, upheld the legality of the election and ordered the State Election Board to certify Intervenor (Henry Bellmon, the Republican party's nominee for United States Senator) as being duly elected and to issue a Certificate of Election to Henry Bellmon.

On application of Petitioner, the trial judge's order was stayed until further order of this court.

In this original proceeding, Petitioner requests this Court to assume original jurisdiction; declare void all the votes cast in Tulsa County by use of voting machines; prohibit the State Election Board from certifying Henry Bellmon as duly elected and issuing to him a Certificate of Election; adjudicate petitioner as being duly elected and order the State Election Board to certify him as being duly elected and issue to him a Certificate of Election for United States Senator; or in the alternative, grant Petitioner the relief to which he is entitled.

Original jurisdiction assumed; stay order vacated; application for writ of prohibition denied; and application for writ of mandamus denied.

James E. Edmondson, Cox, Barr, Edmondson, Ripley & Edmondson, Thomas J. Kenan, George, Kenan, Robertson & Lindsey, John A. Claro, Barefoot, Moler & Claro, William P. Bleakley, Buck, Crabtree, Groves & Ransdell, Oklahoma City, for petitioner.

Bert McElroy, Sanders, McElroy & Carpenter, Thomas F. Golden, Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, Walter B. Hall, Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, Tulsa, Raymond E. Tompkins, Hanson, Peterson & Tompkins, Oklahoma City, Denzil D. Garrison, Garrison, Brown & Tice, Bartlesville, J. Kevin Hayes, L. I. Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, Deryl L. Gotcher, Jones, Givens, Brett, Gotcher & Doyle, Inc., Fred Nelson, Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, Tulsa, for intervenor.

Pearson, Caldwell & Green, By: Bruce Green, Muskogee, amicus curiae.

IRWIN, J. On November 5, 1974, a general state-wide election was conducted in Oklahoma. Three candidates were on the ballot for the office of United States Senator: (1) Ed Edmondson (petitioner), the Democratic Party's nominee; (2) Henry Bellmon (intervenor), the Republican Party's nominee, and (3) Paul Edward Trent, an Independent.

The announced, but not yet certified, results of that election are:

Henry Bellmon, 390,997 votes.

Ed Edmondson, 387,162 votes.

Paul Edward Trent, 13,650 votes.

Pursuant to 26 O.S. 1974 Supp,, § 395.2 and § 395.3, Edmondson timely filed a contest challenging the announced results of the election. Edmondson placed in issue the legality of the election as conducted in Tulsa County by use of voting machines.

Edmondson alleged, inter alia, that the voting machines used in Tulsa County were not programmed to permit straight party voting as required by 26 O.S. 1971, § 274; that the candidates for the office of United States Senator were not programmed in their proper Column on the voting machine ballot as required by 26 O.S. 1971, § 277(c); that erroneous and misleading instructions on voting were on the voting machines; and that by reason of these alleged irregularities the election was illegally conducted and void.

Edmondson sought an adjudication that all the votes cast in Tulsa County by use of voting machines were void. He asked that the State Election Board be prohibited from certifying Bellmon as being duly elected and issuing him a certificate of election; and that the State Election Board be ordered to certify him (Edmondson) as being duly elected and to issue him a certificate of election. In the alternative, Edmondson sought an adjudication that it was impossible to determine with mathematical certainty which candidate was duly elected, and asked that another election be conducted as provided by law.

Honorable J. Knox Byrum, Assigned District Judge, conducted a hearing in Tulsa County and rendered a judgment which, in effect, upheld the legality of the election in Tulsa County and ordered the certification of Henry Bellmon as duly elected United States Senator and the issuance of a Certificate of Election to him.

Upon Edmondson's application to this Court, the order of the trial judge was stayed pending further order. Bellmon was authorized to intervene in these proceedings and to file briefs in support of the trial judge's judgment.

Intervenor (Bellmon) will be referred to individually as Bellmon; and he and respondent (State Election Board) will be referred to collectively as Bellmon.

In this original proceeding, Edmondson seeks to have declared void the Tulsa County election; and further seeks a Writ of Prohibition prohibiting the State Election Board (respondent) from certifying Bellmon as being duly elected to the office of United States Senator and from issuing its Certificate of Election to Bellmon. Edmondson also seeks a Writ of Mandamus directing the Board to certify him as being duly elected to the office of United States Senator and to issue to him a Certificate of Election. In the alternative, Edmondson seeks a determination by this Court that it is impossible to determine with mathematical certainty which candidate was duly elected, and asks that another election be ordered and conducted as provided by law.

The crux of Edmondson's challenge as presented to the trial court and in these proceedings is to have declared illegal and void all the votes cast by use of voting machines in Tulsa County for the office of United States Senator. The significance of the Tulsa County vote is reflected by the announced results of all votes cast in that county for each candidate.

Henry Bellmon, 72,145 votes.

Ed Edmondson, 49,775 votes.

Paul Edward Trent, 1,798 votes.

The above results include the absentee ballots cast in Tulsa County which were 571 for Edmondson, 1,410 for Bellmon and 39 for Trent. The parties do not seem to make any distinction between the votes cast by voting machines and votes cast by absentee ballots.

A simple mathematical computation of the announced results discloses that Bellmon received 3,835 more votes state-wide than Edmondson (390,997 minus 387,162). However, Bellmon received 22,370 more votes in Tulsa County than Edmondson (72,145 minus 49,775). If the Tulsa County votes are declared void, Bellmon would lose his 22,370 vote margin in Tulsa County and Edmondson would have a state-wide edge of 18,535 votes (22,370 minus 3,835). If such votes are declared void, it will be necessary to consider the applicable election laws under the factual circumstances then presented.

First, Edmondson contends that the voting machines did not permit straight party voting as required by law.

26 O.S. 1971, § 274, as amended in 1971, prescribes the specifications for a voting machine. The specific language relied upon by Edmondson is italicized.

"* * * *It must be so constructed as to permit straight party voting as well as mixed or split tickets,* except that voting machines with a vertical columnar presentation of the individual candidates for office, if there are more than two (2) political parties on the ballot at a general election, shall not be programmed so as to permit straight party voting by the use of a single lever, button or other device.* * *."

The language in the above provision which is not italicized was added by the 1971 amendment. The apparent reason for the amendment is discussed later.

The following is a reasonable facsimile depicting how a part of all the voting machines were programmed. Column 3 lists part of the candidates for State offices and Column 4, not shown, contains the remaining candidates for State office. Column 6 lists the candidates for Congressional offices. Columns 7, 8, 9, 10, and 11, showing other candidates for other offices are not shown. The entire ballot is not shown because of reproduction difficulties.

It is to be noticed that a single selector tab or device is placed in each of the rectangulars identifying an office. Part of the State offices are shown in Column three (3), and the Congressional offices are shown in Column (6). The parties agree that such offices should have been on separate ballots or different Columns, but disagree as to which Column the Congressional race should have been placed.

The voting machines were not programmed so as to permit a voter to select more than one candidate by merely moving into position one lever or device under a particular party's emblem.

In order for a voter to have voted a straight Democratic Party ticket on each ballot, the voter would have to move an individual selector tab next to the name of each democratic candidate, and press the "vote" button on the bottom of the panel. Unless a selector tab was moved next to a candidate's name, that candidate would not receive a vote.

If a voter wanted to vote for Edmondson and the democratic nominee for the U.S. House of Representatives (Jones) in Column 6, the voter would have to move individual selector tabs next to each candidate's name and press the "vote" button.

The parties have divergent views on whether the programming of the voting machines requiring, in effect, a separate selector tab for each office meets the requirements of § 274, prescribing that voting machines "must be so constructed as to permit straight party voting as well as mixed or split tickets."

Edmondson contends that in order to permit straight party voting it is necessary to permit a voter, in selecting his particular party and its slate of candidates on a particular ballot (such as the State or Congressional ballot) to move into position only one lever or device on each ballot under a particular party's emblem, rather than being required to move separate selector tabs or devices for each individual candidate.

Bellmon contends that § 274 does not specify in what manner a voting machine is to be "so constructed as to permit straight party voting", only that it is to be "so constructed". Bellmon argues that had the Legislature intended that straight party voting would be accomplished by using only one lever for a particular party or a slate of candidates on a particular ballot, it would have specifically set such requirement out in the statute. Bellmon cites different statutes from other jurisdictions (Alabama, Arizona, Arkansas, Connecticut, Georgia, Louisiana, Maryland and Pennsylvania) which indicate those jurisdictions specifically provide for straight party voting by the use of a single lever, device or knob.

Bellmon contends the voting machines permitted straight party voting because in order for a voter to have voted a straight Democratic ticket for the Congressional offices he would merely have to: (1) move the selector tab to a position adjacent to the symbol and name of the Democratic party and Edmondson's name for United States Senator; and (2) move the second selector tab to a position adjacent the symbol and name of the Democratic party and Jones' name for the United States House of Representatives.

Bellmon argues that the voter would have at that time made his selection for whom he wanted to vote, but his actual vote would not occur until the voter pressed the "vote" button on the bottom of the panel.

The trial judge found that while the voting machines did not provide for straight party voting by use of a single lever or device for each ballot (Congressional, State, etc.) may have been an irregularity, but since they did permit mixed, split or straight party voting by the use of individual selector tabs for each candidate for each office, it did not constitute such an irregularity that would vitiate or invalidate the election in Tulsa County.

Two types of voting machines were used. They were known locally as the "Amarillo" machine and the "Tulsa" machine.

The "Tulsa" machines were constructed so they could be programmed to permit straight party voting (if no more than two political parties were on a particular ballot) by moving a single lever or device on each column of a ballot under a particular party's emblem and pressing the "vote" button. This single lever would move individual selector tabs in that column for each office next to the selected party's nominee for that office.

Thus, the "Tulsa" voting machines were constructed so that they could have been programmed so as to permit straight party voting for the two Congressional offices by moving only one lever on the Congressional ballot. Thus, then, would be similar to the paper ballot system. The mechanical difference between voting a straight party United States Congressional ballot in this election on the Tulsa machines as programmed and as they allegedly should have been programmed was the moving of two (2) selector tabs instead of one (1) party lever.

The "Amarillo" machines were not constructed so they could have been programmed to permit straight party voting on separate ballots, i.e., State and Congressional ballots, by moving a single lever for each ballot. These machines were constructed so they could be programmed to permit a voter, by moving one lever, to vote a straight party ticket for the entire election slate of a particular party.

Both machines could be programmed to permit mixed or split ticket voting. The Secretary of the Tulsa County Election Board, in explaining why the machines were programmed as they were, said:

"* * * our problem would have been obviously that it would have been discriminatory from one type of machine to another. One machine you would have been able to use one button to vote an entire ticket, the other machine you would have had to use each column for individual levers. That's why all the machines were programmed the same.

The 1974 General Election conducted in Tulsa County, is not the first time that Tulsa County has had problems concerning how it should conduct an election involving the use of voting machines.

The 1971 amendment to § 274, supra, which relates to the specifications of a voting machine, added the exception clause as heretofore set out and not italicized. Prior thereto, this provision read, "* * * It must be so constructed as to permit straight party voting as well as mixed or split tickets." See 1959 Session Laws, Title 26, Ch. 9, pgs. 121–124; and 26 O.S. 1961, § 274.

It seems the 1971 amendment was prompted by the following facts: In 1970, the State Election Board advised the Attorney General that Tulsa County would have a programming problem with voting machines in the November 3, 1970, General Election because the ballots would have candidates from the Democratic party, the Republican party, the American party, and in one instance, an Independent candidate; and that Tulsa County voting machines did not have the capabilities of straight party voting when more than two parties were involved.

The Attorney General was of the opinion that the Tulsa County voting machines did not meet the specifications of § 274 (1959 enactment) and that paper ballots should be used in the general election. See Opinions of the Attorney General No. 70–301. The 1971 Legislature then amended § 274, and added the exception clause referred to above.

The additional language contained in the 1971, amendment is not material in the case at bar. That amendment is applicable only if there are more than two (2) political parties on the ballot at a general election. Trent's candidacy for United States Senator as an Independent candidate did not bring into operation the exception contained in § 274, because an Independent candidate is not a member of a political party and there were only two political parties on the ballot at the general election, the Democratic and the Republican party. Bellmon challenged the constitutionality of straight party voting by a single lever when an Independent candidate is on the ballot but resolution of this issue is not necessary here.

Edmondson argues that there were a sufficient number of "Tulsa" machines to conduct the election and it was unnecessary to use the "Amarillo" machines. His theory is that only "Tulsa" machines should have been used and they all could have been programmed for straight party voting as required by law; and if the Tulsa County Election Board believed they did not have a sufficient number of "Tulsa" machines, they should have used paper ballots as they did in the 1970 General Election.

The issue here is not how the election in Tulsa County should have been conducted, but the legality of the election as conducted.

We will now consider whether the manner in which the voting machines were programmed meets the requirements of § 274, which provides that the machines shall be so constructed as to permit straight party voting.

Prior to the enactment authorizing the use of voting machines, all votes were cast on paper ballots. 26 O.S. 1971, § 227.1, provides for separate ballots for candidates for State offices, county offices, seats in the House of Representatives and the Senate of the United States, etc. A voter could vote a straight party ticket for all candidates of the same political party on a paper ballot by merely stamping the emblem below the political party of his choice. If no other markings were on the ballot, or the ballot was not mutilated, the voter would have voted, by the single stamp and placing the ballot in the ballot box, for all the candidates of that political party on the ballot.

In our opinion, when the Legislature prescribed that voting machines "must be so constructed as to permit straight party voting", it did not intend to make a distinction between "straight party voting" by paper ballots, and straight party voting by voting machines.

The second sentence of § 274 provides that: "It (a voting machine) must permit a voter to vote for any person whose name is entitled to appear on the ballot, for any office whether or not nominated as a candidate by any party or organization."

This proviso includes not only independent candidates but the nominees of political parties, and a voter could vote a straight ticket by simply voting separately for each candidate of the same political party. The voting machines were programmed in conformity with the above proviso. If by enacting the next sentence "to permit straight party voting" the Legislature intended that "straight party voting" could be accomplished by requiring a voter to vote separately for each candidate of a political party, rather than a single lever for each ballot of candidates, such as the Congressional ballot in the case at bar, the language "to permit straight party voting" is mere surplusage.

We agree with the trail court. In order to comply with the language "to permit a

straight party vote" a voting machine must be so constructed so that a voter may vote a straight party ticket by moving a single lever or device to the party of his choice on a ballot (such as the Congressional ballot) and by pressing the "vote" button. In this connection, we notice that there were two separate colums (Columns 3 & 4) for State offices. Whether or not it would have been necessary to have the voting machine programmed so that a voter could have voted a straight party ticket for all the candidates in the two columns, by the use of a single lever, as distinguished from two levers (one for each column) to meet the requirements of § 274, is not here presented.

We hold that the voting machines in Tulsa County were not programmed so as to permit straight party voting as required by § 274, supra.

Second, Edmondson contends that the ballot for State offices and the ballot for United States Senator and House of Representatives were not programmed according to the provisions of 26 O.S. 1971, § 277 (c), which he contends is mandatory and vitates the election in Tulsa County. Edmondson argues that the office for United States Senator should have been placed on the top line of the panel in the upper left-hand corner, in Column 3, as a candidate for a National office. Sec. 277 (c) provides:

"Separate portions of the elective office panel in each voting machine shall be allocated as separate ballots in such manners as to classify separately National, State, County and local offices respectively in the order named."

26 O.S. 1971, § 227.1, provides that candidates for State offices, Congressional offices, etc., shall be placed on separate ballots whenever paper ballots are used. A determination as to whether a United States Senator is a national or state officer within the provisions of our election laws would not be dispositive of these proceedings. Therefore, we will assume, arguendo, that a candidate for U.S. Senate is a candidate for a national office, and that the placement of the U.S. Congressional candidates in Column 6, instead of Column 3, where the candidates for state office were placed, conflicts with the mandatory provisions of § 277 (c).

Third, Edmondson contends that 545 of 640 machines used for Tulsa County voting contained erroneous instructions and that this was a voting irregularity which voids the votes in Tulsa County.

The contested instructions were on the "Tulsa" machines and had been there "since they (the machines) were manufactured". These contested instructions were affixed conspicuously on the machines and told the voter how to vote a straight party ticket by using a single lever for each Column of a ballot rather than individual selector tabs.

However, since the machines were not programmed to permit straight party voting by using a single lever per column of the ballot and, in fact, no such lever was on the machines, the contested instructions were clearly erroneous.

We have held that the voting machines did not permit straight party voting as required by § 274 and that erroneous instructions on voting procedure were on the voting machines. We have also assumed, arguendo, that the candidates for the office of U.S. Senator were not programmed in their proper column on the voting machine ballot as required by § 277 (c).

What is the effect of the above irregularities on the votes cast in Tulsa County? Edmondson argues that the irregularities individually or collectively void all votes cast in Tulsa County by voters using the voting machines.

Pursuant to the Constitution, the Legislature has prescribed the laws for conducting elections. Although election officials should not permit election irregularities, whether an irregularity or several irregularities void an election depend upon the circumstances in each particular case. An election irregularity in one election might be sufficient to void an election for one particular office but not sufficient to void the election for another office.

In Semke v. Wiles, 101 Okl. 105, 224 P. 312, we held:

"The statutory provision as to the place of holding the election and the manner of changing the voting place are mandatory upon the officers charged with that duty, and will be strictly enforced in a direct action instituted before an election, but after the election such statutory requirements are directory, unless it appears that the failure to hold the election at the regular place resulted in fraud and prevented the voters from a full and free expression of their will at the election."

In the Town of Grove v. Haskell (1909), 24 Okl. 207, 104 P. 56 at 61, the court cites with approval an Indiana case:

"* * * the Supreme Court of Indiana, in the case of Jones v. State ex rel. Wilson, 153 Ind. 440, 55 N.E. 229, said in the syllabus: 'All provisions of the election law are mandatory if enforcement is sought before the election in a direct proceeding for that purpose; but after election they should be held to be directory only, unless of a character to effect an obstruction to the free and intelligent casting of the vote, or to the ascertainment of the result, or unless the provisions affect an essential element of the election, or unless it is expressly declared in the statute that the particular act is essential to the validity of an election, or that its omission shall render it void.' "

In Baggett v. State Election Board, Okl., 501 P. 2d 817, we said:

"The fact that a contestant proves that illegal ballots have been cast and the number of illegal ballots cast is sufficient to change the results of the election does not necessarily mean that the election should be declared void. If competent evidence can be introduced establishing that in spite of the illegal ballots cast, it may be determined with mathematical certainty which candidate received the majority of the legal votes cast, the State Election Board should issue its certificate of election."

In Porter v. Oklahoma City, Okl., 446 P.2d 384, we held:

"The right of a qualified elector to vote and to have his vote counted is basic and fundamental. When an election has been conducted in good faith and no elector has been misled, and a true and fair return of the entire election has been canvassed and made, the will of the people, as indicated by their votes at such election, cannot be defeated by irregularities (particularly those resulting from some act or acts on the part of the election officials) which are not sufficient to change the results of the election."

In Williamson v. State Election Board, Okl., 431 P.2d 352, we held that if the State Election Board cannot determine with mathematical certainty which candidate received the majority of legal votes cast in an election, such Board is not required to issue a certificate of election.

Edmondson cites Rampendahl v. Crump (1909), 24 Okl. 873, 105 P. 201, as a case supporting his position. Rampendahl was a challenge by a losing candidate to the trial court's excluding the votes in one of 30 precincts. The appellant lost the election by 40 votes in 29 precincts, but won the excluded precinct, 195 to 5.

The election in the excluded precinct, as described in three pages of the opinion, was quite rowdy involving numerous irregularities, most, if not all, occasioned by unruly electors NOT election officials.

The opinion distinguished between irregularities by electors and those by election officials. The former, if sufficiently irregular, should result in voiding said vote. The Court quoted with approval, from the brief of the plaintiff in error in Rampendahl, supra, at 206.

"'* * * it may be said that there are three elements in a popular election: First, those acts which have reference to the ballot and to the voter himself performing the act of voting; second, acts of officials and others in operating the election machinery; third, (acts of others) * * *. The provisions of the law with reference to the acts embraced within the first element are, of course, mandatory because they affect directly the ballot itself and the act of voting, the very essence of the law. The voter alone is involved, and he must act, as the law prescribed or suffer the consequences.* * *.'"

The court, in affirming, relied primarily on the voters' refusal to follow the requirement that they were to "deliver the ballots (after marking and folding) to the inspector or judge temporarily acting as inspector and such inspector shall forthwith in the presence of the voter and members of the election board and of the watchers, deposit the same in the respective ballot boxes."

Two-thirds of the voters willfully refused to give their marked ballots to the judge or inspector, giving them instead to the pollbook clerk and the voters as a whole "willfully and flagrantly violated" every provision of the election law except time and place. In upholding the trial court's exclusion of 200 votes, the court held:

"When it appears that practically not only every mandatory provision of the laws governing the holding of the election, except that relating to time and place, have been flagrantly and willfully violated in a precinct, and the integrity of the result of such election is left in grave doubt, and the trial court thereby rejects the ballots cast at such precinct, his action will not be disturbed on review in this court."

In Sparks v. State Election Board (1964), Okl., 392 P.2d 711, the election officials in a certain precinct ran out of official ballots. The election officials permitted six voters to cast their votes on ballots identified as "sample" ballots. In upholding the validity of that election, even though "sample" ballots had been used, we said:

"No fraud or improper motive is charged, and none has resulted. No evil was intended and none has resulted. Under the circumstances presented in this case the constitutional right to vote outweighs the form of the ballot, and the sample ballots as used in this case were in fact and in law converted into acceptable and legal ballots. They reflect the will of the electors to whom they were furnished, and accurately record their votes. We must conclude they should be counted by the State Election Board and given weight."

In Wadsworth v. Neher, 138 Okl. 4, 280 P. 263, we held that in the absence of fraud, an election will not be held invalid on the ground that mandatory provisions of the state election laws have been disobeyed, unless it is expressly declared in the statute that the particular act is essential to the validity of an election or that its omission shall render it void. There are no statutory provisions which declare that failure to permit straight party voting, failure to properly program a voting machine, or failure to have proper voting instructions on a voting machine are essential to the validity of an election.

26 O.S. Supp. 1974, § 395.3 is directed to election irregularities and, inter alia, provides:

"When a petition alleging irregularities other than fraud is filed, said election must allege a sufficient number of irregularities and of such a nature as to (1) prove that the contestant is lawfully entitled to be issued a certificate of party nomination or certificate of election, or to have his name appear

on the runoff primary ballot, or (2) prove that it is impossible to determine with mathematical certainty which candidates are entitled to be issued certificates of party nomination or certificates of election, or to have their names appear on the runoff primary ballot. If such allegations are not made, the petition shall be deemed frivolous by the presiding judge and shall be dismissed. * * *"

Under 26 O.S. Supp. 1974, § 395.3, where fraud in an election is proved on the part of a candidate, he shall be declared ineligible for the office for which he was a candidate. There are no allegations, evidence, or contentions that any candidate was guilty of fraud or was guilty of any misconduct in the Tulsa County election. Neither are there any contentions, allegations, or evidence that any election official in programing the machines or conducting the election was guilty of any fraud, intentional wrong doing or improper motives.

Neither our statutory law nor our decisional law supports the proposition that the irregularities herein described, by themselves, or collectively, render ipso facto, illegal and void all or any of the votes cast on the voting machines.

We hold the Tulsa County votes cast by use of the voting machines are not illegal or void.

The next issue presented concerns our statutory and decisional law governing election contests when it is clearly established that irregularities occurred in the election.

If it can be determined with mathematical certainty which candidate received the majority of the legal votes cast in an election, the candidate receiving such majority is entitled to be issued a certificate of election. See § 395.3, supra, and Williamson, supra.

The burden is upon Edmondson to prove that it is impossible to determine with mathematical certainty which candidate is entitled to be issued a certificate of election. Sec. 395.3, supra, and Gammill v. Shackelford (1970), Okl., 480 P. 2d 920.

There are two classes of voters which must be considered: (1) All of the voters who voted in the Tulsa County election (127,588); and (2) only those voters who voted in the race for U. S. Senator (123,718). These figures include absentee ballots.[1] This leaves a difference of 3,870 votes (127,588 minus 123,718) which were cast in Tulsa County election but which were not cast for United States Senator.

Although the evidence indicates that some of the 123,718 voters who voted in the United States Senate race wanted to vote a straight party ticket, Edmondson failed to establish and there is no competent evidence to support a finding that any of those voters were deprived of their right to vote or failed to vote for Edmondson because the voting machines were not programmed to permit straight party voting, or because of the erroneous instructions, or because the candidates for United States Senator were not placed in the upper left-hand Column on the machine ballot panel. Also, Edmondson failed to establish and there is no competent evidence to support a finding that of those 123,718 votes cast, Bellmon would not have received the 72,145 votes cast for him if the voting machines had been properly programmed with proper instructions, or that he received any votes because of the irregularities.

The above irregularities will be considered later, but must be considered in connection with this basic fact, i.e., Bellmon is entitled to the 72,145 votes cast for him in Tulsa County and this gives him 3,835 more statewide votes than Edmondson, as the irregularities do not affect the votes actually cast in the race for United States Senator. Therefore, in considering the impact of the irregularities on the election, consideration must be given only to those votes cast in Tulsa County which were not cast in the race for United States Senator (3,870 votes.)

Since we have determined that Bellmon is entitled to the 72,145 votes cast for him in Tulsa County and that he received 3,835 more state-wide votes than Edmondson, the burden is upon Edmondson to prove that at least 3,835 of the 3,870 voters who did not vote in the United States Senate race would have voted in that race had there been no irregularities, or failed to vote because of the irregularities. See Williamson, supra. Edmondson does not have to prove that at least 3,835 voters would have voted for him. See Baggett, supra.

Edmondson asserts that the 3,870 vote difference between the votes cast in the U.S. Senate race and all the votes cast in Tulsa County makes it impossible to determine with mathematical certainty which candidate received more state-wide votes. Edmondson cites Willamson, supra, to sustain his position.

The facts in Williamson and the facts herein are entirely different. In Williamson, 94 votes were "unaccounted for" and the 94 votes were sufficient to change the results of the election. There, because of a malfunctioning voting machine, some undetermined number of votes cast were not recorded. Ninety-four (94) electors either did not vote in the contested race, or their votes were not recorded, or there was a combination of both non-voting and non-recording. It was impossible to determine from the undisputed factual circumstances presented whether the 94 "unaccounted for" votes were cast but were not recorded because of the malfunction in the voting machines, or whether there was a combination of non-voting and non-recording. This Court did not rely on any presumptions in disposing of the issues in Williamson.

All the votes cast in Tulsa County were properly recorded and the exact number of votes cast can be determined with mathematical certainty. Edmondson, in effect, argues that from the expert testimony presented and other evidence, he has established that at least 3,835 fewer votes were cast in the race for United States Senator than would have been cast if there had been no irregularities.

In considering whether Edmondson established this fact, this Court may not presume or speculate that either Edmondson or Bellmon would have received more or less votes had no irregularities existed, or received more or less votes because of the irregularities. By the same token, when a voting machine properly records all the votes cast in an election, and all the voters participating in that election do not vote in a particular race, and no competent evidence establishes why all the voters did not vote in all the races, this Court may not speculate on the voters' reasons for voting as they did.

Therefore, Edmondson is entitled to no presumption concerning why 3,870 voters participating in the Tulsa County election did not vote in the race for United States Senator. In this connection, we notice that 2,399 (127,588 minus 125,189—votes cast in the Governor's race) voters participating in the Tulsa County election did not vote in the Governor's race and 6,322 (127,588 minus 121,266—votes cast in the U.S. House of Representatives race) did not vote in the race for U.S. House of Representatives.

Further, the state-wide figures are indicative that, the fact that all participating voters do not vote in a particular race is not, by itself, unusual, or necessarily connected to any irregularities. The total number of voters who participated in the election, excluding Tulsa County was 694,438 (822,026 minus 127,588). The total number of voters who voted in the Senate race, excluding Tulsa County, was 668,091 (791,809 minus 123,718).

Thus, 96 per cent (668,091 divided by 694,438) of the state-wide voters excluding Tulsa County, voted in the Senate race, and 97 per cent (123,718 divided by 127,588) of the Tulsa County voters voted in the Senate race. A larger, not smaller, percentage of Tulsa voters in the other 76 counties combined.

Did Edmondson establish by competent evident that because of the irregularities, at least 3,835 voters who voted in Tulsa County did not vote in the race for United States Senator?

We will consider together the irregularities concerning the failure to permit straight party voting and the failure to remove erroneous instructions on the voting machines.

The erroneous instructions previously alluded to were located to the left of the "vote" button on the machines and read:

"Party-voting instructions"

"To vote a straight ticket:

"1. Raise lever at bottom of column until arrow or lever points to desired party.

"2. Return lever to original position.

"3. If you wish, you may split your ticket by moving any key or keys to a different party candidate.

"4. After all selections have been made, press vote button."

It is to be noted that the above includes an instruction on split ticket voting. Also, there were other instructions on the machines. To the right of the "VOTE" button the following further information was provided:

"Voting instructions"

"Check the ballot.

"See that columns indicated by red light contain proper candidates and issues. Only selections in lighted columns will be recorded.

"Make selections.

"Move selector key (X) down to candidate or answer preferred. You may change your selection at any time prior to pressing the vote button. Leave keys in selected position.

"After all selections have been made

"Press vote button

"You have not voted until you have pressed the vote button."

Tulsa County has continuously used these voting machines for their elections from 1959 through 1974, with the exception of 1970 when paper ballots were used. During this period of time, the straight party levels were frequently on the machines depending on the number of candidates and parties, and on the type of election (General, Primary, etc.)

The straight party lever is a device distinctly different in size and shape from the selector tabs. The levers are alloted a grey-colored space running horizontally across the bottom of the white voting columns. To vote using the lever, the voter would have to raise

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[1] Neither party attached much significance to the absentee ballots, so neither have we for this opinion. However, all parties agree that the absentee ballots were unaffected by the alleged irregularities so absentee votes should probably not be included as they are above. The figure for the total number of voters participating in the Tulsa County election (127,588) contains 2,055 absentee votes (the highest total of absentee ballots case in any particular race (the Governor's race)). Therefore, 125,533 voters participating in the Tulsa County election did so by using the voting machines and of those, 121,698 voted in the Senate race (123,718 minus 2,020, the absentee votes cast in the Senate race). Thus, 3,835 (125,533 minus 121,698) not 3,870 of the voters using the voting machines in Tulsa County did not vote in the Senate race. This figure (3,835) and the incredible coincidence that it is exactly equal to Bellmon's statewide edge do not change this opinion in any way for the reasons hereinafter discussed.

The statement that 2,055 absentee ballots are included in the 127,588 figure is according to the records in the State Election Board.

the lever from its original position as explained in the contested instructions. All of these levers had been removed from the voting machines. To vote using the selector tabs, the voter would initially have to move them down to the candidate of his choice (as explained in the instructions to the right of the "vote" button) from the original position occupied by the tabs when the voter entered the voting booth. From their original position, the selector tabs could not be raised. Proper instructions were placed at the polling places and the erroneous instructions were on the voting machines only. The voter saw the erroneous instructions only after he entered the voting booth.

The trial judge found: "There was no testimony or evidence that any voter was denied the right to vote a mixed, split or straight party vote by reason of the machine used or the format or presentation thereon of the elective office panel. There is no evidence that any voter was disenfranchised, or misled, or deprived of his right to vote for the party or candidate of his choice."

The record will not support a finding that any voter was deprived of his right to vote in the United States Senate race or failed to vote in the race because he could not vote a straight party ticket, or because of the erroneous instructions because they could not find the lever to vote a straight party ticket (the lever having been removed) the fact remains that 123,718 votes were cast and Bellmon received 72,145 of those votes.

Edmondson hypothesizes that confused voters would try to vote a straight party ticket by moving the selector tab opposite the party designation in the race for United States House of Representatives. None of the witnesses called by Edmondson testified that they were so confused or that they failed to vote, could not vote, or did not vote as they desired; 2,252 more votes were cast in Tulsa County in the United States Senate race than in the United States House of Representatives' race. We may not presume that the voters who voted for the democratic nominee for the United States House of Representatives thought they were voting a straight party ticket in both Congressional races and failed to vote in the race for United States Senator.

It is clear the Tulsa County voters split their tickets. In the Governor's race, Boren (the democratic nominee), received 60,697 votes, and Inofe (the Republican nominee), received 64,492. A total of 125,189 votes were cast in that race. In the United States Senate race, Bellmon received 72,145 votes; Edmondson 49,775 votes, and Trent, the Independent candidate, 1,798 votes. A total of 123,718 votes were cast for the office of United States Senator. In the race for the United States House of Representatives in Tulsa County, Jones (the democratic nominee) received 82,243 votes, and Mizer (the Republican party's nominee) received 38,923 votes. A total of 121,266 votes were cast in that race.

Since Edmondson failed to establish that any voter was deprived of his right to vote, or failed to vote, or did not vote in the race for United States Senator because he was not permitted to vote a straight party ticket or because of the erroneous instructions, we may not presume that because of these irregularities that any voter failed to vote in the United States Senate race. If such presumption were made in the case at bar, in order to benefit Edmondson, we would have to presume that at least 3,835 voters out of 3,870 voters failed to vote because of the irregularities.

We hold that while the use of the voting machines, which did not permit straight party voting as required by statute, constitutes an irregularity, it did not constitute such an irregularity to void the election or make it impossible to determine with mathematical certainty which candidate received the greater number of state-wide votes and is entitled to a certificate of election.

We also hold the erroneous instructions did not void the election, or make it impossible to determine with mathematical certainty which candidate received more state-wide votes and entitled to a certificate of election.

Next, we will consider the irregularity concerning the failure to place candidates for United States Senator in the first position on the voting machines (upper left-hand corner).

The office of Governor was programmed on the panel where Edmondson contends the office of United States Senator should have been. In Tulsa County, 125,189 votes were cast for Governor; 123,718 votes for United States Senator; 121,266 votes for the House of Representatives; and 120,843 votes for Lt. Governor. It appears more people were interested in voting for Governor and United States Senator than the other two offices. However, there is only a 1,471 vote spread, or drop off, between the votes cast for Governor and the votes cast for United States Senator, or a 1.18 per cent drop off in Tulsa County. This drop off is less than in the other 76 counties where 679,659 votes were cast for Governor and 668,091 votes were cast for United States Senator, a 11,568 vote spread or a 1.70 per cent drop off.

Although some evidence tends to establish that more voters vote for the office in the upper left-hand panel on a voting machine, we may not presume that a certain number of voters who did not vote in the United States Senate race would have voted in that race if the Senate race had been placed in the first position on the ballot panel. In this connection, if we assumed for purpose of argument only, that had the office for United States Senator been programmed in the first column (left-hand corner of Column 3) of the voting machines, and all of the 1,471 voters who voted for Governor but did not vote for United States Senator would have voted for Edmondson, Bellmon would still have 2,364 (3,835 minus 1,471) more state-wide votes than Edmondson.

Assuming that the failure to place the United States Senate race in the upper left-hand panel does constitute an irregularity, it is not such an irregularity as would vitiate or invalidate the Tulsa County election. This irregularity does not make it impossible to determine with mathematical certainty which candidate received the greater number of state-wide votes and is entitled to a certificate of election.

Considering the irregularities together and their cumulative effect, Edmondson simply failed to establish by competent evidence that these irregularities singularly or together caused at least 3,835 voters who participated in the Tulsa County election to forego or fail to record a vote in the United States Senate race. Since Edmondson did not present sufficient evidence to establish this essential fact, and since the Court may not indulge in presumptions, the candidate receiving the most state-wide votes for the office of United States Senator can be determined with mathematical certainty and that candidate is entitled to be issued a Certificate of Election. Bellmon is that candidate.

26 O.S. 1974 Supp. § 395.3, which pertains to challenges based on fraud and other irregularities, provides that the decision of the trial judge shall be final. Bellmon contends this Court does not have jurisdiction and this proceeding should be dismissed. Bellmon cites cases involving appeals as distinguished from original proceedings wherein Writs of Prohibition or Writs of Mandamus, or of similar nature, are presented.

In Sparks v. State Election Board, Okl., 392 P. 2d 711, we said:

"In Art. 7, Sec. 2, Okla. Const. (presently Art. 7, § 4), it is provided in part:

"' * * * The original jurisdiction of the Supreme Court shall extend to a general superintending control over all inferior courts and all commissions and boards created by law. The Supreme Court shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition, and such other remedial writs, as may be provided by law, and to hear and determine the same; * * *.' "

In Looney v. County Election Board, 146 Okl. 207, 210, 293 P. 1056, 1059, we held:

" 'The Legislature cannot deprive this court of its right of superintending control over inferior courts, commissions, and boards which are exercising judicial or quasi judicial authority as granted by section 2, article 7, of the Constitution of this state; but this superintending control is exercised, not by appeal, nor proceedings in the nature thereof, but by the issuance of remedial writs, named in the Constitution, and such others as may be provided by law.' "

"Mandamus is one of the writs authorized by Art. 7, Sec. 2, supra, as a 'remedial' writ, and the final interpretation of a statute, as applied to stipulated facts, authorizes the exercise of judicial authority."

We hold that this Court does have jurisdiction to determine the issues presented in this original proceeding and we assume original jurisdiction.

Application to assume original jurisdiction granted; Stay order vacated; Application for Writ of Prohibition Denied; and Application for Writ of Mandamus denied.

Davison, C.J., Williams, V.C.J., Berry and Barnes, JJ., and Bacon, Romang, Hert and Brock, Special Justices, concur.

Justice Ralph B. Hodges, Justice Robert E. Lavender, Justice Robert D. Simms and Justice John B. Doolin, having certified their disqualifications in the above cause, the Honorable Kenneth D. Bacon, Judge of the Court of Appeals; Honorable Richard E. Romang, Judge of the Court of Appeals; Honorable Robert L. Hert, District Judge; and Honorable Jack L. Brock, District Judge, were appointed Special Justices to serve in their stead.

TO THE HONORABLE NELSON A. ROCKEFELLER, VICE PRESIDENT OF THE UNITED STATES AND PRESIDENT OF THE SENATE

ANSWER OF HENRY BELLMON

Henry Bellmon, United States Senator from the State of Oklahoma, appearing by his attorneys for the purpose of answering the Petition and Complaint of Ed Edmondson concerning the conduct of the election of November 5, 1974, for the Office of United States Senator from the State of Oklahoma, states as follows:

1. Your Respondent denies both generally and specifically each and every material allegation as contained in said Petition and Complaint except as may be specifically admitted hereinafter.

2. Your Respondent specifically admits the allegations stated in the numbered paragraphs 1, 2, 3, 4, 5, 6 and 10 of said Petition and Complaint, and further admits that portion of paragraph number 15 wherein Petitioner alleges that the United States Senate is empowered by Article 1, Section 5 of the United States Constitution to review and investigate the elections and qualifications of its own members.

3. For further answer your Respondent states that Petitioner has four times previously been given the opportunity to present allegations identical to those presented in said Petition and Complaint and that in each instance the Courts of the State of Oklahoma, acting pursuant to the powers vested in them by Oklahoma law, have determined these allegations to be without merit.

4. That in each instance, Petitioner has alleged that he is entitled to be seated as

United States Senator from the State of Oklahoma or that, in the alternative, he is entitled to a new election. Further, that as the basis for these claims, Petitioner has consistently relied upon certain irregularities concerning the physical characteristics of the voting machines utilized in Tulsa County during the subject election, more specifically:

(a) that said voting machines were not equipped with a single device or lever for use in voting a straight party ticket;

(b) that the ballot containing the names of the candidates for United States Senate was placed in the wrong position on the face of said voting machines; and,

(c) that erroneous instructions pertaining to the manner of voting a straight party ticket were affixed to many of the said voting machines.

5. That commencing on November 12, 1974, a hearing was conducted pursuant to the Oklahoma Election Laws wherein Petitioner was given the opportunity to present all his evidence in support of his allegations; that upon the conclusion of said hearing, after having heard all the evidence presented, and after having considered all the pleadings and arguments of counsel, the Honorable J. Knox Byrum, the Judge specifically appointed by the Oklahoma Supreme Court to hear the matter, concluded that there had been no showing that the irregularities complained of were of a sufficient nature to cast a doubt on the certainty of the election results. More specifically, Judge Byrum held:

"There was no testimony or evidence that any voter was denied the right to vote a mixed, split or straight party vote by reason of the machines used or the format or presentation thereon of the elective office panel. There is no evidence that any voter was disenfranchised, or misled, or deprived of their right to vote for the party or candidate of their choice. . . .

The Court further concludes that it is possible to determine with mathematical certainty that Respondent, Henry Bellmon, received the greatest number of votes for the Office of United States Senator. . . .

The Court further concludes that there were no irregularities of such nature as to invalidate or render illegal the votes cast in the General Election in Tulsa County, Oklahoma . . ." *In Re Challenge of Ed Edmondson*, No. C–74–2630, decided November 14, 1974. A copy of Judge Byrum's decision is attached hereto as Exhibit A.

6. That thereafter, on November 22, 1974, Petitioner filed with Judge Byrum a Motion for New Trial together with attached affidavits of numerous Tulsa County voters; that upon careful consideration of said Motion and Affidavits, and after hearing arguments thereon from counsel, said Motion was overruled.

7. That thereafter, Petitioner filed an Application to Assume Original Jurisdiction in the Supreme Court of Oklahoma, petitioning said Court for Writs of Prohibition and Mandamus, prohibiting the State of Oklahoma Election Board from certifying Henry Bellmon as the winner of the subject election and directing said Board to issue the Certificate of Election to Petitioner.

8. That after a thorough and exhaustive review of the evidence submitted by Petitioner in support of his Petition, the Supreme Court of Oklahoma, though initially finding the election machines used in Tulsa County were not constructed and programmed in total compliance with the Oklahoma law regarding voting machine specifications, ultimately held:

(a) that these irregularities were not sufficient as a matter of law to render the votes cast on the Tulsa County machines void or illegal;

(b) that Petitioner failed to show that these irregularities did in fact affect the outcome of the election; and,

(c) that Ed Edmondson was therefore not entitled to be issued the Certificate of Election, nor entitled to a new election.

9. That more specifically, as to Petitioner's allegation that the irregular construction and programming of the voting machines rendered all of the votes cast thereon illegal and void, therefore entitling Petitioner to be issued the Certificate of Election, the Supreme Court found:

"Neither our statutory law nor our decisional law supports the proposition that the irregularities herein described, by themselves, or collectively, render, ipso facto, illegal and void all or any of the votes cast on the voting machines.

We hold the Tulsa County votes cast by use of the voting machines are not illegal or void." *Edmondson* v. *State*, 45 O.B.J. 2974, 2983 (1974) (A copy of this decision is attached to Petitioner's Petition and Complaint.)

10. Further, that as to Petitioner's allegation that because of the irregularities, voters were deprived of their right to vote for Petitioner in the subject election, thereby making the final results mathematically uncertain and entitling Petitioner to a new election under Oklahoma law, the Court further found:

"Although the evidence indicates that some of the 123,178 voters who voted in the United States Senate race wanted to vote a straight party ticket, Edmondson failed to establish and there is no competent evidence to support a finding that any of those voters were deprived of their right to vote or failed to vote for Edmondson because the voting machines were not programed to permit straight party voting, or because of the erroneous instructions, or because the candidates for United States Senator were not placed in the upper left-hand Column on the machine ballot panel. Also, Edmondson failed to establish and there is not competent evidence to support a finding that of these 123,718 votes cast, Bellmon would not have received 72,145 votes cast for him if the voting machines had been properly programed with proper instructions, or that he received any votes because of the irregularities." (*Id.* at p. 2984)

11. That whereas the Supreme Court of Oklahoma has concluded *as a matter of law* that the said violations of the voting laws were not sufficient to void the votes cast in the Senate election in Tulsa County, and whereas Petitioner has specifically admitted (paragraph 11 of his Petition and Complaint) that "conclusions of law by the Supreme Court of Oklahoma interpreting statutes of the State of Oklahoma, are final and binding", Petitioner should now be estopped from asserting that conclusions of law by the Supreme Court of Oklahoma, interpreting the case law of the State of Oklahoma, are not final and binding, which assertion, Petitioner impliedly makes when in Paragraph B(iii) of his Petition and Complaint, he asks the Senate to again determine whether the votes should be voided.

12. That although given four opportunities previously, Petitioner has wholly failed in each instance to produce even one voter who could testify, either on the witness stand or by affidavit, that because of the irregularities, he was deprived of his right to vote for the candidate of his choice in the Senate election in Tulsa County.

13. That the sole basis upon which Petitioner relies in making his alternative request that the Senate declare the election void and order a new election, is the testimony and affidavits of expert witnesses who merely offered their professional speculations, based on various assumptions, that because of the irregularities, numerous voters failed to vote in the Senate election. Your Respondent respectfully submits that the Senate be guided by the wisdom of the Supreme Court of Oklahoma, when in its discussion of the merits of Petitioner's expert testimony, it stated:

"Edmondson, in effect, argues that from the expert testimony presented and other evidence, he has established that at least 3,835 fewer votes were cast in the race for United States Senator than would have been cast if there had been no irregularities . . .

"Since Edmondson failed to establish that any voter was deprived of his right to vote, or failed to vote, or did not vote in the race for United States Senator because he was not permitted to vote a straight party ticket or because of the erroneous instructions, *we may not presume* that because of these irregularities that any voter failed to vote in the United States Senate race." (Emphasis Supplied) (*Id.* at pp. 2985, 2987)

14. That the actual physical characteristics concerning the construction, programming and operation of the voting machines in question is as follows. The voting machines used in the subject election were of the vertical columnar presentation type and were programmed as shown in Exhibit B attached hereto. On these particular machines, the selection of candidates is accomplished by the movement of the selector tabs initially positioned to the left of each of the darkened rectangulars identifying an office. As an example, in order for a voter to have selected Ed Edmondson as his choice for United States Senator, he would merely have had to slide the top selector tab, located in the grooved column to the left of Column 6, as seen in Exhibit B, down one notch to a position next to the name of Ed Edmondson on the right and the name and symbol of the Democratic Party on the left.

Similarly, in order for a voter to have selected Henry Bellmon, he would have had to slide the selector tab down two notches, past the name of Ed Edmondson, to a position next to the name of Henry Bellmon on the right and the name and symbol of the Republican Party on the left. Once all selections are made in this manner in those races in which a voter wishes to vote, the voter must then push a large rectangular vote button located at the base of the ballot panel in order to register his votes on the voting machine's automatic counters.

15. That the evidence upon which the Supreme Court of Oklahoma based its findings of fact as to the effect of the irregularities is as follows:

(a) Straight Party Lever—Petitioner bases his allegation that the absence of straight party levers on the voting machines in question affected the rights of the voters of Tulsa County to vote for the candidates of their choice, on the fact that while 127,588 Tulsa County voters voted in the Tulsa County election, only 123,718 Tulsa County voters voted in the United States Senate race. Petitioner claims this difference, 3,870 votes, is the direct result of the machine's not having straight party levers. To support this theory, Petitioner relies on the opinions of expert witnesses.

In determining this contention, the Oklahoma Supreme Court held that Petitioner had failed to sustain his burden to prove that the discrepency in figures was the direct result of the irregularity and further that Petitioner was not entitled to a presumption as to why the 3,870 voters participating in the Tulsa County election did not vote in the race for United States Senator. In support of its latter conclusion, the Court cited the fact that in the 76 Oklahoma counties where straight party voting was permitted by the use of a single mark or lever, only 96 percent of the voters voted in the Senate race, while in Tulsa County, where a straight party lever was not provided, 97 percent of the voters voted in the Senate race. This fact, the Court reasoned, was indicative that, ". . . the fact that all participating voters do not vote in a particular race is not by itself, unusual, or necessarily connected to any irregularities."

Your Respondent respectfully submits that this ruling was therefore clearly not capricious or arbitrary as alleged by Petitioner.

(b) Placement on the Ballot—Petitioner further claims that because the Senate race was allegedly placed in the wrong position on the face of the voting machines, voters were deprived of their right to vote in such race. Referring to Exhibit B, Petitioner specifically claims that the Senate race should have been placed in the left hand corner of the elective office panel at the top of Column 3, where the Exhibit shows the race for Governor was instead placed. While not deciding the issue of whether the said placement was in fact a violation of State law, the Supreme Court assumed, arguendo, that the placement was such a violation, but then went on to hold:

"Although some evidence tends to establish that more voters vote for the office in the upper left-hand panel on a voting machine, we may not presume that a certain number of voters who did not vote in the United States Senate race would have voted in that race if the Senate race had been placed in the first position on the ballot panel. In this connection, *if we assumed for purpose of argument only, that had the office for United States Senator been programmed in the first column* (left-hand corner of Column 3) of the voting machines, and all of the 1,471 voters who voted for Governor but did not vote for United States Senator would have voted for Edmondson, *Bellmon would still have 2,364 (3,835 minus 1,471) more statewide votes than Edmondson.*" (Emphasis Supplied) (*Id.* at p. 2987)

Respondent therefore respectfully submits, that this evidence relied upon by the Supreme Court did in fact tend to show that even if Petitioner had been placed in the first column, he would still have not received enough votes to affect the certified outcome of the election, and that the Court's ultimate decision in this regard was therefore clearly not capricious or abritrary as alleged by Petitioner.

(c) Erroneous Instructions—Petitioner's final allegation as to the effect of the irregularities is that because of erroneous party vote instructions, which were permanently affixed to many of the voting machines used, voters following these instructions were confused and misled into thinking they were voting for Edmondson when in fact they were not. The erroneous instructions provided:

Party-voting instructions

To Vote a Straight Ticket

"1. Raise lever at bottom of column until arrow or lever points to desired party."

"2. Return lever to original position."

"3. If you wish, you may split your ticket by moving any key or keys to a different party candidate."

"4. After all selections have been made, press vote button."

Petitioner theorizes that voters, following instructions number 1, erroneously mistook the bottom selector tab, located next to the Congressional Race title in Column 6, for the "lever at bottom of column" described in the instructions, and moved this selector tab down to a position next to the name of James R. Jones on the right and the name and symbol of the Democratic Party on the left, thinking they had voted a straight Democratic ticket in both races in Column 6.

The Oklahoma Supreme Court disregarded this theory for three reasons:

(i) There was no evidence that this alleged phenomenon did in fact occur;

(ii) The selector tabs could not in fact be "raised" from their initial positions, so that a voter attempting to follow the instructions would immediately become aware that the selector tab was not the "lever" referred to in the instructions; and

(iii) 2,252 more votes were cast in Tulsa County in the United States Senate race than in the United States House of Representatives.

Respondent therefore respectfully submits that the findings of fact by the Oklahoma Supreme Court regarding the erroneous party vote instructions were clearly not capricious or arbitrary as alleged by Petitioner.

16. That for the reason that Petitioner has not alleged any facts which had not previously been alleged in the proceedings before the Courts of Oklahoma, and further, for the reason that Petitioner has not alleged any facts which tend to show that the findings of fact by the Supreme Court of Oklahoma were in any manner arbitrary or capricious, Your Respondent respectfully submits that Petitioner is not entitled to have a new investigation conducted by the Senate, and that the said findings of fact by the Oklahoma Supreme Court, as stated below, should therefore be upheld:

"Considering the irregularities together and their cumulative effect, Edmondson simply failed to establish by competent evidence that these irregularities singularly or together caused at least 3,835 voters who participated in the Tulsa County election to forego or fail to record a vote in the United States Senate race. Since Edmondson did not present sufficient evidence to establish this essential fact, and since the Court may not indulge in presumptions, the candidate receiving the most state wide votes for the office of United States Senator can be determined with mathematical certainty and that candidate is entitled to be issued a Certificate of Election, Bellmon is that candidate." (*Id.* at p. 2987)

Wherefore, your Respondent respectfully requests that the United States Senate uphold the decision of the Supreme Court of Oklahoma and dismiss the Petition and Complaint of Ed Edmondson as not stating sufficient grounds to justify further investigation, and thereby allowing your Respondent, the rightful holder of the Certificate of Election from the State of Oklahoma to be seated as a member of the United States Senate.

In the event the Senate determines to order hearings and investigation into this matter, and should it be impossible for the Senate to complete such hearings and investigation prior to January 14, 1975, your Respondent respectfully requests that as holder of the Certificate of Election from the State of Oklahoma, and based upon the Oklahoma Supreme Court's conclusion of law as to the validity of the votes cast in Tulsa County, he be seated as United States Senator from Oklahoma, without prejudice as to the final results of such hearings and investigation.

Respectfully submitted,

JOHN M. COFFEY,
Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, P.C.

Bert McElroy, Esq. of the firm of Sanders, McElroy & Carpenter, Denver Building, Tulsa, Oklahoma.

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VERIFICATION

Henry Bellmon, being first duly sworn, avers that he has read the foregoing Answer, that he is familiar with all matters set forth therein, and that it is, to the best of his information and belief, true and correct.

HENRY BELLMON.

District of Columbia: SS.

Sworn to before me this 13th day of January, 1975.

ROBERT A. MALSTROM,
Notary Public.

My commission expires November 30, 1978.

EXHIBIT A

[IN THE DISTRICT COURT IN AND FOR TULSA COUNTY, STATE OF OKLAHOMA, NO. C–74–2630]

In Re: The challenge of Ed Edmondson to the correctness of the announced results of the general election held November 5, 1974, to fill the office of the United States Senator for the State of Oklahoma.

To be filed with State election board of the State of Oklahoma in cause No. 14–74.

JUDGMENT

This matter came on before the Honorable J. Knox Byrum, District Judge, on the 12th day of November, 1974, pursuant to assignment by the Chief Justice of the State of Oklahoma, and by stipulation between counsel for the Petitioner, Ed Edmondson, and the Contestee, Senator Henry Bellmon. The proceedings herein were conducted in accordance with the provisions of 26 Okl. St. Ann., Section 395.3.

The Court, having heard all the evidence presented during the hearings which commenced on November 12, 1974, and concluded on November 13, 1974, and having considered all pleadings filed herein and arguments of counsel, finds:

FINDINGS OF FACT

1. On November 5, 1974, a general election was conducted in the State of Oklahoma. Pursuant to 26 Okl. St. Ann., Section 271, the Tulsa County Election Board utilized voting machines in every precinct in Tulsa County for the November 5, 1974 general election. There were three individuals whose names were entitled by law to be submitted to the Oklahoma voters for the office of United States Senator: a) Ed Edmondson, the holder of the Certificate of Nomination of the Democratic party; b) Henry Bellmon, the holder of the Certificate of Nomination of the Republican party; c) Paul Edward Trent, an Independent.

2. That in Tulsa County all votes, other than absentee ballots, were cast, registered, recorded and counted by means of voting machine as permitted by 26 Okl. St. Ann., 1971, Section 271, et seq.

3. That the number of votes cast for the candidate for the office of United States Senator in Tulsa County, Oklahoma, on November 5, 1974, is determined with mathematical certainty to be:

Ed Edmondson	49,775
Henry Bellmon	72,145
Paul Edward Trent	1,798

4. That the official, but yet uncertified results of the entire State of Oklahoma determined by the State Election Board are:

Ed Edmondson	387,162
Henry Bellmon	390,997
Paul Edward Trent	13,650

5. That the machines used were so constructed as to permit straight party voting by use of a single selector lever or device, but were not so programmed for the November 5, 1974 election, but at said election were so programmed that the Democratic emblem

appeared opposite the name of the Democratic candidate, the Republican emblem appeared opposite the name of the Republican candidate, and the word Independent appeared opposite the name of the Independent candidate, and were so constructed and programmed as to permit straight party voting, or mixed, split voting by the use of an individual selector tab for each office or candidate on the particular ballot.

6. There was no testimony or evidence that any voter was denied the right to vote a mixed, split or straight party vote by reason of the machine used or the format or presentation thereon of the elective office panel. There is no evidence that any voter was disenfranchised, or misled, or deprived of their right to vote for the party or candidate of their choice.

7. There was no evidence of any irregularity in the casting of absentee ballots.

8. The Court further finds that the evidence offered by the Petitioner in support of Count II of his petition is insufficient to establish that it is impossible to determine with mathematical certainty whether the Petitioner or Respondent is entitled to a Certificate of Election to the United States Senate, and the special demurrer to said Count II by the Respondent should be sustained.

9. The Court further finds that the evidence offered by the Petitioner relative to the allegation in the Petition contending that the ballot on which the candidates for the office of United States Senator was improperly placed on the panel of the voting machines and that such constituted an irregularity is insufficient and without merit, and that the special demurrer of the Respondent to such evidence should be, and the same is sustained.

10. The Court further finds that while the use of machines which did not provide for straight party voting by use of a single selector lever or device but which did permit mixed, split or straight party voting by the use of selector tabs for the office or candidate designated by a party emblem, may have been an irregularity it did not constitute such an irregularity which would lawfully entitle the contestant to be issued a Certificate of Election nor to make it impossible to determine with mathematical certainty which candidate is entitled to the Certificate of Election, nor to warrant the calling of a new election.

11. That there was no evidence of malfunction of voting machines which would materially affect the results of the election.

12. The Court further finds there was no evidence of any irregularity which would warrant the calling of a new election or in awarding a Certificate of Election to the Petitioner.

13. The Court further finds that in the general election in Tulsa County, Oklahoma, on November 5, 1974, full and fair ballots were cast and a true return of the election results was canvassed and made.

CONCLUSION OF LAW

The Court concludes as a matter of law that Petitioner is not lawfully entitled to be issued a Certificate of Elections as United States Senator for the State of Oklahoma as a result of the General Election for such office conducted on November 5, 1974.

The Court further concludes as a matter of law that while the election laws of the State of Oklahoma require that voting machines shall provide for mixed, split or straight party voting, the law does not provide for nor does not require the use of a single selector lever or device for straight party voting, and that where the voter can look at the party emblem and thereby tell for what candidate and what party he was voting, the same is a substantial compliance with the election law, and is not such an irregularity as would void an election.

The Court further concludes that it is possible to determine with mathematical certainty that Respondent, Henry Bellmon, received the greatest number of votes for the office of United States Senator.

The Court further concludes that there were no irregularities of such nature as to invalidate or render illegal the votes cast in the General Election in Tulsa County, Oklahoma.

It is, therefore, the judgment and order of this Court that the Petition and challenge of Edmondson to the correctness of the results of the General Election held November 5, 1974, to fill the office of the United States Senator for the State of Oklahoma be denied; that the total votes cast for each candidate in Tulsa County, Oklahoma, in said General Election should not be changed; that judgment be and hereby is rendered for the Respondent Contestee, Henry Bellmon, and, it is ordered that a Certificate of Election be issued by the State Election Board certifying Henry Bellmon as United States Senator for the State of Oklahoma.

It is the further judgment and order of this Court that the Certificate of Election of Henry Bellmon as United States Senator for the State of Oklahoma be issued immediately without delay by the State Election Board upon the expiration of 48 hours from the receipt of this signed judgment and order by the Office of the State Election Board. In computing the 48 hour period, the Election Board shall not consider Saturday and Sunday as part of the period.

Dated this 22nd day of November, 1974.

J. KNOX BYRUM,
Judge of the District Court assigned.

EXHIBIT B

Shows positions of "selector tabs" when voter enters voting booth.

[Chart not printed in RECORD]

REPORT OF INVESTIGATION OF OKLAHOMA SENATORIAL ELECTION CONTEST SUBMITTED BY JUDGE JAMES F. SCHOENER, MINORITY COUNSEL

SUMMARY

1. Senator Bellmon was the winner of the November 5, 1974 General Election contest for U.S. Senator in Oklahoma.

2. Although the loser, Ed Edmondson, did not demand a recount or allege fraud, he did contest the election results in one county (Tulsa) out of 77 counties in Oklahoma.

3. The Supreme Court designated a trial judge mutually acceptable to both parties, to hear the contest who found that there was no evidence upon which to grant the requested relief.

4. On appeal to the Supreme Court the trial Court was upheld by unanimous decision.

5. Edmondson appealed to the U.S. Senate making the same complaints concerning (1) ballot placement, (2) lack of straight party levers, and (3) instructions for straight party voting on some machines where these machines did not have straight party levers.

6. None of the investigation and interviews by the Senate investigators has been productive of any relevant new evidence concerning Mr. Edmondson's contention.

7. Under usual judicial procedures the motion to dismiss before the Committee would have been granted without the waste and futility of the investigation.

8. A fair appraisal of the actions of the Tulsa County Election Board shows an absence of any wrong-doing and on the contrary a good faith effort to conduct the election. In fact, it appears that this election, when compared with other elections across the country, was as well if not better administered than the average.

BACKGROUND

November 5, 1974—The results of the race for U.S. Senator in the State of Oklahoma were:

Bellmon (Republican)	390,997
Edmondson (Democrat)	387,162
Trent (Independent)	13,650

November 7—Edmondson filed a lawsuit in Tulsa County District Court alleging election law violations in Tulsa County, which he lost by a margin of 22,370 votes.

The official canvas of Tulsa County showed:

Bellmon	72,145
Edmondson	49,775
Trent	1,789

Mr. Edmondson did not request a recount which was his opportunity and right within the time allowed by Oklahoma law, nor did he allege fraud on the part of any person.

His complaint centered on (i) the lack of straight-party voting levers, (ii) the placement of candidates' names on the machine, and (iii) the presence of straight-party voting instructions on some machines even though there were no straight-party levers provided for in the Congressional column (Senate-House of Representatives).

Edmondson asked that either a new election be ordered or the Tulsa County results be thrown out, which would have made him the winner.

November 13—After a two-day hearing, J. Knox Byrum, a retired Democratic judge appointed by the Oklahoma Supreme Court to hear the case, ruled in favor of Bellmon on the grounds "there was no testimony or evidence that any voter was denied the right to vote a mixed, split or straight-party vote by reasons of the machines used or the format or presentation thereon . . ."

A motion for a new trial was filed by Edmondson. It was overruled by Judge Byrum. Edmondson then appealed to the Oklahoma Supreme Court.

December 19—After a thorough and exhaustive review Petition, the Supreme Court of Oklahoma, though initially finding the election machines used in Tulsa County were not programed in total compliance with the Oklahoma law regarding voting machine specifications, ultimately held:

(a) that these irregularities were not sufficient *as a matter of law* to render the votes cast on the Tulsa County machines void or illegal;

(b) that Edmondson failed to show that these irregularities did in fact affect the outcome of the election; and

(c) that Ed Edmondson was therefore not entitled to be issued the Certificate of Election, nor entitled to a new election.

Edmondson filed a petition for rehearing before the Oklahoma Supreme Court. The petition was denied by the Court on January 2, 1975.

January 3—Bellmon was issued the certificate of election by the State Election Board.

January 9—Edmondson filed a petition with the U.S. Senate, making the same allegations concerning the Tulsa County voting procedures as he had made in his state petitions. Bellmon filed a motion to dismiss and an answer to the petition.

January 14—The Senate, on recommendation of the Senate Rules Committee, seated Senator Bellmond without prejudice.

Relevant Oklahoma law

The specification section of the voting machine act with the 1971 amendment underlined is as follows:

"Sec. 274 (Title 26 O.S.) Specifications. A voting machine to be used must be so constructed as to provide facilities for voting for candidates at both primary and general election and also a combination of a non-partisan and partisan primary or general election. It must permit a voter to vote for any person whose name is entitled to appear on the ballot, for any office whether or not nominated as a candidate by any party or organization. It must be constructed as to permit straight party voting as well as mixed or split tickets,

except that voting machines with a vertical columnar presentation of the individual candidates for office, if there are more than two (2) political parties on the ballot at a general election, shall not be programed so as to permit straight party voting by the use of a single lever, button or other device. It must insure voting in absolute secrecy. It must permit a voter to vote for any candidate or on any special measure for whom or on which he is lawfully entitled to vote, but none other. It must permit a voter to vote for the proper number of candidates for an office but no more. It must prevent the voter from voting for the same person twice. It must be provided with a lock or locks by which immediately after the polls are closed any movement of the voting or registering mechanism, if any, or the removal of the contents of the ballot receptacle therein, can be absolutely prevented. It may be provided with a device for printing or photographing the candidate counters before the polls open and after the polls close, making the opening of the counter compartment by the election officials unnecessary".

The Oklahoma Legislature further amended this statute prior to the 1974 election but to be effective in 1975 and thereafter. This amendment was a part of the codification of the Oklahoma Election laws but the change in language may be indicative of the legislative intent of the 1971 amendment.

"All candidates' names and ballot labels shall appear on the voting machine in black ink on clear, white material of such size as will fit the ballot frame, and in as plain, clear type as the space will reasonably permit. The party name of each political party represented on the machine shall be prefixed to the list of candidates for each party. The order of the list of candidates of the several parties shall be arranged in horizontal rows or vertical columns. Said voting machines must be programmed so as to permit straight party voting as well as split or mixed tickets, *unless existing machines are so constructed as to make straight party voting impossible without substantial modification of the machines.*" 26 O.S. 9–104 (Emphasis supplied)

26 O.S. Supp. 1974, § 395.3 is directed to election irregularities and, *inter alia*, provides:

"When a petition alleging irregularities other than fraud is filed, said petition must allege a sufficient number of irregularities and of such a nature as to (1) prove that the contestant is lawfully entitled to be issued a certificate of party nomination or certificate of election, or to have his name appear on the runoff primary ballot, or (2) prove that it is impossible to determine with mathematical certainty which candidates are entitled to be issued certificates of party nomination or certificates of election, or to have their names appear on the runoff primary ballot."

Oklahoma case law

"The right of a qualified elector to vote and to have his vote counted is basic and fundamental. When an election has been conducted in good faith and no elector misled, and a true and fair return of the entire election has been canvassed and made, the will of the people, as indicated by their votes at such election, cannot be defeated by irregularities (particularly those resulting from some act or acts on the part of the election officials) which are not sufficient to change the results of the election." *Porter* v. *Oklahoma City*, 446 P.2d 384.

In *Sparks* v. *State Election Board* (392 P.2d 711), the election officials ran out of paper ballots and substituted "Sample" ballots for six voters. In *Sparks* the Oklahoma Supreme Court said:

"No fraud or improper motive is charged, and none has resulted. No evil was intended and none has resulted. Under the circumstances presented in this case the constitutional right to vote outweighs the form of the ballot, and the sample ballots as used in this case were in fact and in law converted into acceptable and legal ballots. They reflect the will of the electors to whom they were furnished, and accurately record their votes. We must conclude they should be counted by the State Election Board and given weight."

The facts and circumstances involved in *Sparks* are strikingly similar to those involved in an election contest case decided by the U.S. Senate, *Hurley* v. *Chavez* (No. 159 Senate Election Cases), wherein the U.S. Senate used the same reasoning and reached the same result as did the Oklahoma Supreme Court in the *Sparks* decision.

In *Wadsworth* v. *Neher*, 318 Okl. 4, 280 P. 263, the Oklahoma Supreme Court held that in the absence of fraud, an election will not be held invalid on the ground that mandatory provisions of the state election laws have been disobeyed, unless it is expressly declared in the statute that the particular act is essential to the validity of an election or that its omission shall render it void.

In the case of *Gammill v. Shackelford;* (1970) 480 P. 2920, the Court said the burden of proof is upon the contestant in an election contest to show that it is impossible to determine with mathematical certainty which candidate is entitled to be issued a certificate of election.

In addition to the Oklahoma case law on this subject, in the most recent Federal Court case dealing with the right of franchised voters to have their votes counted despite minor irregularities in the conduct of the election, the United States Court of Appeals for the Seventh Circuit, in *Hennings* v. *Grafton*, (Case No. 75–1178), said:

Except for the overall supervision of the county clerk, or his counterpart, and appointed subordinates, the work of conducting elections in our society is typically carried on by volunteers and recruits for whom it is at most an avocation and whose experience and intelligence vary widely. Given these conditions, errors and irregularities, including the kind of conduct proved here, are inevitable, and no constitutional guarantee exists to remedy them.

Edmondson v. Bellmon litigation

An analysis of the litigation filed by Ed Edmondson before the District Court as appealed to the Supreme Court of Oklahoma indicated that the same issues he presented to the Senate have been thoroughly examined by the Courts of Oklahoma.

The trial judge conducted a hearing in which Edmondson, the Election Board and Bellmon were all represented. The trial judge was a retired judge called back to serve by the Supreme Court to conduct this trial. He was a Democratic Party member. He made findings of fact that included the following:

1. Voting machines were not programed to allow single lever straight party voting for either candidate.

2. That no evidence showed that any voter was denied the right to vote a mixed, split or straight party vote by reason of the voting machine configuration or format.

3. The evidence offered by Edmondson was *insufficient* to establish that "it is impossible to determine with mathematical certainty" who was the successful candidate for the United States Senate.

4. That there was no evidence of malfunction on voting machines that materially affected the results.

5. That there was no evidence of any irregularity that would warrant calling a new election, or awarding the election to Edmondson.

The trial Court made conclusions of law that Edmondson was not entitled to a certificate of election; that the programming of the Tulsa machines was in substantial compliance with Oklahoma law; that Bellmon received the greatest number of votes with mathematical certainty; and that there were no irregularities of such a nature as to invalidate or render illegal the votes cast in the November general election in Tulsa County.

Edmondson requested a new trial which was denied. Edmondson then appealed to the Supreme Court of Oklahoma and the trial court result was sustained by unanimous opinion. The Supreme Court framed the issue as follows:

"The issue here is not how the election in Tulsa County should have been conducted, but the legality of the election as conducted." (45 Okla. L.J. 2980)

After finding that there were irregularities the Court quoting from *Town of Grove* v. *Haskell*, 24 Okla. 207, stated:

"All provisions of the election law are mandatory if enforcement is sought before the election in a direct proceeding for that purpose; but after election they should be directory only, unless of a character to effect an obstruction to the free and intelligent casting of the vote . . ."

and again; quoting *Semke* v. *Wiles*, 100 Okla. 105:

". . . but after the election such statutory requirements are directory, unless it appears that the failure to hold the election at the regular place results in fraud and prevented the voters from a full and free expression of their will at the election."

Finally, the Court disposed of Edmondson's contention that the Tulsa County votes should be declared void, saying:

"Neither our statutory law nor our decisional law supports the proposition that the irregularities herein described, by themselves, or collectively, render, ipso facto, illegal and void all or any of the votes cast on the voting machines. We hold the Tulsa County votes cast by use of the voting machines are not illegal or void." (45 Okla. L.J. 2983)

In its final analysis of this case, the Oklahoma Supreme Court held, as a matter of Oklahoma law (45 Okla. L.J. 2987):

(a) as to the absence of straight party levers:

"We hold that while the use of the voting machines, which did not permit straight party voting as required by statute, constitutes an irregularity, it did not constitute such an irregularity to void the election or make it impossible to determine with mathematical certainty which candidate received the greater number of state-wide votes and is entitled to a certificate of election."

(b) as to the erroneous instructions:

"We also hold the erroneous instructions did not void the election, or make it impossible to determine with mathematical certainty which candidate received more statewide votes and entitled to a certificate of election."

(c) as to position of the Senate race on the ballot:

"Assuming that the failure to place the United States Senate race in the upper left-hand panel does constitute an irregularity, it is not such an irregularity as would vitiate or invalidate the Tulsa County election. This irregularity does not make it impossible to determine with mathematical certainty which candidate received the greater number of state-wide votes and is entitled to a certificate of election."

(d) and ultimately:

". . . the candidate receiving the most state-wide votes for the office of United States Senator can be determined with mathematical certainty and that candidate is entitled to be issued a Certificate of Election. Bellmon is that candidate."

A rehearing by Edmondson was considered and denied.

Voting machines used in Tulsa County

Straight Party Levers

The voting machines used in Tulsa County are a comparatively rare type of machine manufactured by the Seiscor company (formerly of Tulsa, Oklahoma). The Seiscor

machine has a vertical presentation of candidates similar to the Shoup machine. As it was originally constructed, the Seiscor machine provided a mechanism for voting a straight party ticket on *every partisan office* placed on the face of the machine, by the pushing of a single button. When originally considering the purchase of the Seiscor machines, the Tulsa County Board of County Commissioners questioned whether the Seiscor machine, as originally constructed would comply with state law requiring that national, state, county, and local offices be placed on "separate ballots". In Oklahoma's paper ballot counties, each of these four categories is placed on a separate paper ballot. In addition, each of these separate paper ballots contain straight party circles making it possible to cast a "straight party vote" for all candidates of one party appearing on such *separate ballot* by marking an "X" in the appropriate party circle at the top of such ballot.

Thus, it was determined at the outset that since the original Seiscor machine would allow a voter to vote a "straight party ticket" for *every* office across the board, it would be in violation of the Oklahoma "separate ballot" law to allow the use of these machines in Tulsa.

To overcome this problem, Seiscor agreed to modify their machines. This modification consisted of first removing the mechanism which provided for the across the board type "straight party vote." Seiscor then modified the machine so that a "straight party lever" could be placed on the bottom of each column of the machine face. Thus, when one of these straight party levers was in position and operational at the bottom of a particular column, that column and that column alone, could be voted "straight party" by the movement of the lever. This one column was then considered equal to a "separate ballot". Additionally, when the number of candidates on any one particular ballot was too numerous to position in only one column, two adjacent columns would be utilized and the levers positioned at the bottom of these two such columns would be bridged together so that a single movement could accomplish a "straight party vote" for all the offices on that particular "ballot."

When the American Independent Party qualified for ballot placement in Oklahoma in 1968, Tulsa County found their modified Seiscor machines could not be programmed for third party "straight ticket levers" and still maintain the separate ballot concept. Accordingly, the Tulsa County Election Board solicited and received an opinion from the Attorney General of Oklahoma indicating that the straight party levers should be left off the machines.

In 1970 the same Attorney General gave a contrasting opinion suggesting that the Tulsa type voting machine could not be used. The Tulsa County Board of Commissioners filed a petition for declaratory judgment before Robert D. Simms (later appointed to the Oklahoma Supreme Court by a Democratic Governor and who excused himself from the Edmondson v. Bellmon litigation). Judge Simms declined jurisdiction but in his opinion discussed the problem presented. He first noted there was no definition of "straight party voting" under Oklahoma law. He further indicated that he felt that the Tulsa Election Board could have used the machines without the straight party levers and still be in "substantial compliance" with state law. However, paper ballots were used in 1970 causing a great deal of confusion and expense.

Because of the problems caused by the use of paper ballots in 1970, the Tulsa County Election Board and County Commissioners were concerned that their investment of over $1,000,000 in Seiscor machines might be totally lost and so formed a "Blue Ribbon Panel" to study this problem. Earlier, the County Commissioners and the Election Board had considered purchasing ninety-six Seiscor machines of original configuration from the State of Hawaii (which configuration is identical to the subsequently purchased "Amarillo machines" and identical to the machines being used in Tulsa County except for the modification which provided straight party voting on a separate ballot basis). The Board declined the purchase from Hawaii because of the expense of modification. Simultaneously, the Tulsa County Election Board was seeking legislative change in the Oklahoma Statutes. In 1971 the Oklahoma Legislature amended Section 274 of Title 26 of the Oklahoma statutes to provide for the following exception to the use of straight party levers:

"... (The machine) must be so constructed as to permit straight party voting as well as mixed or split tickets, *except* that voting machines with a vertical columnar presentation of the individual candidates for office, if there are more than two (2) political parties on the ballot at a general election, shall not be programmed so as to permit straight party voting by the use of a single lever, button or other device . . ."

Personnel of the Tulsa County Election Board testified at both the trial court and the investigative hearings that they assumed this amendment obviated the necessity of straight party levers on the Seiscor machines. They then learned that Amarillo, Texas, was changing to computer voting and wanted to sell (at an excellent price) their supply of unmodified Seiscor machines. Since Seiscor had gone out of the voting machine business and Tulsa had purchased all of the spare parts and since two Seiscor machine experts, Mr. Sexton and Mr. Gallagher, reported that the Amarillo machines were compatible to Tulsa elections, the Tulsa Election Board bought Amarillo's machines.

Both the Tulsa and Amarillo machines were programmed identically, and without straight party levers on the assumption that the 1971 amendment made such levers unnecessary. Such thinking appears reasonable since there had not been any straight party levers in state-wide elections on the machines since 1968 and in that election the straight party levers were only on the county office races where there were no more than two political parties. Further, in 1972, no party levers were on Tulsa's voting machines, even in the two party county ballot.

The Chief Elections Clerk, Mr. Harmon Moore, was responsible for the programming of the machines with the approval of the Election Board. He testified that there was no discussion about the use of straight party levers for the November 1974 general election (Senate Testimony p. 145). Both parties were given sample ballots. According to Mr. Moore, in the discussions with Mr. Gallagher, the contract programmer, the question of the use of straight party levers "never came up" (Senate Testimony p. 163). The Secretary of the Tulsa County Election Board, Danny McDonald, similarly testified in the trial court and at the investigative hearings. It should also be noted that Edmondson's Tulsa County Campaign Coordinator, Mandell Matheson, also testified at the investigative hearings that it was his impression that straight party levers were no longer necessary on the Tulsa County machines (Senate Testimony, P. 302). Parenthetically, both Mr. McDonald and Mr. Moore were active Democratic party workers and both were strong Edmondson for Senate workers in the 1974 election after their employment hours.

Ballot Placement

Edmondson also claims that the Senate race should have been placed in Column 2 on the face of the machines instead of in column 6. Harmon Moore, Chief Clerk of the Tulsa County Election Board testified that he was responsible for the arrangement of the various races on the face of the machine. He further testified that from conversations with Mr. Vic Thompson, Assistant Secretary of the State Election Board, and from an examination of the 1972 sample ballot, it was his impression that the arrangement of the various offices on the machine face was proper.

An examination of the 1972 sample ballot, evidencing the relative position of the various races, shows that in 1972 the Senate race was in the exact position, column 6, as it was in 1974. Further, the 1974 primary and primary runoff sample ballots show that the Senate race occupied the same relative position in those elections as it did in the general election. However, no objection to this position was raised until after the general election.

Party Vote Instructions

Edmondson's last contention is that because the 545 Tulsa machines contained instructions on how to vote a straight party ticket using "levers" at the bottom of each column on the face of the machine, when in fact such levers were not on these machines, many voters intending to vote a straight Democratic ticket in Column 6, were misled and failed to do so. Edmondson theorizes that a voter, reading these party vote instructions might have moved the selector tab in the U.S. Representative race (located below the Senate Race in column 6) to the Democratic candidate James R. Jones, thinking that by doing so, a vote was also being cast for Edmondson.

In addition to the fact that there has been no evidence whatsoever that this alleged phenomenon did in fact occur, the testimony of every witness addressing this issue reveals that these "erroneous instructions" were permanently affixed to the Tulsa machines at the time of their purchase and have been on the machines in every prior election, primary and general, in which machines were used. (Levers are never on machines in primaries and have not been used in Tulsa County for a U.S. Senate race since 1966). Further, these same "erroneous instructions" were on the machines and there were no levers when Mr. Edmondson ran for the U.S. Senate in 1972.

It should further be noted that in addition to these "erroneous instructions" every one of the Tulsa machines contained a larger and more conspicuous set of "Voting Instructions" which correctly set forth the procedure for casting votes on the machine.

STATISTICAL ABSTRACT

There are two sets of basic election statistics pertaining to Tulsa County voting in the past and in the 1974 election which may be pertinent to a proper understanding of the Edmondson-Bellmon contest.

Voter registration

Contrary to the trends in most of the United States, Republican registration of voters increased from 1972 to 1974 in both Oklahoma and Tulsa Counties, while Democratic registration decreased. In fact, Democratic registration in Tulsa County has continuously dropped from 68.8% in 1962 to 57.9% in 1974.

Voter participation in Senate race

Mr. Edmondson's basic contention is that because of various irregularities, many Tulsa County voters were so confused that they were prevented from voting in the Senate race. This contention loses all credibility when viewed in light of the fact that 97.0% of the voters who signed the poll books in Tulsa County did in fact vote in the Senate race, when only 95.2% of the voters who signed the poll books in *Oklahoma* County voted in the Senate Race (Oklahoma County's A.V.M. machines were programmed to Mr. Edmondson's satisfaction), and only 96.5% of the voters who signed the poll

books in the seventy-five paper ballot counties voted in the Senate race. Further, this percent of voter participation in the Senate race in Tulsa County in 1974 is higher than in any U.S. Senate race voted on in Tulsa County since Tulsa first obtained voting machines in 1962.

CONCLUSION

The witnesses presented to the Committee investigators did not add one scintilla of relevant evidence that was not already before the Committee in the form of the certified transcript of the trial court of Tulsa, Oklahoma. The attempt to show voter confusion by the introduction of so-called "affidavit testimony" during the testimony of Rodney Ray was most improper. At the trial of the cause in Tulsa where voter witnesses called by Mr. Edmondson were subject to cross examination, it was shown that there was not in fact such confusion as would deprive any voter of their free and intelligent franchise. It is also significant that the trial judge and the Supreme Court of Oklahoma were both furnished these same affidavits and considered them in Mr. Edmondson's contentions. It should also be noted that at least one of these affidavits was taken under such circumstances as to cast doubt on the rest in that the person who signed it was subsequently shown to have neither signed the poll book on election day nor to have been a registered voter.

Additionally, the Committee's examination of the actual voting machines and the records of the Tulsa County Election Board failed to disclose any relevant facts which would in any manner tend to substantiate the claims propounded by Mr. Edmondson.

In summary, the Committee uncovered no evidence of fraud or evil intent on the part of any election official. Further, it uncovered no evidence that the mistakes made by election officials deprived even one voter of his or her constitutional right to cast a vote and have that vote counted.

The fact that 97% of the voters who chose to go to the polls on November, 1974 in Tulsa County were able to find the Senate race on the machine, pull the selector tab to the party symbol or individual candidate desired and push the vote button, clearly demonstrates that no Tulsa County voter was denied this right. Further, the fact that 58.3% of these voters had to pull their selector tabs past the name and party symbol of Ed Edmondson clearly evidences that the collective will of the voters of Tulsa County has been ascertained. There is simply no way to get around the fact that 72,145 Tulsa County voters exercised their franchise and cast their votes for the Republican candidate, Henry Bellmon.

Finally, it should be pointed out that the Constitution of the United States provides in Section I at Section 4:

"The Time, Places and Manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; . . . ."

The Supreme Court of the State of Oklahoma has the duty under the Oklahoma Constitution to construe the laws of its State. It has examined the facts and law—even held a rehearing at Mr. Edmondson's request—but has found, as a matter of law, that the same contentions made by Mr. Edmondson before this Senate were not grounds for the relief requested.

Lastly, absent a showing of fraud, the Senate has refused election contests where the State authorities have considered and ruled on the matter in contest, ***Willis v. Van Nuys***, Case No. 148, Senate Document 92–7, ***"Senate Election, Expulsion and Censure Cases"***. The Senate has also refused to entertain cases in which there is no showing that there were facts that could overcome the presumption of validity that surrounds the presentation of the credentials under the Seal of the State—and as in this case as ordered by the Supreme Court of Oklahoma. *Henry B. Payne of Ohio*, Case No. 88, *"Senate Election, Expulsion and Censure Cases"*, supra., Case No. 145, *Sweeney v. Kilgore*, and Case No. 155, *Hook v. Ferguson*, The Senate has further refused to accept petitions where the contest is based on indefinite and general charges. *Hoidale v. Scholl*, Case No. 139, *Pritchard v. Bailey*, Case No. 140, *Senate Election, Expulsion and Censure Cases*. The complaint in this cause and the evidence already taken indicates that there are no facts upon which the Senate could find in Mr. Edmondson's favor since all claimed irregularities could not cumulatively alter the vote sufficiently to reverse the certification of the State of Oklahoma. *Willis v. Van Nuys*, Case No. 148, *Heflin v. Bankhead*, Case No. 138, *Senate Election, Expulsion and Censure Cases*.

Accordingly, it is the recommendation of Minority Counsel that the petition of Mr. Edmondson be dismissed on the motion heretofore filed by Senator Bellmon.

Respectfully submitted,

JAMES F. SCHOENER.

TO THE HONORABLE NELSON ROCKEFELLER, VICE PRESIDENT OF THE UNITED STATES AND PRESIDENT OF THE SENATE

MOTION TO DISMISS OF HENRY BELLMON

Respondent, Henry Bellmon, United States Senator from the State of Oklahoma, by his attorneys, respectfully moves the United States Senate to dismiss the "Complaint and Petition" of Ed Edmondson on the following grounds:

1. That the "Complaint and Petition" does not set forth any facts which constitute that Henry Bellmon, United States Senator from Oklahoma, is not qualified to be seated as a member of the United States Senate for the full term of six (6) years commencing January 14, 1975, (94th Congress) pursuant to Article 1, Section 3, and Amendment XVII of the Constitution of the United States;

2. That the "Complaint and Petition" admits that the Supreme Court of Oklahoma has heard the challenge of Petitioner and held, based on the said Court's review of the Oklahoma Election Laws which prescribe the time, place and manner of its elections under authority of Article 1, Section 4, Clause 1 of the United State Constitution, that the State Election Board of Oklahoma was required to issue the Certificate of Election to Henry Bellmon as earlier ordered by the Trial Court, since Henry Bellmon was duly elected as United States Senator; furthermore, that said "Complaint and Petition" and Petitioner's exhibits do not state any facts which give rise to the character of new evidence in requesting the Senate to reverse the Supreme Court of Oklahoma on this matter; *Raymond E. Willis v. Frederick Van Nuys* of Indiana, Case #148, Senate Document 92–7, 92nd Congress, 1st Session.

3. That the "Complaint and Petition" is merely a compilation of conclusions and presumptions based on implication and does not state facts sufficient for the United States Senate to vitiate, hold for naught or otherwise amend the opinion of the Supreme Court of Oklahoma which has determined that the manner of the election was such that it could be determined with mathematical certainty pursuant to the election laws of Oklahoma that Henry Bellmon was duly elected to the Office of United States Senator; Henry B. Payne of Ohio, Case No. 88, *id;*

4. That the "Complaint and Petition" does not state facts which assert any wrongdoing on the part of Henry Bellmon or his agents which constitute grounds for the United States Senate to refuse to accept Henry Bellmon's credentials as the duly elected and qualified Senator as certified by the State Election Board and for the United States Senate to refuse to seat Henry Bellmon as a member of the United States Senate for his duly elected term of office; Henry B. Payne of Ohio, Case No. 88, *id; Tom Sweeney v. Harley M. Kilgore* of West Virginia, Case No. 154, *id; Frank E. Hook v. Homer Ferguson* of Michigan, Case No. 155, *id;*

5. That the "Complaint and Petition" is merely a compilation of conclusionary statements based totally upon conjecture which is too general and indefinite to justify an investigation by the United States Senate; *Elinar Avidale v. Thomas B. Schall* of Minnesota, Case No. 139, *id; George M. Pritchard* v. *Josiah W. Bailey* of North Carolina, Case No. 140, *id.*

6. That the "Complaint and Petition" does not state sufficient facts to establish that the irregularities in the manner the election was conducted in Tulsa County, Oklahoma, if corrected would have altered the outcome of the election and thereby requiring the United States Senate to reverse a valid decision of the Supreme Court of Oklahoma; *Raymond E. Willis v. Frederick Van Nuys* of Indiana, Case No. 148, *id; J. Thomas Heflin v. John H. Bankhead* of Alabama, Case No. 138, *id;*

7. That the "Complaint and Petition" in requesting the United States Senate to assume jurisdiction pursuant to Article 1, Section 5, Clause 1 of the United States Constitution does not state facts sufficient to establish that the Supreme Court of Oklahoma was in error in its judicial determination of the election laws of Oklahoma prescribing the manner of elections when the Court required the State Election Board of Oklahoma to issue the Certificate of Election to Henry Bellmon as duly elected to the full term of Office of United States Senator; *Raymond E. Willis v. Frederick Van Nuys* Case No. 148, *id;*

8. That Petitioner has requested that the United States Senate assume jurisdiction pursuant to Article 1, Section 5, Clause 1 of the United States Constitution, to conduct an investigation and to hold that Henry Bellmon, who has been duly certified as the elected Senator from Oklahoma for a full term commencing January 14, 1975, and who is qualified pursuant to Article 1, Section 3 and Amendment XVII of the United States Constitution, without Petitioner having asserted sufficient facts to warrant the Senate's reversal of the highest court of Oklahoma. Further, Petitioner has requested that the judgment of the United States Senate be, in effect, substituted for the judgment of the duly qualified electors of Tulsa County, Oklahoma. That to do so, Respondent respectfully submits, would be to deny to the voters of Tulsa County their Constitutional right to vote and to have their votes counted; Article 1, Section 4, Clause 1; Amendment IX of the Constitution of the United States; Amendment X of the Constitution of the United States; Amendment XVII of the Constitution of the United States;

Wherefore, Respondent, Henry Bellmon, United States Senator from Oklahoma, by his attorneys prays that Petitioner's "Complaint and Petition" be dismissed and that Henry Bellmon who is duly qualified pursuant to Article 1, Section 3, and Amendment XVII of the United States Constitution be seated for his full term on January 14, 1975, upon presentation of his credentials.

Respectfully submitted,

JOHN M. COFFEY.

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FOUR REASONS FOR DISMISSAL OF THE PETITION OF CONTEST OF ED EDMONDSON

(Oklahoma senatorial contest)

1. The precedents of the U.S. Senate in the Chavez case and others indicate that irregularities by election officials not attributed to the certified winner are not grounds for denying such Senator his seat.

2. The contestant has failed to meet his burden of proof required to show that there is a mathematical uncertainty in this election to any extent and certainly insufficient to overcome the 3,835 vote margin of Senator Bellmon.

3. The irregularities charged in Tulsa County were de minimis and did not deprive any voter of an equal and fair chance to vote his choice for U.S. Senator.

4. The Courts of Oklahoma have unanimously decided that there was no legal reason to certify Mr. Edmondson and that Senator Bellmon was entitled to the Certificate of Election as U.S. Senator.

Detailed Reasons for Above Assertion Attached.

Respectfully submitted,

JAMES F. SCHOENER,
Minority Counsel, Committee on Rules and Administration.

DETAILED REASONS FOR DISMISSAL

POINT NUMBER 1

The precedents of the U.S. Senate as shown in the *Senate Election, Expulsion and Censure Cases* (Document No. 92–7) indicate that where irregularities, election errors or even election fraud has occurred, *not attributable to the respondent*, the Senate will not declare the seat vacant. Thus in the case of *Patrick J. Hurley* v. *Dennis Chavez* (Case No. 159) Senator Thomas C. Hennings, Jr. (D.-Mo.), stated,

". . . the Senate should not 'disfranchise voters because of failure of election officials to fully comply' with 'technical election statutes.' " page 151.

The report on the *Chavez* case indicates the Subcommittee on Privileges and Elections found "irregularities" such as "criminal conduct against the rights of voters" and "violations by election officials." Despite such allegations and the findings of the Subcommittee, the Senate refused to deny Senator Chavez his seat. Senator Robert Taft of Ohio pointed out,

"At no time was any charge or suggestion of election fraud or irregularity made against the Senator (Chavez)." p. 151.

In the case of *Frank E. Hook* v. *Homer Ferguson*, Case No. 155, the Senate decided against the contestant in spite of the subcommittee finding of: ". . . the election procedure was faulty and inadequately administered",

but was not

"coupled with a fraudulent intent . . ."

and although election laws of the State of Michigan were frequently violated, but ". . . there was no indication that Ferguson himself was responsible for such illegalities . . ." p. 146.

In many other cases the Senate has shown clearly that where there are irregularities in the carrying out of an election not attributable to the contestee they will not deny the certified winner his seat, *Heflin* v. *Bankhead*, Case No. 138, *Hoidale* v. *Schall*, Case No. 139, *Chavez* v. *Cutting*, Case No. 143, *Willis* v. *Van Nuys*, Case No. 148, and *Sweeny* v. *Kilgore*, Case No. 154. For the Senate to depart from these precedents would be to invite 30 plus election contests every two years.

Nowhere in the various Court actions nor in the multiple pleadings and responses before the Senate has Edmondson *ever* suggested (or hinted) that Senator Bellmon was responsible for such irregularities.

POINT NUMBER 2

The Oklahoma Supreme Court also addressed this issue very succinctly:

"Although the evidence indicates that some of the 123,718 voters who voted in the United States Senate race wanted to vote a straight party ticket, Edmondson failed to establish and there is no competent evidence to support a finding that any of those voters were deprived of their right to vote or failed to vote for Edmondson because the voting machines were not programmed to permit straight party voting, or because of the erroneous instructions, or because the candidates for United States Senator were not placed in the upper left-hand Column on the machine ballot panel. Also, Edmondson failed to establish and there is no competent evidence to support a finding that of those 123,718 votes cast, Bellmon would not have received the 72,145 votes cast for him if the voting machines had been properly programmed with proper instructions, or that he received any votes because of the irregularities.

"Considering the irregularities together and their cumulative effect, Edmondson simply failed to establish by competent evidence that these irregularities singularly or together caused at least 3,835 voters who participated in the Tulsa County election to forego or fail to record a vote in the United States Senate race. Since Edmondson did not present sufficient evidence to establish this essential fact, and since the Court may not indulge in presumptions, the candidate receiving the most statewide votes for the office of United States Senator can be determined with mathematical certainty and that candidate is entitled to be issued a Certificate of Election. Bellmon is that candidate."

When one considers Mr. Edmondson's "new evidence" it is found that for the most part it is not even new, and for that which is new, it can hardly be classified as "evidence." This is responded to in the Summation of Senator Bellmon, pages 2–5. In an attempt to establish by theories and speculations, based on assumptions, that the irregularities did affect the outcome of the election, a fact which Mr. Edmondson could not establish by testimony of actual voters, Mr. Edmondson called his two experts, the same two people he relied on in the trial court and quoted extensively before the Supreme Court. Clearly these two experts continue to only offer speculation without any real evidence to back up their theories. The Senate, as the Supreme Court of Oklahoma, shouldn't indulge in speculations or presumptions.

POINT NUMBER 3

The irregularities complained of by Mr. Edmondson obviously affected both candidates Bellmon and Edmondson. The statistics indicate a record number of voters who voted in the election were able to express their choice for Senator. The lack of the party lever meant that the voter had to move a separate selector for Senator *and* Representative rather than a single lever for the two offices. For the voter to have voted for Senator Bellmon he or she had to pull the tab past Ed Edmondson's name and the Democratic party symbol. Thus the existence of the "straight lever" as specified under Oklahoma law (in the section on machine specifications) would have saved the Tulsa voter from one extra movement of his hand. Clearly this is *de minimus*.

The courts of this country have decided many cases similar to the Edmondson contentions. They have uniformly held that ministerial errors in elections cannot void elections. In the case of *Powell* v. *Power*, 436 F2d 84 (2nd Circuit 1970), the Court said, ". . . we cannot believe that the framers of our Constitution were so hypersensitive to ordinary human frailties as to lay down an unrealistic requirement that elections be free of any error." at 88.

In the case of *Nelson* v. *Robinson*, Fla. District Court Appl., 43 L.W. 2192, it was held,

"Regarding defects in ballots, courts have generally declined to void an election unless such defects clearly operate to prevent a free, fair and open choice by the electorate.

"No finding was made that even a single voter was prevented from exercising his free choice when he voted, although it was found that several voters were 'confused.' But mere confusion does not amount to an impediment to the voters' free choice if reasonable time and study will sort it out." at 2192

Finally, the United States Court of Appeals in *Hennings* v. *Grafton* (7th Cir., Case No. 75–1178) on October 2, 1975, said:

". . . the record here shows it most irregularities caused by mechanical or human error and lacking in invidious or fraudulent intent; it does not show conduct which is discriminatory by reason of its affect or inherent nature.

"Given these conditions, errors and irregularities . . . are inevitable, and no constitutional guarantee exists to remedy them." at 1178.

POINT NUMBER 4

Petitioner Edmondson invoked the jurisdiction of the Oklahoma trial court pursuant to the Oklahoma Election statutes. The Honorable J. Knox Byrum found that Edmondson had not sustained his burden of proof and as a matter of law the court could not restrain the election board from issuing the certificate of election to Senator Bellmon.

Edmondson then petitioned the Supreme Court of Oklahoma urging the court to assume original jurisdiction and prohibit the election board from issuing the certificate of election to Senator Bellmon, and to order the election board to issue the certificate to Ed Edmonson or in the alternative to declare that a new election must be held. Interpreting Oklahoma law, the Court held, by affirming the trial judge, that Petitioner Edmondson had not sustained his burden of proof that the election was mathematically uncertain, and specifically that Edmondson's Writ of Prohibition and Writ of Mandamus be denied.

"The issue here is not how the election in Tulsa County should have been conducted, but the legality of the election as conducted."

"We hold the Tulsa County votes cast by use of the voting machines are not illegal or void."

"We also hold the erroneous instructions did not void the election, or make it impossible to determine with mathematical certainly which candidate received more state-wide votes and entitled to a certificate of election."

Clearly, the Supreme Court of Oklahoma was concerned whether the irregularities which occurred in Tulsa County by the failure of the election officials to provide straight party levers, prevented the voters from a full and free expression of their will at the election.

SUMMATION ON BEHALF OF SENATOR HENRY BELLMON

In the matter of Ed Edmondson, petitioner versus Henry Bellmon, U.S. Senator, respondent—Committee on Rules and Administration, U.S. Senate.

PRELIMINARY STATEMENT

It has been nearly a year now since Mr. Edmonson first instituted this proceeding, disputing the outcome of the 1974 race for United States Senator in the State of Oklahoma. The matter has been investigated by the Committee's investigative staff, and the Committee has heard the testimony of expert witnesses called by both sides. In spite of all this, it appears that Mr. Edmondson is still confused as to the actual facts in this case. Hopefully, the following will put to rest any confusion which may still exist.

THE DECISION OF THE OKLAHOMA SUPREME COURT

There is no doubt that irregularities did exist in the conduct of the election in Tulsa County. This was long ago decided by the Oklahoma Supreme Court, and is no longer an issue. But that there were irregularities was not the only finding of the Court. The Supreme Court (as did the trial court) went on to find that these irregularities had not affected the outcome of the election. Mr. Edmondson, who invoked the jurisdiction of the Court and who requested the same relief herein requested, now asks this Committee to disregard that part of the Court's decision. Mr. Edmondson urges this Committee not to be persuaded by the decision of the highest Court of the State of Oklahoma, claiming that "major findings which represent new evidence not presented to any Oklahoma Court considering this matter" were made by the Committee's investigative staff. Let's look for a moment at Mr. Edmondson's claimed "new evidence."

MR. EDMONDSON'S "NEW EVIDENCE"

1. *The Testimony of Gene Howard:* Mr. Howard testified concerning an election contest in which he had been involved in 1966. The Oklahoma Supreme Court decided Mr. Howard's case as it did Mr. Edmondson's. In fact, the same Justice wrote both opinions. In Howard's case, because of an admitted malfunction of a machine, only 37 votes or 29% of the 131 possible votes were recorded. In Mr. Edmondson's case, there is no evidence that any machine failed to record votes. Further, since 97% of the possible votes were recorded, there is no reason to presume that any votes went unrecorded. Additionally, Gene Howard testified that he was opposed to straight party levers. Based on his many years of experience, it was his opinion that straight party levers caused more problems on voting machines than any other function of the voting process.

2. *The Testimony of Roger Randle:* That several newspaper ads had urged voters to "vote Democratic," is hardly worthy of being classified as a "major finding." This so called "new evidence" was presented to the trial court and argued before both courts.

3. *The Testimony of Gene Gallagher:* Mr. Edmondson also claims the investigation's discovery that Gene Gallagher, the programmer of the Tulsa County machines, was a registered Republican, was a "major finding." This so called "new evidence" does not tend to show that the irregularities affected the outcome of the election, and Mr. Edmondson's counsel expressly denied any attempt to cast aspersions upon Mr. Gallagher.

4. *The Testimony of Irene Perkins:* Mrs. Perkins, a precinct worker, testified that there were "no problems" in her precinct, that not one voter asked any questions about the party vote instructions and that only a few persons asked if they could vote a straight party ticket, whereupon she instructed them on the proper manner: she told them to move each of the "little digits" in each race to the party desired. Mrs. Perkins also testified that she had no difficulty in voting on the machines, that she did not see the party vote instructions, and that the only complaint she received was that the "board was so loaded" that some people did not want to take the time to read the state referendum questions. Her testimony in no manner indicated the "massive voter confusion" claimed by Mr. Edmondson.

5. *The Affidavits presented by Rodney Ray:* Rodney Ray's affidavits of confused voters were all before the Supreme Court and simply reiterated the testimony of the voter witnesses called at the trial court by Mr. Edmondson. In each instance, these trial court witnesses indicated some initial confusion but all testified that they were able to "figure out" how to vote a straight party ticket on the machines and did in fact so vote. It should also be pointed out that while Mr. Edmondson had every opportunity to present his "confused" voters for questioning by the Committee's investigative staff while they were in Tulsa on two separate occasions, he wholly failed to do so.

6. *The "High Bottom Candidate Vote Totals":* Mr. Edmondson claims that the "newly discovered evidence" that the unopposed Democratic candidates at the bottom of the first two columns on the "Tulsa" machines received more votes than any other Democratic candidate in their respective columns, conclusively proves his "erroneous instructions-bottom lever" theory. The fact that the same "phenomenon" occurred on the "Amarillo" machines, where there were no "erroneous instructions" and on absentee ballots, where a straight party vote was possible and where one of the "bottom" candidates was not on the "bottom," should put this argument to rest. (See page 3 of Mr. Bellmon's Reply Brief for a more detailed analysis of this aspect.)

7. *The Affidavit of Dr. William Fewell:* This is the only new matter before this Committee but could hardly be termed "evidence." In this regard, it seems a bit incredulous that after a year of Mr. Edmondson's expounding on his "bottom lever" theory in the Courts, in the newspapers, and television and in every public interview given by Mr. Edmondson, that Dr. Fewell would "only recently discover" that he had actually performed the amazing feat which Mr. Edmondson had been theorizing. Dr. Fewell was never subjected to cross-examination by anyone. He was not called, nor did he volunteer this testimony before the Committee's investigative staff, although their presence in Tulsa was widely publicized. However, even if Dr. Fewell's statement is taken at face value, it suggests that only one voter failed to vote because of the irregularities—one voter out of over 125,000 who voted on machines—hardly enough to change the outcome of the election.

8. *The "Discrepancies in the Official Certificates of Votes":* Although the Committee's investigative staff was given copies of the "official Certificate of Votes" for each precinct upon its first trip to Tulsa, not one question was ever asked of an election board official or precinct worker concerning what Mr. Edmondson refers to as "discrepancies." Mr. Edmondson had every opportunity to challenge the reported results of the election and to ask for a recount. Had he done so, as Mr. Harmon Moore indicated in his statement, the machines could have been reread and any discrepancies readily explained. Once again, however, Mr. Edmondson waited to see if he could win his case under the "irregularities" statute, (after his time had expired to seek a recount) before raising the issue of the vote tally, just as he had waited to see how the election turned out before raising the issue of straight party levers. A detailed explanation for the reasons behind these "discrepancies" can be found in the statement of Harmon Moore, which was presented to the Committee.

Thus, as seen above, Mr. Edmondson's claimed "new evidence" is for the most part not even new, and as for that which is new, it can hardly be classified as "evidence" much less as "major findings."

MR. EDMONDSON'S EXPERT WITNESSES

In an attempt to establish by theories and speculations, based on assumptions, that the irregularities did in fact affect the outcome of the election, a fact which Mr. Edmondson could not establish by the testimony of the actual voters alleged to have been so affected, Mr. Edmondson called his two expert witnesses, the same two witnesses relied upon in the trial court and quoted extensively before the Supreme Court.

It would be wholly unproductive to attempt herein to point out all of the inconsistencies and illogical assertions made by both Drs. Miller and Kirkpatrick. A more logical and expedient approach to responding to their testimony would be to first look at how the irregularities are alleged to have affected the outcome of the election, and then to look at the experts' testimony.

Theoretically, the irregularities could have affected the outcome of the election in only two ways:

(1) They could have caused voters not to vote in the Senate race, or

(2) They could have caused voters to vote differently than they actually did vote.

(1) Were Voters Prevented from Voting?

(a) The Position of the Senate Race: The only theory advanced by Mr. Edmondson's experts with respect to the position of the Senate Race on the ballot causing voters not to vote is the theory of "voter fatigue," i.e. voters became tired as they moved across the ballot and failed to vote in the Senate race because they tired out before reaching it. Mr. Edmondson claims that had his race been placed at the top of Column 3, where the Gubernatorial race was located, more voters would have voted for him, and cites the fact that in 1962 and 1966, when the Senate race did so precede the Gubernatorial race on the machine, more Democratic votes were cast for Senator than Governor.

This statistic is clearly irrelevant with respect to voter fatigue, unless Mr. Edmondson means voters get tired of voting for Democrats as they move across the board. The theory of "voter fatigue" is that it causes voters not to vote at all. Thus, all the votes cast in each race, not just the Democratic votes, must be looked at when analyzing "voter fatigue." When this is done, it is seen that in both 1962 and 1966, more total votes were cast in the Gubernatorial race than the Senate race. Further, as Dr. Penniman pointed out, in 1962, when the Senate race did occupy the "top" position, only 92.9% of the voters voting for governor voted for Senator, in 1966 only 91.1 did so, while in 1974, 98.6% so voted. Thus, there is simply no evidence of "voter fatigue" causing people not to vote in the Senate race in 1974.

(b) *The "erroneous party vote instructions".* The theory is that the "erroneous party vote instructions" affixed to the "Tulsa" machines caused voters to pull the bottom "selector tabs" or "keys" located next to the bottom race in each column, mistaking them for the "straight party levers" described in the instructions, and thereby caused them not to vote in the Senate race. The "evidence" presented by Mr. Edmondson's experts to prove this theory was the fact that the unopposed Democratic candidates in the races at the bottom of the columns received more votes than the unopposed Democratic candidates further up in the columns. Again, as pointed out by Dr. Penniman, this "evidence" proved nothing since the same phenomenon occurred on both the "Amarillo" machines and the absentee ballots, i.e. the unopposed candidates received votes in the same order on the "Amarillo" machines, which had no erroneous instructions—thus, no reason to pull only the "bottom lever,"

and on the absentee ballots where the ballot form was entirely different. (See page 3 and Appendices 2–6 in the Reply Brief filed herein.)

(c) *The absence of straight party levers:* Neither Mr. Edmondson nor his experts even claimed that the absence of straight party levers caused voters not to vote in the Senate race. Thus, Mr. Edmondson's expert witnesses wholly failed to present any competent evidence that the irregularities complained of, either separately or cumulatively, caused voters not to vote in the Senate race. Mr. Edmondson's experts never did explain the fact that while only 3% of the Tulsa County voters failed to vote the Senate contest—a much higher number failed to vote in Oklahoma County (4.8%) and the paper ballot counties (3.5%). When these "non-voting" figures are compared it is difficult to see how Tulsa County's irregularities could even conceivably be said to have caused voters not to vote.

2. *Did Voters Vote Differently than they would have?*

(a) *The position of the Senate race:* Mr. Edmondson makes the wholly illogical argument that voters who voted for Senator Bellmon with the Senate Race in Column 6 would have instead voted for him if the Senate race had been in Column 3. Presumably, this argument is based on the fact that in 1962 and 1966, when the Senate race was in Column 3 and the Gubernatorial race was in Column 6, the reverse of the 1974 situation, the Democratic candidates for Senator received more votes than the Democratic candidate for Governor. To say the least, this argument is wholly illogical. It completely ignores an important political concept, i.e. that some candidates are simply more popular than others and thus receive more votes. Mr. Edmondson also chooses to ignore the fact that the reason the Democratic Gubernatorial candidate in 1962 received fewer votes was because the Republican Gubernatorial candidate was Henry Bellmon, just as in 1966 the Republican Gubernatorial candidate was Dewey Bartlett, both of whom have been big vote getters in Tulsa County and both of whom have defeated Mr. Edmondson.

Mr. Edmondson also relies on the testimony of Dr. Miller, who claims there would have been less ticket splitting had the Senatorial race been on top in Column 3 presumably to Mr. Edmondson's advantage because of the higher Democratic registration in Tulsa County. In Tulsa County, with 58% of the people registered as Democrats, the Democratic Gubernatorial candidate received 60,697 votes while Mr. Edmondson reecived 49,775. Thus, only 18% of the voters who voted Democratic for Governor either did not vote or split their tickets and voted Republican for Senator. Dr. Miller's hypothesis is demonstrably erroneous when the above is compared to Oklahoma County, where the Senate race did in fact precede the Gubernatorial race (Democratic registration was 69%), and the Democratic candidate for Governor received 85,625 votes while Mr. Edmondson received only 59,125, or 30.9% of the voters splitting their tickets.

Clearly, there is no evidence that the position on the ballot caused voters to vote differently than they in fact did vote.

(b) *The Erroneous Party Vote Instructions":* Neither Mr. Edmondson nor his experts claim that the "erroneous party vote instructions" caused voters who otherwise would have voted for Mr. Edmondson to instead vote for Senator Bellmon.

(c) *The Absence of Straight Party Levers:* Mr. Edmondson's last contention is that had the straight party levers been on the machines, some of the voters who voted for Mr. Bellmon would not have been forced to see that Mr. Edmondson was running against Senator Bellmon, and would have instead voted by blind party allegiance. Mr. Edmondson's only "evidence" that the absence of party levers had this effect is the testimony of Dr. Miller. As you will recall, Dr. Miller testified that based on national survey data, he had reached the conclusion that when "a party lever" is on a voting machine, 14% more Democrats will vote a straight party ticket than they will when there is no lever, but that the presence or absence of such a straight party lever does not affect Republicans at all.

The first point which should be made is that, from Dr. Miller's own testimony, it is clear that any conclusion that Dr. Miller draws from his purported 1974 survey is simply not valid because, in arriving at his figures for "single choice" type ballot arrangements, he lumped three entirely different party vote devices together to come up with one figure. To illustrate, Dr. Miller explained these three types as follows:

Type A: Dr. Miller stated that 53 "electoral jurisdictions" in his survey provided for "a single lever," i.e. the type of voting machine where a voter could by the movement of one lever, vote a straight party ticket for all offices on the ballot (national, state, county or local). Once this lever was pulled, however, the voter could not go back and split his ticket for individual candidates.

Type B: Dr. Miller also testified that his "single choice" classification included 73 electoral jurisdictions which used a modified single lever, i.e. again, one lever would vote for all candidates of one party across the board. But with the modified single lever, the voter could then go back and split his ticket in the individual races.

Type C: Dr. Miller's "single choice" classification also include data from 6 electoral jurisdictions using what should probably be classified as 'multiple modified single levers," i.e. the Oklahoma situation—one lever per ballot and the ability to go back and split in any individual race (so actually, a voter would have to make three or four choices, one per ballot, not the "single choice," as Dr. Miller classifies it.)

Dr. Miller then took the data compiled from these electoral jurisdictions containing these three different types of election ballots and somehow arrived at the conclusion that in these "single choice" electoral jurisdictions, a certain number of all Democrats vote straight Democratic. He then compared this aggregate figure to the 1953 electoral jurisdictions which had no straight party levers, where he claims a lesser number of the Democrats voted straight Democratic, to arrive at the conclusion that the "single lever" makes a 14% difference.

Even if Dr. Miller's hypothesis is accepted, i.e. that the more physical manipulations of a voting machine a Democrat has to make, the greater the possibility of ticket splitting, simple logic and reason would dictate that less ticket splitting would occur on machines identified as Type A above, where a voter could not split his ticket after pulling the lever, than on Types B or C where such voter could pull the lever(s) and then go back and split. Further, it would also be logical to assume that less ticket splitting would occur on the Type B machines than on the Type C machines (i.e. Type C necessitates more physical manipulation). Yet Dr. Miller failed to differentiate between the three types. He simply lumped them all together to come up with his magic figures. Clearly he has averaged apples and oranges.

Even if he had broken his figures down by the various machine types, and compared his findings in the Type C situation to the no lever-individual choice situation, such statistics would still only be averages from many electoral jurisdictions and thus could not be used to accurately project what would have happened if the levers had been on the machines in Tulsa County.

Lastly, as both Dr. Penniman and Dr. DeVries pointed out, for today's voter, there is simply no evidence that straight party levers make any difference at all in a voter's selection of candidates in the top three "prestige races," i.e. Presidential Gubernatorial and Senatorial.

The voting statistics of Oklahoma County and the 75 paper ballot counties seem to bear this out and, further, effectively refute Dr. Miller's theories. As noted previously, in Oklahoma County, where voters could vote a straight party ticket by single lever per ballot, the Democratic candidate for Governor received 85,625 votes while Mr. Edmondson received only 59,125 votes. Thus 30.9% of the voters who voted Democratic for governor either did not vote or split their tickets and voted Republican for Senator. Similarly, in the 75 paper ballot counties, 368,267 voted for the Democratic Gubernatorial candidate while only 278,262 voted for Mr. Edmondson, for a 24.4% ticket splitting figure. If Dr. Miller's theory is true, then with 30% of the voters splitting their tickets between Governor and Senator in Oklahoma County, and 24% so splitting their tickets in the 75 paper ballot counties, (both of which Dr. Miller would classify as "single choice" electoral jurisdictions), then Tulsa County, with its "multiple choice" set up should have evidenced a much greater degree of ticket splitting. However, we find just the contrary: 60,697 Democratic votes for Governor and 49,775 votes for Mr. Edmondson—only 18% ticket splitting. Clearly, Dr. Miller's hypothesis did not hold true in Oklahoma.

CONCLUSION

From the foregoing, it is seen that Mr. Edmondson has presented no competent evidence that the irregularities in Tulsa County affected the outcome of the United States Senate race. Senator Henry Bellmon was elected by the people of Oklahoma to serve as their United States Senator and should now once and for all be seated unconditionally to serve in his duly elected capacity.

Respectfully submitted.

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ORDER OF BUSINESS

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

RELOCATION OF NAVAL OCEANOGRAPHIC OFFICE

Mr. STENNIS. Mr. President, my remarks will not be extensive. I doubt that I shall use that much time, so if anyone else wants to use some time, he might take notice. My remarks will relate, on a factual basis, concerning the relocation of the Naval Oceanographic Office and Laboratories.

Mr. President, the proposed transfer of the Naval Oceanographic Office from the Washington area to the National Space Technology Laboratories (NSTL) in Hancock County, Miss., has once again been very much in the news. Since this proposed relocation has long been the subject of widespread misunderstanding and misinterpretation, particularly in the Washington area, I am making these remarks to set the record

straight in the hope that my colleagues and others who are interested will understand how and why the decision to move this facility was made and why it is thoroughly justified.

Although the Oceanographic Office is now scattered throughout the National Capital region, the main office is located at Suitland, Md., and the State of Maryland will be most affected by the move. It is understandable, therefore, that members of the Maryland delegation have fought this proposal vigorously and persistently. I have nothing but admiration for them with reference to their activities in this matter. I certainly do not criticize them for this or any other action with respect to it. They have been honest, open and above board in all respects and certainly cannot be faulted for fighting for the desires of some of their constituency.

It should be noted at the outset, Mr. President, that the Department of the Navy has recognized the need to consolidate its oceanographic program at a single site since 1963. In 1974, a concerted effort was undertaken to locate the best site and NSTD was found to be most suitable from the standpoint of existing technical facilities. The Navy, after thorough consideration, proposed to consolidate the program at NSTL. The Deputy Secretary of Defense approved the proposal after it had the approval of the Secretary of the Navy and the Chief of Naval Operations.

I point out, Mr. President, that this is in keeping with congressional policy for these matters to be considered. Three or four of our subcommittees and committees in the last 3 years, including the Committee on Appropriations and authorizing committees, have referred to the congestion here, in Washington and the surrounding area, of the military, and further emphasized that existing facilities were available at other places that could, perhaps, be used and should be considered for use by the services if they met the qualifications otherwise. So these steps by the Navy, all the way through, are in keeping with the congressional guidelines laid down by these committees that I will quote later in my remarks, if there is time.

When this year's defense appropriation bill was being considered, amendments were offered both in the Senate and the House which, if adopted, in effect would have blocked the proposed move by prohibiting the expenditure of funds for that purpose. The amendment was defeated in the House by a rollcall vote and in the Senate by a voice vote.

Thus we see, Mr. President, that the proposed relocation has now been explicitly approved by two branches of Government—the executive and the legislative. This is a very significant fact. I have little doubt, knowing the true facts as I do, that when all the facts are developed and become known to the Court, it will also have been approved by the third branch—the judicial.

Let me go now to the merits and factual aspects of the matter. First, I will briefly review what the Oceanography Office does. Its scientific personnel, which constitutes about one-half of its civilian employees, are, among other activities, engaged in determining, through research, the effect the ocean environment has upon naval operations and naval weapon systems. The office is responsible for information and predictions on the entire environment of the ocean, the ocean currents, its bottoms, the salinity of water, and many other elements.

The area could well extend globewide, and it does extend into many areas of the world. This has to do with submarines. It has a greatly magnified importance in the last few years because of antisubmarine preparations by us, perhaps the most important field, after all, of our strategic weapons.

Adequate research and accurate predictions and information on this environment have a direct and critical bearing on the determination of the operational effectiveness of weapons systems and weapons tactics in many specified areas and many places on the globe. This is directly related to the effectiveness of underwater mines, torpedoes, submarines, and all of the equipment relating to antisubmarine warfare, an area of crucial and growing importance. The office has many other important functions which I shall not go into here.

However, I submit that it is clear from what I have said that the need of the Oceanographic Office for highly qualified people and the most efficient scientific and technical facilities and equipment is not subject to question. The fact is that the oceanographic program is a vital element in our national security requirements and becomes more important with each new development in undersea warfare. This includes, of course, modern antisubmarine warfare which grows more important and crucial every day.

At the present time, the Oceanographic Office employs about 1,200 civilian personnel. They are located in 19 buildings at four separate locations over a 50-mile radius in the Washington metropolitan area. To go from one office to all the others and to return to the starting point requires a trip, I understand, of about 180 miles. The inefficiencies which inevitably result from this dispersal are obvious and detrimental to the program. Something must be done to relieve this situation.

There is also a severe need for upgrading the technical and scientific facilities. For example, the repairing of instruments used by the Oceanographic Office is now done in three separate buildings in the old Washington Navy Yard here in the city. Another example is the fact that, in order to calibrate some of the sensors to make sure their recordings are valid, the sensing devices must be taken to Carderock, Md., for calibration in a large tow tank which is also in constant use by people engaged in designing new ships. Due to the time constraints, these devices are not calibrated as often as they should be. Many similar examples could be cited.

As I have mentioned, Mr. President, the Navy has recognized the need to consolidate its oceanographic program since 1963 and, in mid-1974, it undertook a concerted effort to find the best site. This is in accord with the congressional policy about moving naval activities from the Washington area which has been expressed on several occasions.

For example, the House Appropriations Committee said, in its report on the Military Construction Appropriation bill for fiscal year 1975, that—

> The severe limitation of funding for Navy projects in the Washington area is not taken lightly by the Committee. Rather, it is a deliberate move by the Committee to call the Navy's attention to earlier Committee comments regarding the moving of naval activities from the Washington, D.C. area.

In the same report, the committee went on to say that—

> The fact remains there currently are an estimated 46,700 personnel or civilians in this area—and that is too many. This Committee intends to exercise its power of the purse to see to it that those missions which can be moved are moved. It expects the Navy to present a relocation plan during next year's hearing on the military appropriation request, and it expects such plan to be significant in scope.

In its report on the military construction appropriation bill for fiscal year 1975, the Senate Appropriations Committee said it "supports the concept, long advocated, that military functions not essential to the Washington scene, be moved elsewhere if feasible and practical to do so." It went to say—

> Further consideration should be given, if such moves are contemplated, to those areas where there are existing facilities and new construction can be held to a minimum.

In the report on the military construction appropriation bill for fiscal year 1976 the Senate Appropriations Committee commented:

> When moves are contemplated, the Committee expects the Navy to move to areas where there are existing Federal facilities and hold new construction to a minimum.

The Navy followed the mandate of the Appropriation Committees. Its aim was to relocate the program on federally owned facilities, with other important considerations being the existence of necessary technical facilities, the cost of relocation, the efficiency which the relocation would bring about, and the potential envrionmental impact of the move. These are firm, definite, meaningful congressional policies and guidelines.

After careful evaluation, the Navy selected five sites at which consolidation was feasible. The construction/modification cost at NSTL is $7.5 million, which is the lowest of the five by far. The next lowest was $12.6 million and the highest was $23.1 million.

It is clear beyond question, Mr. President, that the selection of NSTL offers both a consolidation which will vastly improve program management and efficiency, and the best deal for the taxpayer from the standpoint of cost.

Let me tell you something about NSTL. This modern space technology facility was built by NASA in the mid-1960's at a cost of over $400 million. Its purpose was to test the booster rockets for the Apollo moon programs which is now over. In addition to its modern buildings, equipment and other facilities, it consists of about 13,200 acres in fee and

125,400 acres covered by easements as a buffer zone. The estimated replacement cost of the facilities to be made available to the oceanographic program is about $30 million, including the one-of-a-kind oceanographic test and calibration facility. This does not include the land in question which is federally owned.

With the phasedown of the space program, a great deal of effort has been made by NASA to find suitable tenants for the unique, but underutilized, facilities at NSTL. In 1971, the Congress made $10 million available to NASA to assist in this effort. While there has been some success in attracting other suitable Federal tenants to the facility, it is still greatly underutilized. This facility belongs to the taxpayers, and it should be utilized in such a manner that it will be of the greatest value to the Government in a manner which will get maximum use out of every tax dollar.

The Oceanographic Office will occupy about 25 percent of the space at NSTL. The Oceanographic personnel, which, as I have said, are now scattered in 19 different buildings, will occupy 9 buildings, all within 1 mile of each other. These will be served by a small shuttle bus.

The facilities at NSTL are virtually tailormade for a functional and efficient oceanographic program. In terms of technical and scientific facilities and equipment, there is available for the Oceanographic Office a capacity that does not exist at any other facility—either in the quantity or quality that exist at NSTL. This results from the fact that this huge and sophisticated complex was constructed expressly for the Apollo moon program at a site, Mr. President, where we invested over $350 million and have several thousand acres of land that the Government owns in fee, and then, something like close to 20,000—17,000, I believe it is—acres upon which there is an easement.

Located there are these laboratories, auditoriums, shops and computers the replacement value of which is from $40 to $50 million, all existing, current and modern, and largely unused. They will be available for the use and will be used by this facility.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 4 minutes remaining.

Mr. STENNIS. Another important consideration is the fact that 14 other Federal research activities are already located at NSTL. Several of these have activities in the oceanographic and hydroscience fields. These include the National Oceanographic Instrumentation Center, the National Data Buoy Development Center, the Gulf Fisheries Engineering Laboratory, the Gulf Coast Hydroscience Center of the U.S. Geological Survey, and a major NASA Earth resources laboratory. The benefits available from being colocated with these related research activities is clear and obvious.

The technical facilities at NSTL are substantially new and are all now in place. One example is an underwater instrumentation calibration facility in a computer-controlled system of pressure tanks connected to several other large tanks with stored seawater, which will be used to test and calibrate instruments unique to oceanography. This particular facility exists nowhere else in the country. Another example is a large tow tank now seldom in use which will be available to the Oceanographic Office.

The chemistry, biology and geology laboratories are all in one building at NSTL, designed as a laboratory and having the required amount of space needed by the Navy. A UNIVAC 1108 computer will be available along with general office space, an auditorium, a cafeteria and warehousing.

There has been a great deal of speculation in the Washington news media as to the availability of adequate housing in the area. Let me call to your attention a General Accounting Office report dated November 20, 1975, which was prepared at the request of the Honorable MARJORIE S. HOLT, Congresswoman from the State of Maryland.

On page 13 of this report, there is the following:

> Sufficient housing units are currently available in the NSTL area to accommodate the anticipated influx. At the time of our field work, approximately 800 single family houses were available for sale within 30 miles of NSTL. Most of the homes had three or four bedrooms and were in the $20,000 to $50,000 price range. In the same area were approximately 900 vacant apartment units. Most units had one or two bedrooms, with monthly rental payments from $100 to $200.

Mr. President, we all know from personal experience what type of house one can buy in the Washington metropolitan area in these price ranges and what apartment rentals average. I can say from personal knowledge, that Oceanographic Office employees will be pleasantly surprised to discover the type of housing their dollars will provide in this area of Mississippi.

The adequacy of schools has also been questioned. In this area the General Accounting Office found:

> Public school capacities in the area surrounding NSTL, with the exception of some public schools in Slidell, Louisiana have the capacity to accommodate the additional students that could come from the NAVOCEANO move to NSTL.

Summarizing the GAO findings as to the five Mississippi communities and one Louisiana community within the 30-mile radius, the elementary schools can accommodate additional enrollment of 2,208 students; junior high, 997, and senior high, 1,223; or a total of 4,428 students.

Based on information in the final environmental impact statement prepared by the Department of the Navy in June 1975, the total number of students estimated to be affected by the move is 1,141. This figure includes 243 preschool children.

There are a few other factors I would like to mention in connection with the matter. First, in its report of November 20, the General Accounting Office does not find itself in conflict with the Navy with the exception of a minor difference in the one-time cost of the move. Second, the General Services Administration has already notified the Navy that the facilities being vacated at Suitland will be occupied by other Federal personnel. Third, there are already over 100 families that have moved from Suitland to the Bay St. Louis area.

It is a recognized fact that whenever there is a relocation of a Government installation or an industrial facility, some of the employees are not happy. The fact that they are required to move has a serious and disturbing impact on their private and personal lives. Under the circumstances some opposition and objection to the relocation invariably surfaces. In this case, I submit, there is no more opposition or resistance to the move than is normally found in such cases. The reason the opposition is so clamorous and appears to be so great, is that the facility to be moved is located right under our noses here in the Washington area.

Let me add, Mr. President, that those employees who do move will find a very different and far more attractive way of life. Mississippi is justly proud of its Gulf Coast and its pleasant living. It offers sunshine, clean air and a temperate climate. It provides a wide variety of land-based and water-based recreational activities the year round. It affords a wholesome atmosphere in which to raise children. In short, it is a good place to live. Already some of the employees who have already been moved have sent word back that they are glad they made the move and enjoy their new surroundings thoroughly.

It is a little known fact, Mr. President, that Woodrow Wilson, while President, spent some of his winter vacations at Pass Christian, Miss., which is right in the heart of this section of the coast. This in itself speaks very highly for the area.

Mr. President, I can certainly understand the emotion which this relocation has engendered. It is unfortunate, however, that this emotion has been allowed to obscure the basic facts. I have made this statement for the record in an effort to clear up the confusion and deal with the misinformation. What I have said is factual and it is accurate. I hope that I have made some contribution toward setting the record straight.

APPOINTMENT OF MARINE CORPS OFFICERS TO BE ASSISTANT COMMANDANTS OF THE MARINE CORPS IN THE GRADE OF GENERAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of calendar No. 537, S. 2117.

The Senate proceeded to consider the bill (S. 2117) to amend sections 5202 and 5232 of title 10, United States Code, relating to the appointment to the grades of general and lieutenant general of the Marine Corps officers designated for appropriate higher commands or for performance of duties of great importance and responsibility which had been reported from the Committee on Armed Services with an amendment to strike

out all after the enacting clause and insert the following:

That (a) subsection (d) of section 5202 of title 10, United States Code, is amended by striking out the colon after the word "Senate" and all that follows down through the word "appointment".

(b) Subsection (e) of section 5202 of such title is repealed.

Mr. THURMOND. Mr. President, I rise in support of S. 2117, a bill relating to the authority governing the rank of the Assistant Commandant of the Marine Corps.

This bill, as originally submitted by the Department of Defense, related to the authority for appointment to the grades of general and lieutenant general in the Marine Corps.

BILL AMENDED

However, the committee decided to address this broader question during the consideration of the legislation affecting the Defense Officer Personnel Management System now before the appropriate subcommittee.

Nevertheless, the committee saw the need to act now in providing authority for the Assistant Commandant of the Marine Corps to maintain his present grade of full general.

Under current law this grade is authorized for the Assistant Commandant provided the strength of the Marine Corps totals 200,000 or more individuals.

SECOND GENERAL APPROVED

In recent months the Marine Corps strength has been hovering near the 200,000 mark. However, the committee feels that the Nation has a high quality Marine Corps and even if total strength should slip slightly below 200,000 it would still be desirable to have a full general as Assistant Commandant as well as Commandant.

Thus, this legislation authorizes the Assistant Commandant to retain the grade of general, at the discretion of the President, and with the advice and consent of the Senate, without regard to the overall strength of the Marine Corps.

This decision by the committee was based on the belief that the duties of the Assistant Commandant were more important in justifying the grade than the actual size of the force.

Therefore, Mr. President, I urge the Senate to give prompt and favorable approval to this bill.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

An Act to amend section 5202 of title 10, United States Code, relating to the detail, pay, and succession to duties of the Assistant Commandant of the Marine Corps.

PRIVILEGE OF THE FLOOR DURING CLOSED SESSION TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that in addition to the list of those who had been agreed on to be in the Senate today during the closed session that the names of Mr. Richard Moose of the Committee on Foreign Relations and T. Edward Braswell of the Committee on Armed Services be added.

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

CLOSED SESSION

The ACTING PRESIDENT pro tempore (Mr. STONE). Under the previous order, the hour of 9:30 a.m. having arrived, the Senate will now go into closed session that will extend until the hour of 11:30 a.m., the time thereon to be equally divided between the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from California (Mr. TUNNEY).

The Chair, pursuant to rule XXXV, now directs the Sergeant-at-Arms to clear the galleries, close the doors of the Chamber, and exclude all the officials of the Senate not sworn to secrecy.

(At 9:34 a.m. the doors of the Chamber were closed.)

LEGISLATIVE SESSION

(At 12:33 p.m. the doors of the Chamber were opened.)

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

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

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

The Senate will be in order.

COMMITTEE MEETINGS DURING THE SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order for all committees to meet for the remainder of the session of the Senate today.

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

Mr. FORD. Mr. President, may we hold the committee meetings when we are in closed session?

Mr. MANSFIELD. No, when we are in closed session there will be no committee meetings.

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

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

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

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 9861, making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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

The legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, the Senate is not in order.

The ACTING PRESIDENT pro tempore. The clerk will suspend. The Senate will be in order.

The clerk will resume.

Mr. NELSON. Mr. President, there are still Members in the well, in the aisles, and around here discussing various things. I insist that the Senate be in order before we proceed.

The ACTING PRESIDENT pro tempore. The Senator's point is well taken. The clerk will suspend.

Will Senators who wish to converse and to confer kindly withdraw? Will Senators kindly take their seats?

Will Senators who wish to confer kindly withdraw to the cloakrooms so that this rollcall can proceed?

Mr. NELSON. Mr. President, I think the Members on the Chair's right have not been able to hear the Chair.

The ACTING PRESIDENT pro tempore. That is correct, and the Chair thanks the Senator in assisting the Chair in obtaining order.

Mr. FORD. Mr. President, will the Senator from Wisconsin call the names?

The ACTING PRESIDENT pro tempport. The clerk will resume.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

The result was announced—yeas 87, nays 9, as follows:

[Rollcall Vote No. 602 Leg.]

YEAS—87

Baker	Goldwater	Muskie
Bartlett	Griffin	Nunn
Beall	Hansen	Packwood
Bellmon	Hart, Gary	Pastore
Bentsen	Hartke	Pearson
Brock	Haskell	Pell
Brooke	Hathaway	Percy
Buckley	Helms	Proxmire
Bumpers	Hollings	Randolph
Burdick	Hruska	Ribicoff
Byrd, Harry F., Jr.	Huddleston	Roth
	Humphrey	Schweiker
Byrd, Robert C.	Inouye	Scott, Hugh
Cannon	Jackson	Scott, William L.
Case	Javits	
Chiles	Johnston	Sparkman
Church	Kennedy	Stafford
Cranston	Laxalt	Stennis
Culver	Leahy	Stevens
Curtis	Long	Stevenson
Dole	Magnuson	Stone
Domenici	Mathias	Symington
Durkin	McClellan	Taft
Eagleton	McClure	Talmadge
Eastland	McIntyre	Thurmond
Fannin	Metcalf	Tower
Fong	Mondale	Tunney
Ford	Montoya	Williams
Garn	Morgan	Young
Glenn	Moss	

NAYS—9

Abourezk	Hart, Philip A.	McGovern
Biden	Hatfield	Nelson
Clark	Mansfield	Weicker

NOT VOTING—4

Allen	Gravel	McGee
Bayh		

So the conference report was agreed to.

Mr. McCLELLAN. Mr. President, I move reconsideration of the vote by which the conference report was adopted.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, under the order entered during the closed session, the Senate will now go into executive session, with a vote to occur on the nomination of Mr. Stevens at 1 p.m. The time is to be equally divided between Mr. EASTLAND and Mr. HRUSKA.

Upon the disposition of that vote on the Stevens nomination, the Senate will proceed to the consideration of the Public Works conference report, and the 30 minutes' time limit has been cut to 5 minutes, to be equally divided between Mr. BAKER and Mr. RANDOLPH. Upon the disposition of the conference report on the Public Works bill, the Senate, by unanimous consent, will take up the extension of the tax cut conference report.

Mr. McCLELLAN. Mr. President, I wish to announce, out of deference to the leadership's programs, that at the proper time, I shall move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 49, 53, 75, 83, 98, and 101. I shall withhold that motion for the present.

Mr. TUNNEY. Will the Senator yield to me?

Mr. McCLELLAN. I yield.

Mr. TUNNEY. I wish to ask my distinguished colleague from Arkansas if he proposes to offer that motion at any time between now and the consideration of the Public Works appropriation bill.

Mr. McCLELLAN. I say to the Senator that I shall not offer it without giving him prior notice of it. I am trying to work it the best way I can with the leadership.

Mr. TUNNEY. Yes.

Mr. McCLELLAN. As I advised the Senator a few moments ago in the presence of the leadership, I would want to offer such a motion.

Mr. TUNNEY. I want to be present when the Senator makes that motion, because I should like to object to concurrence in amendment No. 75 to H.R. 9861. I should like to have a separate vote on that, because I intend to offer an amendment.

Mr. McCLELLAN. As I tried to advise the Senator a while ago, I assure him I am not going to try to take advantage, but I shall want to bring it up.

ORDER TO PROCEED TO CONSIDERATION OF TAX CONFERENCE REPORT UPON DISPOSITION OF PUBLIC WORKS CONFERENCE REPORT

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the disposition of the conference report on public works, the Senate then turn to consideration of the tax conference report.

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

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

NOMINATION OF JOHN PAUL STEVENS TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The assistant legislative clerk read the nomination of John Paul Stevens, of Illinois, to be an Associate Justice of the Supreme Court of the United States.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

Mr. EASTLAND. Mr. President, I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, until he was nominated to the Supreme Court by President Ford, I must say, frankly, that I had never heard of Judge John Paul Stevens.

During the past month, however, I have read a great deal about him, and I like the way he handled himself during his testimony before the Committee on the Judiciary.

Judging only from my reading and from his testimony, I am not able to determine just where Judge Stevens is on the philosophical spectrum. Perhaps this is just as well. He appears to be a jurist dedicated to equality under the law, and one dedicated to the belief that ours is a government of laws and not of men.

During the hearings on his nomination before the Senate Judiciary Committee, he proved he is not a man to be pushed around, even to advance his own confirmation.

One member of the committee raised the issue of "reverse discrimination," saying that courts have recognized that simply striking down discriminatory laws is not enough. The Senator said the courts have frequently gone beyond that to require affirmative action, like school busing, to remedy the effects of long patterns of discrimination.

The questioning Senator wanted to know if Mr. Stevens, now a judge on the Seventh Circuit Court of Appeals in Chicago, was "sufficiently concerned" to feel that judicial action of that kind was necessary.

Judge Stevens told him that in many cases affirmative action by the courts is necessary, but he added that, "these things really depend on the facts in a particular situation."

Judge Stevens then emphasized that he did not want to give the impression that, "I would place certain litigants in a favored class. I would not."

The questioning Senator, dissatisfied with Judge Stevens' position, said, "If you want the record to read simply that you are going to apply the law equally to all citizens, then that's the way it will have to stand." To which Judge Stevens replied, "I would be proud to have the record stand that way."

Most Americans, I feel, would agree with Judge Stevens that the law should be applied equally to all citizens. Certainly, that would be the view of the Senator from Virginia.

Mr. President, in a thoughtful editorial, the Richmond Times-Dispatch has reviewed Judge Stevens' testimony before the Judiciary Committee and has found it "especially impressive."

The Times-Dispatch applauds Judge Stevens' repudiation of the imposition of preferential treatment by force of law—the heart of such discredited social programs as forced busing and mandatory employment quotas.

And the Times-Dispatch finds "reassuring" Judge Stevens' commitment to the concept of judicial restraint, based on his insistence that "Federal judges have no right to substitute their own views for constitutional principles—and the Supreme Court has no authority to legislate, establish policy or alter the Constitution."

The publisher of the Richmond Times-Dispatch is Mr. David Tennant Bryan. Mr. Edward Grimsley is editor of the the editorial page.

I ask unanimous consent that the Richmond Times-Dispatch editorial, "Stevens' Views . . .", be printed in the RECORD.

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

[From the Richmond Times-Dispatch, Dec. 11, 1975]

STEVENS' VIEWS . . .

Judge John Paul Stevens, President Ford's nominee for the United States Supreme Court, has been widely and effusively praised as a jurist of exceptional professional ability, admirable judicial temperament and unwavering integrity. From his testimony before the Senate Judiciary Committee, it appears that Stevens truly deserves the high compliments that have come from his enthusiastic admirers.

Stevens was especially impressive in his exchange Tuesday with Massachusetts Sen. Edward Kennedy, who attempted to lead the nominee into an endorsement of the despicable doctrine of "reverse discrimination." Kennedy noted that in civil rights areas many federal courts have considered it inadequate simply to invalidate discriminatory laws and have gone on to require affirmative action, such as the compulsory busing of school children, to offset the effects of discrimination. Was Judge Stevens "sufficiently concerned" about minority groups, asked Kennedy, to consider affirmative action necessary?

Stevens replied that some affirmative action decisions may be justified but that "these things really depend on the facts in a particular situation." He emphasized that he did not wish to convey the impression that he "would place certain litigants in a favored class. I would not."

Obviously perturbed by Stevens' answer, Kennedy huffed:

"If you want the record to read simply that you are going to apply the law equally to all citizens, then that's the way it will have to stand."

"I would be proud," replied Stevens, "to have the record stand that way."

It was an encouraging and highly commendable answer. Indeed, it was so *right*, so consonant with the elementary principles of justice, that it really should not be considered unusual enough to note. Unfortunately, however, it is a fact, as Kennedy said, that many federal judges, including some who have served—and who do serve—on the Supreme Court often scoff at the principle of equality before the law and embrace the argument that members of groups discriminated against in the past are now entitled to preferential rights of others. They insist, in other words, that two wrongs *do* make a right. Busing, designed to achieve racial integration in public schools through *force*, and employment quota systems, which deny some workers equal employment opportunities, are two manifestations of this philosophy. And the deplorable situation in Boston, discussed below, is a specific example of its effects.

Stevens expressed other reassuring views in his appearance before the Senate committee. It is the function of the Supreme Court, he said, to decide specific cases, not to "search for issues or regard itself as a commission to reform the law." Federal judges have no right to substitute their own views for constitutional principles, he insisted, and the Supreme Court has no authority to legislate, establish policy or alter the Constitution.

To liberal activists who believe that the Constitution should be bent to fit whatever sociological concepts might be popular at a given moment, Stevens' views on the role of the Supreme Court must be distressing. He does not talk like a man who would follow the flag of every seemingly noble cause that marched onto the scene. But to those people who believe the integrity of the Constitution must be preserved, who favor the rule of law over the rule of men, who consider the principle of separation of powers to be one of the great strengths of the American system of government, Judge Stevens' statements to the Senate committee have been heartening. The nation should benefit from the addition of such a man to the Supreme Court.

Mr. EASTLAND. Mr. President, the Committee on the Judiciary has gone fully into Judge Stevens' background and his qualifications. The vote in the committee was unanimous that he be confirmed. I think he would be a worthy addition to our Supreme Court. In fact, I think he would make a great Justice. I hope that he will be unanimously confirmed.

Mr. McCLELLAN. Mr. President, will the Senator yield to me?

Mr. EASTLAND. I yield.

Mr. McCLELLAN. Mr. President, at the opening of the hearings of the Committee on the Judiciary on the nomination of Judge John Paul Stevens to be an Associate Justice of the Supreme Court, I expressed my belief that there are three basic questions pertaining to the qualifications of a nominee to that high office that must be answered in the affirmative in order to justify confirmation.

First, does the nominee have personal integrity?

Second, does he have professional competence?

And third, does he have an abiding fidelity to the Constitution?

At that time, I also stated that I entertained no expectations whatsoever that there would be any discoveries or developments during the course of the Judiciary Committee hearings that would demonstrate that Judge Stevens lacked any one of these fundamental qualifications. I am pleased to now state that the opinion I expressed was fully warranted.

A careful examination by the Judiciary Committee of Judge Stevens' private, as well as his public, records has revealed that Judge Stevens is indeed a man of honor and integrity.

His distinguished legal career prior to his elevation to the bench and the decisions he has rendered since beginning his judicial career show him to be a truly capable and competent lawyer and judge. Rarely does a Senate Committee hear such praise of a nominee as that bestowed on him by Attorney General Levi. In referring to Judge Stevens' judicial career, the Attorney General stated:

His opinions, in my view, are gems of perfection. He is a craftsman of the highest order. He has a built-in direction system about how a judge should approach a problem—fairly, squarely, succinctly. His opinions are a joy to read.

Finally, those same opinions, together with his responses to the questions posed by the members of the Judiciary Committee, reveal that Judge Stevens does indeed have a deep understanding and appreciation of the Constitution, its place in our system of Government, and, perhaps even more importantly, the proper role of the Supreme Court in interpreting the Constitution.

During his confirmation hearings, I asked Judge Stevens to respond to several questions concerning these matters. His answers to those questions are—to me—extremely significant. For they are clearly indicative of a man who possesses a strong and abiding fidelity to the Constitution. I think that they will indicate the same to anyone else who will read them. For that reason, I ask unanimous consent to insert in the RECORD immediately following these remarks the full text of those questions and Judge Stevens' responses thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See Exhibit 1).

Mr. McCLELLAN. Mr. President, Judge Stevens has shown himself to possess those three basic qualities that I regard as indispensable for a member of the U.S. Supreme Court. I am pleased to vote for his confirmation.

QUESTIONS POSED TO JUDGE STEVENS BY SENATOR MCCLELLAN

Senator MCCLELLAN. As a member of the Court, would you feel free to take the text of the Constitution and particularly such broad phrases as "due process" and "unreasonable search and seizure"—just as illustrations—and read into it your personal philosophy, be your philosophy either liberal or conservative?

Judge STEVENS. Neither as a Member of the Court of Appeals nor as a Member of the Supreme Court, would I feel free to construe the broad phrases of the Constitution on the basis of my own personal philosophy. To the best of my ability, I will continue in every case to subordinate my personal predilections to my understanding of the law applicable to the case before me.

Senator MCCLELLAN. Do you believe that a member of the Court should disregard the intent of the framers of the Constitution in giving interpretation to its meaning and in its application in order to achieve a result that he thinks might be desirable in, or for, our modern-day society?

Judge STEVENS. It is never appropriate for a judge interpreting the Constitution, or indeed interpreting a statute, to disregard the intent of its authors to the extent that such intent can be fairly ascertained.

Senator MCCLELLAN. To phrase it another way, if you believe that a particular interpretation or construction in keeping with the intent of the framers of the Constitution would not get the results that you felt were more desirable and advantageous for our modern-day society, which factor would be most persuasive with you in arriving at your decision—the intent of the framers of the Constitution or that which would be most desirable or advantageous in our modern-day society?

Judge STEVENS. There have been occasions during my work on the Court of Appeals when I have decided cases contrary to my own views as to what would be most advantageous or desirable in our modern day society. A judge must do so if he is to be faithful to his office. I will continue to follow the law even if it does not accord with my own ideas about sound policy.

Senator MCCLELLAN. One former Associate Justice of the Supreme Court has said:

"In interpreting the Bill of Rights, I willingly go as far as a liberal construction of the language takes me, but I simply cannot in good conscience give a meaning to words which they have never been thought to have, and which they certainly do not have in common with ordinary usage.

"I will not distort the words of the [Fourth] amendment in order to 'keep the Constitution up to date' or to bring it into harmony with the times: it was never meant that this Court have such power, which in effect would make us a continuously functioning constitutional convention." (Mr. Justice Black in *Katz* v. *United States* 389 U.S. 347, 373 (1967)).

May I most respectfully ask, do you share this philosophy? Would you be willing to give a new interpretation, not previously thought of, to change the impact of the Constitution simply to try to "keep the Constitution up to date" or to bring it into "harmony with the times"?

Judge STEVENS: In the process of construing the Constitution or an act of Congress, a judge should not give the words used in such a document a meaning other than the meaning fairly intended by its authors. It is not a proper judicial functions to amend either the Constitution or the statutes enacted pursuant thereto.

Senator MCCLELLAN: In *Mapp* v. *Ohio*, 367 U.S. 643, 686 (1961), Mr. Justice Harlan stated:

"I am bound to say that what has been done is not likely to promote respect either for the Court's adjudicatory process or for the stability of its decisions."

He further said:

"I regret that I find so unwise in principle and so inexpedient in policy a decision motivated by the high purpose of increasing respect for constitutional rights. But in the last analysis I think this Court can increase respect for the Constitution only if it rigidly respects the limitation which the Constitution places upon it, and respects as well the principles inherent in its own processes. In the present case I think we exceed both, and that our voice becomes only a voice of power, not of reason."

There is one school of thought today that holds that the Supreme Court, whenever it feels that the Constitution as written or as it has been interpreted is not adequate to deal with today's social conditions, ought to give it a different interpretation to "get it into the mainstream" of modern society. Do you believe that the Court or a member thereof, under the Constitution, has the power or duty to do that?

Judge STEVENS: The fact that a Justice of the Supreme Court feels that a particular constitutional provision is not adequate to

deal with today's social conditions is not a sufficient basis for placing a construction on that document which is not warranted by its language or by the course of decisions interpreting it.

Mr. EASTLAND. Does anybody else have a statement?

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

Mr. EASTLAND. Yes, I yield.

Mr. STEVENSON. Mr. President, I do not recall a nomination to high office in recent years so widely acclaimed as that of John Paul Stevens to be Associate Justice of the Supreme Court.

The response to this nomination is remarkable in these days of public cynicism—and the more so because it is fully deserved.

From his undergraduate days as a member of Phi Beta Kappa, to his law school days as a Law Review editor, through his professional career as a law clerk to Justice Rutledge, as practitioner, scholar, teacher and jurist, Judge Stevens has earned the respect and good will of all who know him—so much so that his nomination to the Supreme Court seems not so much a stroke of good fortune as a logical next step in his career.

That career reflects an intellectual discipline and capacity of a high order. It is unblemished by so much as one doubt about his character.

In his exercise of judicial authority, Justice Stevens is not doctrinaire or adventurous. He is a Judge. His record on the bench indicates that he sees it as his duty to apply the law, and not to make it.

This nomination would be widely acclaimed at any time. It is a most propitious nomination today.

A large, empty space exists in the Court. John Paul Stevens can fill it.

I urge the Senate to confirm the nomination of John Paul Stevens to serve as an Associate Justice of the Supreme Court.

Mr. EASTLAND. Mr. President, I yield to the distinguished senior Senator from Illinois.

Mr. PERCY. Mr. President, I wish first to express deep appreciation to the members of the Committee on the Judiciary, to its distinguished chairman (Mr. EASTLAND), and to the ranking minority member (Mr. HRUSKA). In an expeditious manner consistent with thoroughness they have conducted hearings and processed the nomination of John Paul Stevens and are now placing it before this body for our decision. The committee has performed, once again, a great service to the Nation.

I also express my appreciation to my distinguished colleague from Illinois (Mr. STEVENSON) for once again, in a nonpartisian sense, working closely with me to see that we from the State of Illinois do everything we conceivably can to present to the distinguished members of the Committee on the Judiciary men and women of the bar of the highest caliber, who shall be judged, not by their partisan relationships but for their integrity, their decency, their judicial temperament, their intelligence, and their scholarship.

I am privileged and honored to address the Senate today on John Paul Stevens, whose name is before this body today for consideration to be an Associate Justice of the Supreme Court of the United States.

It was just over 5 years ago that John Paul Stevens' name was before us when he was a nominee for the Seventh Circuit Court of Appeals, and I am as confident now as I was then that John Paul Stevens is eminently well qualified for the position for which he has now been nominated. He has clearly demonstrated that he possesses the integrity, the intellect and the temperament so necessary for a Justice of the Supreme Court. He has written over 200 opinions since 1970, all of which are available for review by Members of the Senate. When I suggested John Paul Stevens to the President 5 years ago, he was considered a "lawyer's lawyer." Today he is considered a "judge's judge." If confirmed, he will prove himself worthy of the President's confidence and, I believe, will distinguish himself in the tradition of his two immediate predecessors, William Douglas and Louis Brandeis.

The selection of John Paul Stevens to fill this vacancy on the Supreme Court was made with one criterion in mind—competence. He was not selected because he reflects a particular political or judicial point of view. I believe Attorney General Edward Levi aptly described the nomination of Judge Stevens when he referred to it as a "commitment to excellence."

For the record, I wish to note the highlights of Judge Stevens long and distinguished legal career. He is a 1941 Phi Beta Kappa graduate of the University of Chicago. After 4 years in the U.S. Navy, he entered Northwestern University School of Law in 1945. He graduated first in his class 2 years later, in 1947, with the highest record of academic achievement in the university's history. After graduation he served for 2 years as law clerk to Mr. Justice Wiley Rutledge of the U.S. Supreme Court. In 1948 he returned to Chicago to join the firm of Poppenhusen, Johnston, Thompson & Raymond, where he remained until 1951, when he came back to Washington to serve as Associate Counsel of the Judiciary Subcommittee on the Study of Monopoly Power in the House of Representatives. A year later he returned to private practice in Chicago and was a founding partner in the firm of Rothschild, Stevens, Barry & Myers, where he stayed until 1970, when he was appointed to the Seventh Circuit Court of Appeals. During the years he was engaged in private practice, he also authored numerous articles on antitrust law for legal and other journals, and lectured at both Northwestern and the University of Chicago law schools.

As President Ford has said, the nomination of a Supreme Court Justice is "one of the most important decisions a President has to make." Equally important is the Senate's responsibility to advise and consent on such a nomination. The individual we confirm for this vacancy will participate in deliberations and will render decisions on some of the most complex and crucial issues in the history of the Court. And, those decisions will affect the lives of generations of Americans. There is no question that the action we take will affect profoundly the course of this Nation's highest court. After carefully and critically examining Judge Stevens' record and judicial philosophy to determine his fitness to serve the Judiciary Committee, by a vote of 15 to 0 recommending his approval, I wish once again to express today my deep affection and respect for John Paul Stevens. I have known him for 38 years and I have no doubt that he is magnificently prepared to render distinguished service on the Supreme Court of the United States.

I hope and fully expect our vote today will be a unanimous one.

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

The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, I rise to indicate my fullest support for the nomination of Judge John Paul Stevens to be an Associate Justice of the U.S. Supreme Court.

President Ford is to be congratulated for this excellent selection to the High Court. Judge Stevens' record as a scholar, practicing lawyer, and U.S. circuit court judge indicate that he is eminently qualified for this position.

Judge Stevens was born in Chicago, Ill., on April 20, 1920. He graduated from the University of Chicago—A.B. 1941—and the Northwestern University School Law—J.D. 1947—where he was co-editor of the Law Review. His academic record was outstanding, both at Chicago where he was Phi Beta Kappa and at Northwestern where he was graduated magna cum laude and first in his class. From 1942 to 1945, Judge Stevens served in the U.S. Navy and was decorated with the Bronze Star Medal.

Following his graduation from law school, Judge Stevens was law clerk to Supreme Court Justice Wiley Rutledge. He then entered private practice, specializing primarily in litigation, antitrust law and commercial law matters, first with the firm of Poppenhusen, Johnston, Thompson & Raymond in Chicago from 1948 until 1951, and again from January 1952 to June 1952, and later as a partner in the firm of Rothschild, Stevens, Barry & Myers in Chicago from 1952 until his appointment to the Seventh Circuit Court of Appeals.

In 1951, Judge Stevens served as associate counsel to the Subcommittee on the Study of Monopoly Power of the Committee on the Judiciary of the U.S. House of Representatives. From 1953 to 1955 he was a member of the Attorney General's National Committee to Study the Antitrust Laws.

From 1952 to 1956, Judge Stevens taught part time, first at Northwestern University Law School and then at the University of Chicago Law School, teaching antitrust law and related courses. He was admitted to the Illinois bar in 1949 and to the U.S. Supreme Court in 1954. While in private practice, Judge Stevens authored numerous articles on antitrust matters.

In 1970, Judge Stevens was appointed to The Seventh Circuit Court of Appeals. During his 5-years service on that bench, Judge Stevens authored over 200 opinions, an unusually high number of them in analytically difficult areas of the law. This body of judicial work has been characterized as consistently excellent and often brilliant.

Mr. President, I have examined a goodly number of those decisions and of articles which Judge Stevens has published. I am extremely impressed with his grasp of the law and his clarity of expression. I should note that Attorney General Levi, who has long been familiar with the nominee's work, testifying before the Judiciary Committee, characterized Judge Stevens' legal decisions as "gems of perfection" and a "joy to read."

During the 3-day hearings on this nomination last week before the Judiciary Committee, Mr. Warren Christopher, representing the American Bar Association, summed up that organization's evaluation of Judge Stevens as follows:

> Based upon our investigation, a restudy of our Committee's evaluation in 1970, an examination of his judicial opinions, and a personal interview with him, our committee is unanimously of the opinion that Judge Stevens meets high standards of professional competence, judicial temperament and integrity, and that is our committee's highest evaluation. To our committee this means that from the standpoint of professional qualification Judge Stevens is one of the best persons available for appointment to the Supreme Court of the United States.

Mr. President, I ask unanimous consent that the full text of the letter submitted by the ABA be printed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. HRUSKA. Senators STEVENSON and PERCY were equally lavish in their praise for the nominee. Characterizing his judicial philosophy Senator STEVENSON noted:

> Judge Stevens is not doctrinaire or judicially adventurous. He is a judge. His record on the bench indicated that he sees it as his duty to apply the law and not to make it.

During the course of the hearings Judge Stevens proved to be totally forthright and frank in presenting his personal history and his judicial philosophy.

In his testimony it became readily apparent that the nominee's superb knowledge of the complicated facets of the law was balanced by his obvious concern for the rights of all people. In response to a question from the committee regarding the rights of individuals who had suffered discrimination, Judge Stevens, evidencing wise judicial philosophy, stated that he would be "proud" to have the record reflect that he intended to apply the law equally to every citizen.

Included in the massive bulk of material which the committee examined in the course of processing this nomination were the nominee's Federal and State tax returns for the past 10 years, a list of all the clients of his former law firm for 3 years before he went on the bench, all of his published judicial opinions and writings, all places of residence and employment since graduation from law school, all instances in which he recused himself while on the bench, all income received and assets acquired by the nominee and members of his family since he became a judge, all relevant medical reports and doctors' statements regarding his health, and, finally, a "full field" FBI investigation. In short, the committee thoroughly examined every relevant facet of the nominee's personal, financial, medical, and professional life.

After careful consideration of the aforementioned material and testimony received at the hearings, the Judiciary Committee met in executive session last week and unamiously approved this nomination.

Mr. President, it was hoped that, given the outstanding record which this nominee has amassed during his career and the favorable action which has been taken by the Judiciary Committee, the Senate would act speedily to confirm this nomination. It is gratifying that this has come about. I do not believe that I need to belabor the point that the Supreme Court is greatly in need of the services of a ninth member. A number of important cases were put over last term for reargument this year.

Among those cases now pending are those involving the issue of the death penalty, the rights of aliens to obtain medical benefits and Federal employment, the applicability of the Fair Labor Standards Act to certain State employees and the question of whether the courts of this country have jurisdiction to examine the actions of foreign governments. These important questions which have long been unanswered by the high court have potential and profound impact on the entire nation and should be quickly resolved.

Mr. President, for me personally this nomination represents a milestone. During my tenure on the Judiciary Committee three of its present members have been involved in the confirmation hearings of all of the present members of the Supreme Court. This milestone is shared by the distinguished senior Senator from Arkansas (Mr. MCCLELLAN) and the distinguished senior Senator from Mississippi (Mr. EASTLAND) who has been chairman of that committee during all of this period and myself.

Mr. President, it is with pleasure that I recommend this nominee to the Senate. My pleasure in making this recommendation, however, is greatly heightened by the fact that Judge Stevens so abundantly possesses and has consistently demonstrated the qualities and attributes required by a member of the Supreme Court. I am confident that he will prove himself to be an outstanding member of that Court.

EXHIBIT 1

AMERICAN BAR ASSOCIATION,
Chicago, Ill., December 8, 1975.

Hon. JAMES O. EASTLAND,
Chairman, Senate Committee on the Judiciary, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is submitted in response to your invitation to the Standing Committee on Federal Judiciary of the American Bar Association to submit its opinion regarding Honorable John Paul Stevens of Illinois who has been nominated to be an Associate Justice of the Supreme Court of the United States.

Our Committee is of the opinion, based upon the investigation described below, that Judge Stevens meets high standards of professional competence, judicial temperament and integrity—the Committee's highest evaluation for potential nominees for the Supreme Court. To the Committee, this means that from the viewpoint of professional qualifications, Judge Stevens is one of the best persons available for appointment to the Supreme Court. It should be noted that the Committee does not attempt to comment on political or ideological matters.

Our Committee investigated Judge Stevens' qualifications in 1970 when he was appointed to the United States Court of Appeals for the Seventh Circuit and we then reported that Judge Stevens was Well Qualified for appointment to that judicial position. Our Committee's current inquiry regarding Judge Stevens included the following:

(I) Surveys of Judge Stevens' opinions were made for our Committee by practicing attorneys and by professors of law.

(II) All of the members of the Seventh Circuit Court of Appeals were interviewed. In addition, the Chief Judge of each of the District Courts within the Seventh Circuit was interviewed as were a number of other federal and state court judges within the Seventh Circuit.

(III) More than fifty lawyers within the Seventh Circuit who are in active practice and who would be most likely to be familiar with Judge Stevens' reputation and work were interviewed.

(IV) A number of judges and lawyers outside the Seventh Circuit were interviewed.

(V) The dean or members of the faculties of law schools in the Seventh Circuit who were most likely to know or be familiar with Judge Stevens' work were interviewed. In addition, deans and workers of law in law schools outside the Seventh Circuit were interviewed.

(VI) A member of our Committee interviewed Judge Stevens.

PROFESSIONAL BACKGROUND

Judge Stevens has a distinguished record as a student, a practicing lawyer, and as a judge. He received his B.A. from the University of Chicago in 1941, graduating Phi Beta Kappa. Following service in the Navy, he attended Northwestern School of Law, where he received a J.D. in 1947. He was first in his law school class, co-editor of the Law Review, and a member of the Order of the Coif. After graduating, he served as a law clerk for one year to Mr. Justice Rutledge on the United States Supreme Court.

From September 1948 to March 1951, Judge Stevens was associated with the law firm of Poppenhusen, Johnston, Thompson and Raymond (now Jenner & Block) in Chicago. Then, from March 1951 to January 1952, he was Associate Counsel to the Subcommittee on the Study of Monopoly Power of the Committee on the Judiciary of the United States House of Representatives in Washington, D.C. Thereafter, he organized and became a member of the firm of Rothschild, Stevens and Barry when it was formed on July 1, 1952, and remained with that firm until appointed to be a judge for the United States Court of Appeals for the Seventh Circuit in 1970.

While a practicing attorney, Judge Stevens engaged in general civil practice and gained extensive experience in litigation and antitrust law. During his years of practice, Judge Stevens was a part-time member of the faculty of Northwestern University Law School (1952–1954) and the University of Chicago Law School (1955–1956), teaching courses in Trade Regulation. Prior to going on the bench, Judge Stevens authored a number of published articles concerning the

antitrust laws and was a member of the Attorney General's Committee to Study Antitrust Laws in 1952.

In his practicing years, Judge Stevens was active in the bar associations, serving as chairman of several committees of the Chicago Bar Association and as a member of the Association's Board of Managers; he also served on a committee of the American Bar Association. Had Judge Stevens remained in practice, he would have become, in 1972, the President of the Chicago Bar Association.

The year before Judge Stevens was appointed to the federal bench, he served as general counsel to the Special Commission appointed by the Supreme Court of Illinois to investigate the integrity of the judgment of the Court in People v. Isaacs. He acted as the Commission's counsel during the hearings that thereafter ensued in connection with that inquiry, as a result of which two Justices of the Illinois Supreme Court resigned.

I. Survey of Judge Stevens' opinions

Judge Stevens has authored approximately 215 opinions since he went on the federal bench in 1970. All of these opinions were examined for our Committee by a group of practicing attorneys. In addition, six professors at the Harvard Law School each read 30-35 of Judge Stevens' opinions. Both the practicing lawyers and the academicians expressed admiration for the outstanding quality of Judge Stevens' opinions.

Judge Stevens' opinions cover almost every field of federal law, including civil rights, criminal law, securities law, tax law, antitrust law, labor law, patent law, administrative law and federal procedure and jurisdiction.

The opinions are of consistently high quality in each of the substantive areas of law involved. Several of the law school professors who evaluated Judge Stevens' opinions noted the excellence of particular opinions dealing with legal subjects in which they are expert. One professor characterized an opinion on federal jurisdiction as a "model of analysis"; one observed that Judge Stevens' opinions in complicated statutory interpretation cases are "excellent", and sometimes "brilliant"; an antitrust teacher pointed to "very thoughtful, sound and creative" antitrust opinions by Judge Stevens; and another professor called attention to "very good" tax opinions. This consistent excellence in opinions ranging over a broad spectrum of substantive areas indicates that Judge Stevens would be highly qualified to deal with the many complex issues which reach the Supreme Court.

Overall, Judge Stevens' opinions are well written, highly analytical, closely researched, and meticulously prepared. They reflect very high degrees of scholarship, discipline, open mindedness, and a studied effort to do justice to all parties within the framework of the law.

II. Judges in the Seventh Circuit

Judge Stevens has been unanimously endorsed by all of his colleagues on the Seventh Circuit to sit on the United States Supreme Court; several of his colleagues described him as one of the best Circuit Judges in the United States. The judges of the Seventh Circuit, in evaluating him, have used such terms as "spectacular", "outstanding", "excellent", and "tops."

Our Committee also interviewed other federal district judges in the Seventh Circuit and state court judges in the Circuit. All of the judges interviewed expressed professional praise and admiration for Judge Stevens, his ability, and his integrity. It is noteworthy that the federal district judges in the Seventh Circuit know him not only by reading his opinions but as the judge of the Seventh Circuit often designated to make presentations to all the judges of the Seventh Circuit at their conferences concerning recent landmark decisions.

III. Lawyers

Most of the lawyers interviewed practice in and around Chicago where Judge Stevens is best known. Those interviewed included a wide spectrum of lawyers, among them lawyers who represent minority groups, labor unions, large corporations, plaintiffs and defendants in personal injury work, and persons charged with crimes. Some were United States Attorneys and others were engaged in civil rights cases. Without exception, the lawyers describe Judge Stevens as being fairminded and compassionate, as having perception of legal and factual issues, and as having judicial temperament. All praise his legal ability. Our Committee received no adverse opinion about Judge Stevens in connection with any of its inquiries from practicing lawyers although some of them have had cases decided against them by the Judge.

IV. Deans and professors of law

Our Committee spoke to either the deans or members of the faculty of the major law schools in the Chicago area and to deans and professors on faculties throughout the country who might know Judge Stevens or his work. Many of those we spoke to knew Judge Stevens personally because of his past service as a law school lecturer on the antitrust laws. All those interviewed spoke in high terms concerning Judge Stevens' accomplishments, ability, and integrity, and all indicate that he has excellent qualifications for appointment to the Supreme Court.

V. Judges and lawyers outside the Seventh Circuit

While Judge Stevens is not so well known outside the Seventh Circuit, a number of judges and lawyers contacted by the Committee either know him or are familiar with his work. The uniform reaction of those who have a basis for opinion is highly favorable. It is undoubted that Judge Stevens has made an affirmative impression on those who have become acquainted with him or his work.

VI. Interview with Judge Stevens

Judge Stevens was interviewed by a member of our Committee. Judge Stevens is a modest, friendly and even-tempered man, devoted to his family, the law, and to judicial excellence. He is thorough and fairminded, and looks to his new position, if confirmed, with dedication, humility and enthusiasm.

During the course of inquiries concerning Judge Stevens, the Committee learned that in 1974 he underwent open heart surgery. During our interview with Judge Stevens, he was asked about his physical condition. He reported that he had made a complete recovery from his heart surgery and that he is in excellent health. His Seventh Circuit colleagues confirm that he has enjoyed a full recovery, that his health appears excellent, and that he carries a normal workload. Judge Stevens gives every appearance of being alert, vigorous, and without physical impediment. (We also understand that Judge Stevens has cooperated fully with Administration officials in enabling them to obtain a medical evaluation of his physical condition.) Based upon the information supplied to us by Judge Stevens and his colleagues, we believe that he has the health and stamina necessary to discharge the duties of a Justice of the Supreme Court.

In the personal interview with Judge Stevens, our Committee inquired about his financial holdings and off-bench activities. While he was a practicing lawyer, Judge Stevens served as a director or officer of several companies but he resigned all such positions when he was appointed to the bench in 1970. He has held no such position since he has been a member of the United States Court of Appeals for the Seventh Circuit.

Judge Stevens has filed statements of interest required of him as a federal judge and he advises us that his answers to questions concerning possible conflict of interest were all negative. He also states that he has sold most of his securities during the time he has served as a circuit judge.

Four speeches given by Judge Stevens subsequent to the time he became a sitting judge have been examined and none of them expresses an opinion on matters that were either before Judge Stevens or might come before him as a sitting judge.

CONCLUSION

During the course of our investigation (which was necessarily compressed into a relatively short period of time), our Committee attempted to inquire into all facets of Judge Stevens' career which would be relevant from a professional standpoint. Based upon this inquiry, a restudy of our Committee's 1970 report concerning Judge Stevens, the examination of his judicial opinions, and a personal interview with him, our Committee is unanimously of the view that Judge Stevens meets high standards of professional competence, judicial temperament and integrity—the Committee's highest evaluation. To repeat, this means to the Committee that from the viewpoint of professional qualifications, Judge Stevens is one of the best persons available for appointment to the Supreme Court.

This report is being filed at the commencement of the Committee's hearings. We will, as a matter of routine, review our report at the conclusion of the hearings and notify the Committee if any circumstance has developed to require a modification of our views.

Respectfully submitted,

WARREN CHRISTOPHER,
Chairman.

Mr. TUNNEY. Mr. President, the Judiciary Committee has favorably reported the nomination of Judge John Paul Stevens to be an Associate Justice of the Supreme Court of the United States. I voted for the nominee in committee, and I shall do so again now that the nomination is before the entire Senate.

The Constitution imposes a heavy responsibility on the U.S. Senate to advise and consent to any nominee to the Supreme Court. I view this duty with the utmost gravity; consequently, I have undertaken a most careful examination of the qualifications of Judge Stevens. The testimony presented at the hearings of the Judiciary Committee, in which I participated, as well as the opinions, FBI reports, financial statements, income tax returns, medical records, and former client list of Judge Stevens were made available to the committee before it took action. I believe that the cooperation of Judge Stevens with the committee in providing this data has been extremely beneficial to the evaluation process, and I hope that this complete disclosure of relevant information will establish a pattern to be followed during future confirmation proceedings.

As a result of extensive review of the available materials, I have concluded that John Paul Stevens is undeniably qualified to serve on the Supreme Court. He comes before the Senate with the highest recommendation from the American Bar Association. Both his opinions and his responses to questioning by members of the Judiciary Committee show impressive recall and understanding of Supreme Court decisions and the role of the judiciary.

During his 5 years as a member of the Court of Appeals for the Seventh Circuit, he has demonstrated his judicial fitness and temperament. His professional qualifications are unquestioned by those who have had contact with Judge Stevens or have studied his remarkable record of accomplishment. His personal integrity, as reflected in his financial statements and income tax returns, is of the highest order.

The intellectual capability of Judge Stevens is unchallenged. He has written more than 200 opinions as a member of the court of appeals. Those opinions, according to legal scholars who studied them in depth, illustrate the soundness of his reasoning, and his legal essays reveal a clarity and precision which highlights his competence. Beyond this, his writings indicate a depth of comprehension of antitrust matters which will prove of tremendous value in the future as the legal system is required to cope with our extremely complicated economic structure.

As chairman of the Subcommittee on Constitutional Rights of the Judiciary Committee, I have been dedicated to the task of assuring that the fundamental rights guaranteed to all citizens by the Constitution shall be preserved. Necessary to this endeavor is the full extension of such rights to groups in our society who traditionally have not enjoyed their benefits. In this regard, Judge Stevens, in his opinions in *Sprogis* v. *United Airlines, Inc.* (444 F. 2d 1194, 7th Cir. 1971) and *Doe* v. *Bellin Memorial Hospital* (479 F. 2d 756, 7th Cir. 1974) developed what can be construed as insensitivity to the struggle by women for full equality. In addition, his statements in the hearings on the equal rights amendment concern me because he seemed unfamiliar with both recent case law on equal protection of women under the 14th amendment, and the considerable public discussion justifying the need for a constitutional amendment.

When Justice Douglas resigned, I called on the President to nominate someone of his distinction and stature. In my view, several women were well qualified for the nomination, and it is certainly true that women are underrepresented on Federal and State courts at all levels. The President did not choose a woman, and after careful review of this nominee's record on women's issues, I must conclude that he is fair although not conspicuously compassionate about the needs of a majority of our population.

I fervently hope that he will retain, during his tenure on the Court, the memory of the two great Justices who have preceded him in this seat, Mr. Justice Brandeis and Mr. Justice Douglas, and that he will strive, with sensitivity and compassion, as they so gallantly did, to preserve and protect inviolate the fundamental rights of all Americans.

The ACTING PRESIDENT pro tempore. All time has expired.

Under the previous order, the hour of 1 p.m. having arrived, the Senate will now proceed to vote on the nomination of Mr. John P. Stevens to be an Associate Justice of the U.S. Supreme Court.

The question is, Will the Senate advise and consent to the nomination of John P. Stevens to be an Associate Justice of the U.S. Supreme Court? The yeas and nays are 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) is necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 603 Ex.]

YEAS—98

Abourezk	Gravel	Moss
Baker	Griffin	Muskie
Bartlett	Hansen	Nelson
Beall	Hart, Gary	Nunn
Bellmon	Hart, Philip A.	Packwood
Bentsen	Hartke	Pastore
Biden	Haskell	Pearson
Brock	Hatfield	Pell
Brooke	Hathaway	Percy
Buckley	Helms	Proxmire
Bumpers	Hollings	Randolph
Burdick	Hruska	Ribicoff
Byrd, Harry F., Jr.	Huddleston	Roth
	Humphrey	Schweiker
Byrd, Robert C.	Inouye	Scott, Hugh
Cannon	Jackson	Scott, William L.
Case	Javits	
Chiles	Johnston	Sparkman
Church	Kennedy	Stafford
Clark	Laxalt	Stennis
Cranston	Leahy	Stevens
Culver	Long	Stevenson
Curtis	Magnuson	Stone
Dole	Mansfield	Symington
Domenici	Mathias	Taft
Durkin	McClellan	Talmadge
Eagleton	McClure	Thurmond
Eastland	McGee	Tower
Fannin	McGovern	Tunney
Fong	McIntyre	Weicker
Ford	Metcalf	Williams
Garn	Mondale	Young
Glenn	Montoya	
Goldwater	Morgan	

NAYS—0

NOT VOTING—2

Allen	Bayh

The ACTING PRESIDENT pro tempore. On this vote the yeas are 98, the nays are 0. The nomination is confirmed.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will return to legislative session.

The Senate resumed the consideration of legislative business.

SENATE JOINT RESOLUTION 153—EXTENDING THE FILING DATE OF THE 1976 JOINT ECONOMIC COMMITTEE REPORT

Mr. MANSFIELD. Mr. President, I send to the desk a joint resolution and ask for its immediate consideration. I do so on behalf of the distinguished Senator from Wisconsin (Mr. PROXMIRE).

Mr. President, I offer this resolution at the request of the White House. It would permit the President to delay for 6 days his submission of his 1976 Economic Report as required under the Employment Act of 1946. The resolution would also authorize a corresponding delay in the report of the Joint Economic Committee on the President's report. The resolution has been agreed to by the chairman of the Joint Economic Committee and is agreeable to the minority.

The ACTING PRESIDENT pro tempore. The joint resolution will be read for the information of the Senate.

The joint resolution (S.J. Res. 153) was read the first time by title, and the second time at length, as follows:

SENATE JOINT RESOLUTION 153

EXTENDING THE FILING DATE OF THE 1976 JOINT ECONOMIC COMMITTEE REPORT

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of section 3(a) of the Employment Act of 1946 (15 U.S.C. 1022(a)), the President shall transmit the 1976 Economic Report to the Congress not later than January 26, 1976, and (b) notwithstanding the provisions of clause (3) of section 5(b) of such Act (15 U.S.C. 1024(b)), the Joint Economic Committee shall file its report on the President's 1976 Economic Report with the Senate and the House of Representatives not later than March 19, 1976.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the joint resolution (S.J. Res. 153) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT ACT OF 1975—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the conference report on H.R. 5247, which will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5247) to authorize a local public works capital development and investment program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. The time on this conference report is limited to 5 minutes, to be equally divided and controlled by the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Tennessee (Mr. BAKER).

The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, the able Senator from New Mexico (Mr. MONTOYA) serves as chairman of the Subcommittee on Economic Development of the Senate Public Works Committee. It is my desire that in the handling of the conference report, the time be turned to the disposition of the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. BAKER. Will the Senator yield for a brief moment?

Mr. RANDOLPH. Mr. President, I yield to my distinguished colleague from Tennessee (Mr. BAKER), the ranking Republican member of the Senate Public Works Committee.

Mr. BAKER. Mr. President, the House and Senate conferees have completed action on H.R. 5247, the Public Works Employment Act of 1975.

The conference report covers several programs, principally local public works, the wastewater treatment construction amendment, the jobs opportunities program, and countercyclical assistance. I would like briefly to discuss each of these and to conclude by mentioning a new urban economic development amendment added by the House.

The first title of the conference report is the local public works construction program originally sponsored by the House. Essentially the program provides 100 percent grants for the construction of public works with priority to projects in areas with an unemployment rate equal to or above the national rate.

The House provision agreed to by the conferees is similar in purpose to that in the Senate bill, S. 1587, passed in July. The primary difference between the two bills was the size of the program. The House originally authorized $5 billion, the Senate bill authorized $1 billion. The conferees agreed to an authorization of $2.5 billion through September 1977.

A major change made by the conferees relates to the wastewater treatment construction amendment in the Senate bill. During consideration of the public works employment bill in July, the Senate adopted a floor amendment reallocating grant funds available under the wastewater treatment construction program. The amendment is popularly known as the Talmadge-Nunn amendment after its two principal Senate sponsors.

The House conferees opposed the reallocation amendment and offered an alternative to the Senate provision. The House proposal was adopted by the conferees. Under the conference agreement, allocation of the $9 billion made by the President in February would remain. Each state will receive its allocation as provided under existing law. In lieu of the reallocation, the conference report authorizes an appropriation of $1.4 billion to be allocated to the 37 States which would have received increased allotments under the Talmadge-Nunn formula. The $1.4 billion figure is the difference between what the States would receive under the existing formula, used to allocate the $9 billion, and the increases States would have received under the Talmadge-Nunn amendment. For a further explanation and tables listing each State's share, I refer each Member to the committee print entitled "Allotment of Grant Funds for the Construction of Publicly Owned Wastewater Treatment Works" which has been placed on each desk.

The authorization in the report will not be effective until fiscal year 1977 but will remain available until expended. This authority to appropriate additional funds provides a means to supplement the funds already allotted to the States under the Federal Water Pollution Control Act. The allocation agreed to by the conferees relates only to this additional authorization. The Public Works Committee intends to address the question of future authorizations and an allocation formula next year.

I am glad that the conference agreement continues the job opportunities program, as contained in the Senate bill, through September 30, 1976, with an authorization level of $500 million. The Senate bill made several changes in the program to strengthen the original intent of the program.

I cosponsored the job opportunities program last year with Senator RANDOLPH, Senator MCCLURE and Senator DOMENICI. The idea is to create meaningful jobs quickly and efficiently. I believe this approach complements the accelerated public works program contained in title I of the bill.

The conferees also adopted the Senate amendment authorizing antirecessionary grants to State and local governments. The program will begin April 1, 1976, and run for five quarters.

It is estimated that payments in the first quarter will be about $375 million. Outlays in future quarters will depend on the levels of national unemployment.

During consideration of this section, Senator BUCKLEY cited residency requirement problems created by Department of Labor regulations under the comprehensive employment and training program—CETA. In order to avoid similar inequities and problems arising from the administration of emergency support grants under the countercyclical program, the conferees emphasize that the Federal policy on residency as a condition of employment is one of neutrality. Residency requirements for employees are to be strictly a matter of respective State or local determination, as the case may be.

Before concluding I would like to mention the urban amendment added by the House managers during the conference.

The House provision amends the Public Works and Economic Development Act to make all urban areas with a population of 50,000 or more eligible for EDA's regular long-term assistance program. The bill also authorizes for these new areas broad, special program authorities not now included in the act.

The House proposal was not included in either version of the bill in conference. The amendment which is a major departure from the existing EDA program, had not been considered by either the House Public Works Committee or the Senate. I believe legislation of this scope, authorizing new eligible areas and broad new program authority, should be carefully considered and discussed.

There may be need to change or streamline the criteria used to designate EDA areas. But this amendment goes far beyond an easing of the criteria to help distressed urban areas. In fact, it alters the entire process by which areas become eligible for aid and the way assistance is granted and used.

EDA was fashioned by Congress to promote economic development in distressed areas and criteria were established in the act for eligibility. The "need" criteria focused the limited assistance available under the program. The House amendment could make a healthy, prospering community as eligible as a distress area. There is no guide to the Secretary in administering the program. I fear our effort will become so diluted, so scattered, that the good record established by EDA over the years will be jeopardized.

The public works bills in conference were antirecessionary measures—temporary programs to create quick jobs to help ease the high level of national unemployment. The House proposal is an addition to EDA's regular long range program to promote development in distressed areas.

We may all agree that there is need to look at the urban aspects of EDA's program. This would be done, however, when the committees consider EDA extension legislation now pending before the Economic Development Subcommittees. I do not understand why this program had to be added in conference when the regular legislation will be considered early next year. I do not believe the purposes of the ongoing program are served by this method of legislating.

Mr. President, I want to acknowledge the diligence and untiring effort of the chairman, Senator RANDOLPH, in securing an agreement on this legislation. I would also like to commend my fellow conferees Senator MONTOYA and Senator MCCLURE for their attention and continued effort through this long conference.

I relinquish my time, Mr. President, to the distinguished Senator from Idaho (Mr. MCCLURE).

Mr. MONTOYA. Mr. President, we are at last completing action on H.R. 5247, the Public Works Employment Act of 1975. I am happy to report that conferees have agreed upon a bill that will provide for tens of thousands of new jobs for those who desperately need jobs.

The bill agreed to by the conferees provides authorization for a total of $6.125 billion over a 2-year period, distributed among six different program categories. Authority is provided for some of these programs until June 30, 1976, some through the transition quarter to September 30, 1976, and others until the end of fiscal year 1977. However, the authority for fiscal year 1976 is estimated at slightly more than $2 billion.

The outlay estimates in the bill are in conformity with the congressional budget ceiling recently enacted.

After a series of meetings during late November and early December the conferees finally reached agreement. They agreed to accept:

First, $2.5 billion for fiscal years 1976 and 1977 for the House version of a construction grant program for State and local public works projects;

Second, five quarters of the Senate version of the countercyclical assistance for States and local governments—estimated cost: $1.5 billion,

Third, $125 million increase of the Senate version for fiscal year 1976 for EDA business loan program for antirecessionary assistance;

Fourth, $100 million in authority to September 30, 1976, for a new urban eco-

nomic development program for cities of 50,000 population or above;

Fifth, $500 million—Senate version authorized $1 billion—for extension of title X—job opportunities program to September 30, 1976;

Sixth, $1.4 billion based on Senate's amendment for grants for the construction of publicly owned wastewater treatment facilities. The allotment of these funds will go to those States which would have received a greater allotment under the Senate-passed amendment. But no State's allotment shall be reduced below the February 1975 allotment. Funds are to be appropriated for the fiscal year ending September 30, 1977.

BACKGROUND

Mr. President, this bill is a result of a congressional initiative earlier this year to supplement existing programs such as public service jobs, and the liberalization of unemployment insurance benefits. It was to be a public works job-creating bill with the twofold purpose of providing construction-type jobs and stimulating one of America's most important industries from its near-depression doldrums.

The House first passed a $5 billion "local public works capital development and investment act." It provided 100-percent grants to State and local public works projects that were "ready to go," but had to be put on the shelf because of the recession.

The Senate Public Works Committee responded with a more modest bill—S. 1587—that authorized for fiscal year 1976 $2.125 billion for a construction grant program, an extension of both the title X job opportunities program and EDA's business loan program.

Two important amendments were added on the Senate floor to the bill: the countercyclical assistance program and the so-called Talmadge-Nunn amendment that changed the February 1975 allotment formula for grants for the construction of publicly owned wastewater treatment facilities. More than $1.4 billion would be reallocated under the terms of the latter amendment.

These amendments of course were not contemplated by the Public Works Committee in its deliberations. However, they carried the Senate by substantial margins and were added to the Public Works Employment Act of 1975, which then passed 65 to 28 on July 29.

What is the administration's view of this bill? I do not know. The President has not said flatly that he would veto it, as far as I know. I hope he will reflect on these facts before he decides:

First. Unemployment is today at an alarming 8.3 percent, with the prospect in sight that it will remain above 7 percent for more than 2 years;

Second. Unemployment in the construction industry is at a seasonally adjusted third quarter rate of 20 percent with the October rate at 17.9 percent.

Third. The construction industry is the major contributor to the national economy accounting for more than 10 percent of the GNP;

Fourth. Construction is labor intensive—physical construction activities alone employ some 5 to 6 percent of the Nation's labor force.

Fifth. The average ratio of the value of new construction put in place to national income was 12.5 percent during 1968–73, was 11.8 percent in 1974 and has declined this year to 10.5 percent;

Sixth. And, that State and local governments are cutting back on their capital programs involving massive construction outlays because of current and impending revenue shortages—a condition countercyclical assistance will help remedy.

Mr. President, this is basically an antirecession bill. Its principal goal is to provide new jobs. With unemployment at current high levels and with the expectation that they will remain high for the next couple of years, it is a timely bill.

Let me provide a summary of each program's feature in detail.

TITLE I. LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT ACT

This is the main job-producing program in the bill. It authorizes $2.5 billion for fiscal years 1976 and 1977. It is to be administered by the Economic Development Administration in the Department of Commerce. Eligible applicants are State and local governments. Seventy percent of the projects are to be selected from areas whose unemployment rates exceed the national average, while 30 percent go to areas whose rates are between the national average and 6.5 percent. The Federal contributions to projects is 100 percent. Priority will be given to projects of which architectural and engineering work has been largely completed and are "ready to go." Eligible projects include the construction, renovation, repair or other improvement of public facilities such as municipal buildings, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewer lines, streets, curbs, roads, sidewalks, and lighting.

Projects are to be processed quickly—within 60 days. Onsite labor must begin within 90 days after project approval.

TITLE II. COUNTERCYCLICAL ASSISTANCE

This special assistance to cities and States hard hit by the recession recognizes that these governments are presently either reducing their work force, raising taxes, or delaying necessary capital improvement projects. Funds would be distributed on a quarterly basis to those governments which had unemployment of 6 percent or more. The amount will be determined on the basis of a two-factor formula: unemployment and adjusted taxes as a measure of services provided.

Five succeeding calendar quarters—beginning April 1, 1976—are authorized at an estimated $1.5 billion. For each quarter unemployment exceeds 6 percent, $125 million is authorized plus an additional $62.5 million for each one-half percentage point over 6 percent. Annually that would mean $500 million for exceeding the 6 percent level and an additional $250 million for each percentage point over 6 percent.

This program will be administered by the Secretary of the Treasury. One-third of the funds will be distributed to States, two-thirds to local governments.

The assistance provided would go quickly into the economy. By means of the formula, it would be selectively targeted. And it would phase itself out as the economy improves.

EDA BUSINESS DEVELOPMENT PROGRAM AMENDMENTS

The Senate bill passed earlier this year contained authority to increase EDA's business loan and guarantee program from its present 1976 authorization of $75 million to $200 million, or a $125 million increase. The conferees have accepted this provision. The bill also provides an interest supplement of up to 4 percentage points on loan guarantees to assist businesses which either need to borrow working capital during a period of exceedingly high interest rates or drastically curtail operations or close down. Either alternative increases unemployment.

JOB OPPORTUNITIES PROGRAM—TITLE X

The Senate bill authorized a $1 billion extension of this job-creating program. The conferees agreed on $500 million for the current fiscal year including the transition quarter to September 30, 1976.

Senators will recall this program originated in the Senate at the end of the last session. A half billion dollars have been appropriated for the program. Authority expires at the end of 1975. This public works jobs-creating program emphasizes projects for State and local governments that are generally improvements to existing community facilities.

The conferees believe the program merits extension, that it has demonstrated its potential for creating jobs quickly on worthwhile community projects. Amendments have been included in the bill that would tighten requirements in order to emphasize job effectiveness in the grant selection.

THE TALMADGE-NUNN AMENDMENT

Mr. President, with respect to the water pollution control funds authorized by title III of this measure, I believe the conferees have arrived at the best resolution of the issue.

The conferees agreed to the authorization of $1.4 billion to assure that no State could receive less than it would have received under the Talmadge-Nunn formula. At the same time, the compromise will not disturb the amounts allocated to the other States out of the original $9 billion authorization.

Mr. President, this is principally a public works jobs bill. It is of course more than that. But the foundation of the bill is public works. There have been criticisms that antirecession public works programs are too slow, have long lead-times, are often capital rather than labor intensive. And that they are often too late to impact during times of economic downturn.

I think this bill answers those objections. It will only select projects "ready to go". Processing must be done quickly. Onsite employment must take place soon after project approval. And we know that

unemployment is going to remain high for a period of 2 years or more.

It is one of the programs—together with countercyclical assistance, tax cuts, extended unemployment benefits, and public service jobs—this Congress is attempting to get the economy moving again and putting people back to work.

Mr. President, I wish to thank Chairman RANDOLPH for his inspiration and support during the evolution of this legislation. Thanks are due also to Senator MCCLURE for his interest and assistance to me as chairman of the Subcommittee on Economic Development. Thanks are appropriate as well to the diligent and productive staff of the Committee on Public Works.

Mr. President, I ask unanimous consent that document No. 94–25, which deals with the allotment of grant funds for the construction of publicly owned wastewater treatment works, be printed at this point in the RECORD.

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

INTRODUCTION

The conference report on H.R. 5247 authorizes $1,417,968,050 for grants for the construction of publicly owned wastewater treatment works. This authorization supplements funds authorized by and allotted to the States under the Federal Water Pollution Control Act. The information and data in this committee print provide the basis for allotment of these funds.

Section I of this print contains data from the May 6, 1975 revision of the 1974 "Needs" survey as reported in the Report to Congress, "Cost Estimates for Construction of Publicly Owned Wastewater Treatment Facilities." Included are tables setting forth the "Needs" data for the States and estimates of 1990 population which can be utilized as a basis for allotments of construction grant funds.

Section II of this print contains a table setting forth the actual allotments to the States of the $9 billion allotted by the President in February 1975; the allotments which would have been made if the formula in H.R. 5247 as passed by the Senate, generally known as the Talmadge-Nunn formula, had been utilized to allot the $9 billion; and the differences and percentages of the differences between the two methods for those 37 States which would have received increased allotments under the Talmadge-Nunn formula.

SECTION I

Table I sets forth the "needs" for each State and the percentage of national totals as determined by the most recent EPA assessment of the "needs" for construction of treatment works and interceptor sewers. The percentages of the "needs" for each State are based only on the costs to:

(a) Provide treatment works to achieve secondary treatment,

(b) Active treatment "more stringent" than secondary treatment as required by water quality standards, and

(c) Construct interceptor sewers, force mains and pumping stations.

The data in Table I are from Table EPA–3 in the revised report, "Cost Estimates for Construction of Publicly Owned Wastewater Treatment Facilities" which was transmitted to the Congress by the Environmental Protection Agency on May 6, 1975. Detailed explanations of the development of the reported needs for construction are given in the Environmental Agency Report.

Table II sets forth data reported in Table EPA–4 of the May 6, 1975 EPA report on the Department of Commerce estimate of population of the individual States in 1990, as amended by EPA based upon data from the States, and data on the percentage for each State of the total estimated 1990 population of all the States.

TABLE I.—STATE NEEDS AND PERCENTAGE OF NATIONAL COSTS REPORTED FOR CONSTRUCTION OF TREATMENT WORKS AND INTERCEPTORS (CATEGORIES I, II, AND IVB)

[Dollar amounts in millions of 1973 dollars]

State	Needs	Percentage of national totals
Region I:		
Connecticut	$478	1.0317
Maine	273	.5892
Massachusetts	1,325	2.8600
New Hampshire	384	.8288
Rhode Island	187	.4036
Vermont	125	.2698
Region II:		
New Jersey	2,602	5.6164
New York	4,603	9.9356
Puerto Rico	368	.7943
Virgin Islands	31	.0669
Region III:		
Delaware	199	.4295
Maryland	2,324	5.0163
Virginia	1,129	2.4369
West Virginia	1,320	2.8492
Pennsylvania	1,629	3.5162
District of Columbia	69	.1489
Region IV:		
Alabama	472	1.0188
Florida	1,874	4.0450
Georgia	1,020	2.2016
Kentucky	649	1.4008
Mississippi	359	.7749
North Carolina	1,044	2.2534
South Carolina	728	1.5713
Tennessee	677	1.4613
Region V:		
Illinois	2,343	5.0573
Indiana	837	1.8066
Michigan	1,673	3.6111
Minnesota	707	1.5260
Ohio	2,367	5.1092
Wisconsin	939	2.0268
Region VI:		
Arkansas	582	1.2562
Louisiana	499	1.0770
New Mexico	97	.2093
Texas	2,025	4.3709
Oklahoma	662	1.4289
Region VII:		
Iowa	532	1.1483
Kansas	524	1.1310
Missouri	843	1.8196
Nebraska	227	.4899
Region VIII:		
Colorado	373	.8051
Montana	90	.1942
North Dakota	74	.1597
South Dakota	72	.1554
Utah	218	.4705
Wyoming	55	.1187
Region IX:		
Arizona	266	.5741
California	4,104	8.8585
Hawaii	439	.9475
Nevada	177	.3820
American Samoa	23	.0500
Guam	60	.1295
Trust territories	133	.2870
Region X:		
Alaska	319	.6885
Idaho	216	.4662
Oregon	308	.6648
Washington	675	1.4569
Total	46,328	100,000

TABLE II.—ESTIMATED 1990 POPULATION OF THE STATES AND PERCENTAGE OF NATIONAL TOTALS

[Population in thousands]

	1990 population	Percentage of total
Region I:		
Connecticut	3,946	1.54
Maine	1,142	.45
Massachusetts	7,052	2.75
New Hampshire	907	.35
Rhode Island	1,134	.44
Vermont	536	.21
Region II:		
New Jersey	8,822	3.44
New York	21,799	8.50
Puerto Rico	3,786	1.48
Virgin Islands	116	.05
Region III:		
Delaware	793	.31
Maryland	5,318	2.08
Virginia	5,958	2.33
West Virginia	1,845	.72
Pennsylvania	13,332	5.20
District of Columbia	764	.30
Region IV:		
Alabama	3,850	1.50
Florida	11,728	4.58
Georgia	5,667	2.21
Kentucky	3,741	1.46
Mississippi	2,359	.92
North Carolina	5,880	2.29
South Carolina	3,023	1.18
Tennessee	4,800	1.87
Region V:		
Illinois	13,177	5.13
Indiana	6,433	2.51
Michigan	10,961	4.27
Minnesota	4,577	1.79
Ohio	13,202	5.15
Wisconsin	5,218	2.04
Region VI:		
Arkansas	2,068	.81
Louisiana	4,159	1.62
New Mexico	1,232	.48
Texas	13,666	5.33
Oklahoma	2,942	1.15
Region VII:		
Iowa	3,053	1.23
Kansas	2,509	.98
Missouri	5,488	2.14
Nebraska	1,562	.61
Region VIII:		
Colorado	2,848	1.11
Montana	714	.28
North Dakota	606	.24
South Dakota	643	.25
Utah	1,509	.59
Wyoming	600	.23
Region IX:		
Arizona	3,384	1.32
California	26,601	10.37
Hawaii	1,010	.39
Nevada	933	.36
American Samoa	40	.02
Guam	275	.11
Trust Territories	205	.08
Region X:		
Alaska	408	.16
Idaho	758	.30
Oregon	2,943	1.15
Washington	4,194	1.64
Total	256,216	100.00

Note: The Talmadge-Nunn allotment formula was based ½ on needs (table I) and ½ on population (table II). The percentage allotments to all the States which would have been made under Talmadge-Nunn, using ½ needs and ½ population, are set forth in table III.

Table III—Percentage allotments to all the States based on 1974 "needs" study—one-half on category I, II, and IVB needs and one-half on 1990 population (Talmadge-Nunn)

	Percent
Region I:	
Connecticut	1.29
Maine	0.53
Massachusetts	2.86
New Hampshire	0.59
Rhode Island	0.42
Vermont	0.24
Region II:	
New Jersey	4.65
New York	9.31
Puerto Rico	1.15
Virgin Islands	0.06
Region III:	
Delaware	0.37
Maryland	3.39
Pennsylvania	4.44
Virginia	2.39
West Virginia	1.64
District of Columbia	0.22
Region IV:	
Alabama	1.26
Florida	4.31
Georgia	2.20
Kentucky	1.38
Mississippi	0.83
North Carolina	2.26
South Carolina	1.40
Tennessee	1.65

Table III—Percentage allotments to all the States based on 1974 "needs" study—one-half on category I, II, and IVB needs and one-half on 1990 population (Talmadge-Nunn)—Continued

Region V:	
Illinois	5.08
Indiana	2.16
Michigan	3.81
Minnesota	1.63
Ohio	5.03
Wisconsin	2.00
Region VI:	
Arkansas	0.99
Louisiana	1.39
New Mexico	0.35
Oklahoma	1.24
Texas	4.76
Region VII:	
Iowa	1.16
Kansas	1.06
Missouri	2.02
Nebraska	0.57
Region VIII:	
Colorado	0.95
Montana	0.24
North Dakota	0.21
South Dakota	0.21
Utah	0.57
Wyoming	0.18
Region IX:	
Arizona	0.97
California	9.83
Hawaii	0.69
Nevada	0.37
American Samoa	0.03
Tr. Terr. of Pac. Isids	0.20
Guam	0.12
Region X:	
Alaska	0.48
Idaho	0.38
Oregon	0.92
Washington	1.56
Total	100

SECTION II

In February 1975, the President allotted a total of $9 billion to the States in accordance with formulas prescribed in the Federal Water Pollution Control Act. Column 2 of Table IV sets forth the actual allotment to the States of this $9 billion. The data in Column 2 were reported in the Federal Register, Vol. 40, No. 40, February 27, 1975.

If the formula based one-half upon population of each State and one-half upon the Categories I, II and IVB needs reported by EPA for that State (the Talmadge-Nunn formula—Table III) had been utilized to allot the $9 billion the allotments would have been made as set forth in Column 3 of Table IV.

Column 4 of Table IV sets forth the difference in allotments between that which was allotted to each State in February 1975 from the $9 billion (Column 2) and that which would have been allotted if the Talmadge-Nunn formula had been used (Column 3). The differences are given only for the 37 States which would have received a larger allotment under the Talmadge-Nunn formula.

Column 5 of Table IV sets forth the percentages for each State of the differences given in Column 4.

TABLE IV.—FEBRUARY 1975 ALLOTMENT OF $9,000,000,000, PROPOSED ALLOTMENT OF $9,000,000,000 BASED ON TALMADGE-NUNN AND THE DIFFERENCE BETWEEN THE 2 FORMULAS

Column (1)	Allotment (February 1975) of fiscal year 1973–75 funds held in reserve (2)	Proposed allotment based ½ on 1974 needs and ½ on 1990 population (3)	Difference (4)	Percentage of difference in col. 4 (5)
Total	$9,000,000,000	$9,000,000,000	$1,417,968,050	100.000
Region I	674,701,650	527,724,000		
Connecticut	155,091,800	115,740,000		
Maine	78,495,200	46,566,000		
Massachusetts	295,809,100	252,558,000		
New Hampshire	77,199,350	53,226,000		
Rhode Island	45,599,600	38,079,000		
Vermont	22,506,600	21,555,000		
Region II	1,799,639,300	1,344,942,000		
New Jersey	660,830,500	407,682,000		
New York	1,046,103,500	829,971,000		
Puerto Rico	84,910,500	102,240,000	17,329,500	1.22
Virgin Islands	7,794,800	5,049,000		
Region III	1,236,806,000	1,139,832,000		
Delaware	56,394,900	33,264,000		
Maryland	297,705,300	319,140,000	21,434,700	1.51
Pennsylvania	498,984,900	392,382,000		
Virginia	251,809,000	214,308,000		
West Virginia	59,419,900	160,614,000	101,194,100	7.14
District of Columbia	72,492,000	20,124,000		
Region IV	936,823,150	1,383,687,000		
Alabama	43,975,950	113,463,000	69,487,050	4.90
Florida	345,870,100	388,098,000	42,137,900	2.97
Georgia	117,772,800	198,603,000	80,830,200	5.70
Kentucky	90,430,800	128,745,000	38,314,200	2.70
Mississippi	38,735,200	76,311,000	37,575,800	2.65
North Carolina	110,345,000	204,678,000	94,333,000	6.65
South Carolina	82,341,900	123,804,000	41,462,100	2.92
Tennessee	107,351,400	150,075,000	42,723,600	3.01
Region V	2,263,901,400	1,801,998,000		
Illinois	571,698,400	459,009,000		
Indiana	251,631,800	194,283,000		
Michigan	625,991,900	355,014,000		
Minnesota	172,024,500	149,058,000		
Ohio	$497,227,400	$461,781,000		
Wisconsin	145,327,400	182,853,000	$37,525,600	2.65
Region VI	365,858,400	798,111,000		
Arkansas	39,822,700	92,853,000	53,030,300	3.74
Louisiana	71,712,250	121,509,000	49,796,750	3.51
New Mexico	15,054,900	31,059,000	16,004,100	1.13
Oklahoma	64,298,700	115,974,000	51,675,300	3.64
Texas	174,969,850	436,716,000	261,746,150	18.46
Region VII	349,849,800	428,013,000		
Iowa	100,044,900	105,300,000	5,255,100	.37
Kansas	53,794,200	94,968,000	41,173,800	2.90
Missouri	157,471,200	178,263,000	20,791,800	1.47
Nebraska	38,539,500	49,482,000	10,942,500	.77
Region VIII	88,288,650	207,225,000		
Colorado	43,113,300	86,256,000	43,142,700	3.04
Montana	12,378,200	21,276,000	8,897,800	.63
North Dakota	2,802,000	17,838,000	15,036,000	1.06
South Dakota	5,688,000	18,288,000	12,600,000	.89
Utah	21,376,500	47,682,000	26,305,500	1.86
Wyoming	2,930,650	15,885,000	12,954,350	.91
Region IX	1,058,163,550	1,075,203,000		
Arizona	18,833,450	85,275,000	66,441,550	4.69
California	945,776,800	865,845,000		
Hawaii	51,903,300	60,381,000	8,477,700	.60
Nevada	31,839,800	33,579,000	1,739,200	.13
American Samoa	738,200	2,952,000	2,213,800	.16
Trust Territory of the Pacific Islands	2,672,800	16,515,000	13,842,200	.98
Guam	6,393,200	10,656,000	4,256,800	.30
Region X	225,968,100	293,265,000		
Alaska	25,250,500	38,151,000	12,900,500	.91
Idaho	19,219,100	34,290,000	15,070,900	1.06
Oregon	77,582,900	81,603,000	4,020,100	.28
Washington	103,915,600	139,221,000	35,305,400	2.49

Mr. MONTOYA. Mr. President, this conference report is the result of many months of work on the part of the Senate and House Public Works Committees. We have had quite a lengthy conference on the divergent bills passed by the respective Houses. I believe we are presenting in this conference report a good consensus of practical programs to put people to work or to keep their present jobs during the next fiscal year and beyond that.

I do not want to burden the Senate with too much discussion on this matter. I merely want to say that the Republicans on the committee as well as the Democrats have labored hard and there was no real political division. It was an effort to arrive at something that would contribute significantly to putting men and women who are unemployed back to work.

The Senate added a countercyclical assistance amendment, and we preserved the essence of that program. We were able to retain authority for five quarters, beginning April 1, 1976.

Also in the conference we developed a new concept for urban economic development, authorizing $50 million for fiscal year 1976 and $50 million for the transition quarter ending September 30, 1976.

The public works programs in the bill total $3.225 billion. In addition to this, countercyclical assistance is estimated at $1,500,000,000, for 5 quarters, and the Talmadge-Nunn amendment, which was initially adopted as an amendment on the Senate floor, provides $1,400,000,000 Federal water pollution control grants.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. MONTOYA. Mr. President, I urge the adoption of the conference report.

Mr. RANDOLPH. Mr. President, the conference report before the Senate is the culmination of a legislative process that began early this year. It was undertaken as a response to the recession that had slowed economic growth and brought heavy unemployment in our country. Those conditions continue to exist and the programs contained in this measure are urgently needed now as they were in the early months of 1975.

This measure was carefully developed both in the Senate and in the House of Representatives. Initially, there were some differences of approach as we attempted to solve difficult problems. I be-

lieve, though, that this conference report contains the best features of both the Senate and House bills. It is a balanced, well-reasoned and totally workable attack on the recession. I commend the able Senator from New Mexico (Mr. MONTOYA) for his leadership as chairman of our Subcommittee on Economic Development and as an active participant in the conference. This legislation also reflects the concern and involvement of the other Senate conferees, Senators MUSKIE, BURDICK, RIBICOFF, GLENN, BAKER, BUCKLEY, MCCLURE, ROTH, and JAVITS and myself.

Mr. President, this measure recognizes the great value of public works activities as an economic stimulator. A particular asset of public works programs is their ability to stimulate employment far beyond individual projects. Public works benefits entire communities and results in increased business in many diverse areas. Throughout our history, we have turned to public works in times of economic distress. The results have been good and I am confident that the implementation of activities authorized by this legislation will be of great value in restoring health to our national economy. I do not accept—and I do not believe Members of the Senate accept—the belief that the recession will cure itself if left alone. The truth is that our economy is still sluggish. In fact, the Federal Reserve Board has reported that industrial production grew by only 0.2 percent last month, half of the rate in the preceding month and a mere fraction of the 1.8-percent increase in September. Unemployment is 8.3 percent and would be even higher if many people had not become discouraged and removed themselves from the labor force. The overall industrial index is higher than it was early this year, but the erratic performance of most economic indicators seems to reflect our inability to effect a strong and sustained recovery. Unemployment in the construction industry is 17.3 percent, more than twice the national average. This means that 771,000 people are now without jobs in an industry with a normal work force of 4.5 million. The provisions of this legislation would attack one of the most serious aspects of unemployment.

Mr. President, this measure provides great flexibility in placing the authorized funds to work in building public facilities and creating jobs. Such freedom of choice is important if we are to obtain the maximum benefit from this effort. One of the well-documented attractions of public works programs in time of economic distress are the residual benefits that remain after the projects are completed. Throughout this country, citizens are utilizing public facilities that were constructed during the great depression of the 1930's. The permanence and continuing benefit of these projects is to me one of most realistic features of the approach we have adopted to combat the recession.

Mr. President, this legislation is needed. I believe that the implementation of its provisions would be felt quickly in a stronger economy. I urge its adoption.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. MCCLURE. Mr. President, I will vote for the conference report on H.R. 5247, the Public Works Employment Act of 1975, but I have reservations about the new urban program added by the House conferees which I will outline shortly.

Other Members have discussed the separate programs included in the conference report, but I want to briefly mention several sections of the legislation.

The conferees agreed to continue the jobs opportunities program through September 30, 1977, with an authorization of $500 million. The report includes the amendments made by the Senate to the existing program. These amendments were included in S. 1587 and were more fully discussed at that time. Primarily the amendments are intended to clarify and strengthen the original intent of the program.

On November 5, the Economic Development Subcommittee held hearings on the jobs opportunities program—how it is being implemented, what types of activities are being selected, the process and criteria used for selection, and the overall impact of the program.

I am concerned—and I am sure other members of the committee share my concern—about the large number of public service jobs projects selected under the most recent appropriation. The purpose of the program is to maintain or create jobs in the private sector, to provide communities an alternative to public service jobs. During the subcommittee hearings I questioned witnesses from the Department of Commerce and Assistant Secretary Mizell about the large number of public service activities. From information gained in the hearings, I believe the priority given "labor intensive" criteria in selecting projects resulted in the large number of straight public service jobs. The Senate amendments to existing law strike this language and emphasize the intent of the legislation, which is to select the most "job effective" activities.

I believe this change will remove the bias in the act toward public service jobs and will result in the selection of activities reflecting the original idea of the program. I am pleased the conferees have agreed to a second round of the program, allowing an opportunity to determine the effectiveness and efficiency of this approach in stimulating jobs.

Concern has also been expressed that funds under the jobs opportunities program are being used to substitute for, rather than supplement, an agency's ongoing activities. I consider this a misuse of the funds. and where this has occurred I would urge the Administrator to have the job opportunity funds returned and reused properly. A new section was added to the act by the conference to make clear that funds authorized for this program are to be in addition to funds already budgeted by another agency, and in addition to any future appropriations available to an agency.

The conferees agreed to include a version of the interest subsidy program authorized in the Senate bill. As agreed to, the Secretary of Commerce is authorized to make interest subsidy payments on loans guaranteed by EDA. The conferees removed the limitation to working capital loans contained in the Senate bill but limited the section to calendar year 1976, as this is a temporary, antirecessionary program to be tried during this period when high interest rates put borrowing beyond the capacity of many businesses. The committee will have an opportunity to review the value of this approach as an antirecessionary measure during hearings next year.

The $2.5 billion local public works program adopted by the conferees is basically the language of the House bill. The conferees made changes in the architectual and engineering grant section to clarify the intent that these grants are to be used for projects which will result very quickly in work on the job site. The provision is not to be used for stretching the time frame on projects. The stated purpose of the local public works bill is to move projects that are ready to go—to create jobs quickly. The change in the architectual, engineering, and related planning section is to bring these grants into conformity with the intent of the legislation.

I would like to mention my reservation about the urban development amendment offered by the House conferees. The amendment was not included in either the House or Senate versions of the bill and, as new matter contained in neither bill, was outside the scope of the conference and, in my opinion, may be subject to a point of order.

The provision creates a new, special class of eligible areas under the regular long-term development programs of the Public Works and Economic Development Act. Under the new section, any urban area with a population of 50,000 or more is considered eligible to receive aid under the regular programs of the Economic Development Administration. These areas will not be required to meet any of the criteria in the act used to measure distress—such as severe unemployment, low incomes, or abrupt disruptions in the local economy. These criteria, however, must continue to be applied to all other areas before they can be considered eligible for EDA assistance.

The amendment also authorizes expanded, special authorities for these new urban areas, which are not included in the present law, and which have not been thoroughly considered.

A change of this magnitude in the purpose and policies of an ongoing program deserves more consideration and discussion than can be given by a conference committee. Substantive changes which have the potential of redirecting programs should be thoroughly scrutinized in the committees and by the Congress.

The effect of the House manager's amendment is more than to simply make it easier to designate urban areas in need of assistance. In fact, over 180 communities included by the new section are already eligible, in whole or in part, under the criteria presently in the law. The

House language makes healthy, prosperous communities as eligible as areas of poverty and chronic unemployment. There is no criteria for eligibility other than population. There is no criteria or directive given the Secretary in selecting areas for assistance. All a community must do is file a plan to be approved by the Secretary. The planning requirement does not establish any criteria. The House conferees strongly opposed, and would not permit, any changes to bring the provision into conformity with existing law.

The amendment had not been considered by the Economic Development Subcommittee or the full House Committee on Public Works and Transportation before it was offered during the conference. Neither has this amendment, or any similar language, been the subject of hearings or consideration by the Senate Public Works Committee.

Legislation extending the regular Public Works and Economic Development Act is pending before the Economic Development Subcommittee, on which I serve as ranking Republican member. The subcommittee could have considered this amendment when it takes up the extension legislation early next year. I do not believe there was such urgency as to require the approach taken by the House.

In conference, we were able to limit the program to fiscal year 1976 and the transition quarter so the two authorizing committees will have an opportunity to review and rewrite this section next year.

Mr. President, I shall briefly refer to two points: One is that yesterday there was some discussion about the possibility that a point of order might be raised against the conference report for including a matter which was not in either the Senate- or House-passed measure and, therefore, improperly included, in my judgment, in this conference report.

I am not going to make that point of order. I make that announcement only so that any other Member of the Senate who may have been relying upon the conversation yesterday, who desired to do so in their own right, might have that notification.

Second, for the record I want to state very clearly how much is involved in this conference report. There is $2.5 billion in it for the local public works projects. There is $125 million for the EDA loan programs; $500 million under the job opportunities program, title X of the Public Works and Economic Development Act; $100 million in the new and somewhat questionable urban economic development section that was added in the conference.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator may proceed for 2 minutes. He said he would not make a point of order. I think it would save the Senate's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Idaho is further recognized.

Mr. McCLURE. I thank the Senator for that courtesy.

There is, in addition, $1.4 billion involved in the application of the Talmadge-Nunn amendment to the waste water treatment construction grant program and $375 million in first quarter obligations under countercyclical revenue sharing.

In addition to that, it was decided that this countercyclical revenue sharing this countercyclical revenue sharing program should be extended for five quarters. So there will be four additional quarters, and the projections for these quarters would indicate a total of $1,125,000,000 This amount could vary, depending on the national unemployment rate.

When we add up all of these items, this is a bill in agreement in conference totaling $6,125,000,000. I state that only so that everyone can recognize that it is not the $3 billion-plus or the $4¾ billion that some people are talking about. It actually totals $6,125,000,000.

Mr. President, I thank the Senator from West Virginia for his courtesy. I thank the chairman of the full committee, Mr. RANDOLPH, and the ranking Republican member, Mr. BAKER, for the courtesies and help extended to us.

We have a very difficult conference report. I think the Senate has not yet seen the last of the questions that may be raised as a result of the injection of the new materials that were not properly before the conference.

Mr. President, I urge my colleagues to vote in favor of the conference report.

Mr. MUSKIE. Mr. President, I would like to express my strong support for the conference report on H.R. 5247.

This legislation is a major congressional response to our No. 1 national problem—unemployment. It is aimed at putting people back to work, both in the public and private sectors.

Most importantly, it will do this at a cost within the limits set by this Congress, under the new budget process. The second concurrent resolution provided for $3.9 billion in budget authority and $1 billion in outlays for fiscal year 1976 for this legislative package. The legislation itself is well within those limits, providing for $3.5 billion in authorization and about $650 million in outlays for fiscal year 1976.

Although I support this entire package, I am, of course, particularly interested in title II, the countercyclical assistance program, which I first proposed with Senators HUMPHREY and BROCK last winter, and which passed the Senate on July 29 as an amendment to the Senate public works bill.

As reported by the conference, the title II program is virtually identical to the original version of the bill, except that the authorization period was reduced by the conferees from 12 calendar quarters to 5.

I am extremely pleased that the conferees were able to agree on retaining the countercyclical program, because I believe the need for it becomes clearer all the time.

We are now in our 12th month of national unemployment in excess of 8 percent. If the impact of recession on State and local governments was not as clearly felt last spring, it is definitely beginning to be felt now.

Over the last several weeks, our attention has been focused on the fiscal crisis in New York City. But, as a recent editorial in the Portland Press Herald notes, the disease has spread far beyond New York. Even the State of Maine, traditionally a fiscally conservative place, is now facing a possible budget deficit caused by sluggish tax revenues.

A recent article in the New York Times, December 2, 1975, pointed to the dramatic slowdown in State and local spending, a factor which could very well retard recovery from the recession.

All across our country State and local governments are taking budget-related actions that exacerbate the recession and reduce the impact of Federal Government efforts to stimulate economic recovery.

They are laying off their employees when our objective is to put people back to work.

They are raising their taxes when we are cutting Federal taxes to stimulate recovery in the private sector.

And they are delaying or canceling capital projects when the construction industry remains among the most depressed in our economy.

Just last night, for example, Mayor Ken Gibson, of Newark, announced the layoff of 582 workers in his city, including 129 policemen and firemen.

The State of Connecticut, to cite another example, has increased taxes nearly $200 million this year to balance its budget—and it still sent out layoff notices to employees earlier this month.

And in Massachusetts, New Jersey, Georgia, and Florida, to name just a few, capital projects have either been delayed or terminated.

Mr. President, this legislation, and the countercyclical assistance provision, in particular, is aimed at preventing counterproductive State and local budget actions like those I have described.

So I hope that we can move quickly today to approve this measure, and that the House will follow suit shortly. Countercyclical assistance to State and local governments is an idea which meets virtually every criterion of a sound antirecession policy. It will get money out into the economy quickly, help most those places which have been hardest hit by the recession, and turn itself off when the recession has subsided.

Most importantly, I emphasize that countercyclical assistance will strengthen the hand of the Federal Government in dealing with the recession.

The combination of public works and countercyclical aid to State and local governments is a unique one. But I think the two approaches are logical complements to one another. Complete recovery from the recession promises to be slow, with high unemployment lingering well into the second half of the decade. A solid antirecession program, therefore, should be one with both immediate and long-range impact, aimed at both the

private and public sectors of the economy. H.R. 5247 is just such a proposal.

Mr. President, I should like to point out that we did not come easily to this point in our consideration of this anti-recession legislation. It is now nearly 5 months since we passed this legislation in the Senate. It was difficult to preserve the comprehensive public works—countercyclical assistance thrust of the Senate-passed bill and to work out a reasonable compromise on the Talmadge-Nunn amendment to the Water Pollution Control Act.

But we have overcome those hurdles, and the conference report before us deserves the overwhelming support of the Senate.

I ask unanimous consent that the article from the December 2, 1975, New York Times, and the editorial from the December 8, 1975, Portland Press Herald be printed in the RECORD at this point.

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

[From the New York Times, Dec. 2, 1975]

CITIES AND STATES SLOWING SPENDING—HARM SEEN TO RECOVERY—NEW YORK'S CRISIS CITED AS INTENSIFYING LAG

(By Soma Golden)

Spending by state and local governments has been a steady and powerful generator of jobs and incomes in the United States for most of the period since World War II.

But for a variety of political, financial and demographic reasons, this spending has begun to slow—with potentially adverse effects on the expected economic recovery. This slowdown, which experts say could last several years, has apparently been intensified by New York City's financial crisis.

With state and local spending accounting for 15 percent of gross national product, slower growth in this $230 billion sector could lead to slower growth in the economy as a whole. Instead of the 5 to 6 percent yearly increase in such spending, analysts expect real growth for 1976, and probably for the rest of the decade, to be closer to 2 or 3 percent a year.

"The state and local sector is just too big to ignore," said Otto Eckstein of Data Resources Ins., an economics research company. "Any major change in the expenditure trends of this enormous sector will have an economy-wide impact." He noted that, in contrast, Federal spending accounts for only 9 percent of G.N.P.

"The question now is whether the growth of the state and local sector will stop altogether under the impact of New York City's problems," he added.

FEW PROJECTS PLANNED

Indeed, a check of two dozen state and local governments around the country found virtually none contemplating a major initiative in budgetary outlays for the years immediately ahead. Instead, officials seem hard-pressed even to follow through on existing spending plans as the recession's aftermath continues to sap their revenues and inflation continues to raise their costs.

Although most local and state officials publicly deny that New York City's problems have changed their budgetary practices, various outside economists think otherwise. A key Administration economist points to what he calls "a consciousness-raising" effect from New York City's disastrous reliance on heavy deficit financing.

In Illinois, for example, Gov. Daniel Walker has slashed his record $10.8 billion state budget by 6 percent through vetoes. If he is overridden by his legislature, the Governor has promised to raise taxes—rather than borrow—to cover the deficit.

CITY'S PATH CITED

Borrowing, says Governor Walker, "is the road that New York City went, and I will not take Illinois down the New York City road."

New York City, of course, is also trying to reduce spending. Markets slammed shut to the city last spring and New York has gone through a series of desperate financial gymnastics to pay its bills and trim its sails.

Despite the Administration's decision last week to offer the city seasonal loans for the next three years, New York has cut $300 million from its budget this year, which puts the budget at about $12 billion. Some $200 million of cuts must still be found to meet stringencies imposed on Mayor Beame by the Emergency Financial Control Board.

Another $800 million of potential city spending has been eliminated by a drastic slash in the capital budget, used primarily to finance construction programs and financed by long-term borrowing.

The state legislature, meanwhile, is locked in a partisan debate about how big the state's deficit is and what taxes are necessary to close the gap. A modest $70 million or so has been cut from the state budget this year. The deficit however, is probably in the vicinity of $700 million.

IMPACT IS UNCERTAIN

How state and local cutbacks will affect the national economy is something about which economists disagree.

Arthur M. Okun, a former Democratic chairman of the President's Council of Economic Advisers, says the new restraint in lower-level governments "does not mark the difference between recovery and recession." But "it's a relatively negative factor in the outlook now compared with two months ago," he said.

Mr. Okun, who is now with the Brookings Institution, a nonprofit research center, has cut a half a percentage point off his earlier forecast of 6 to 7 percent real output growth for next year to compensate for the new fiscal scrutiny under way in state capitals and city halls.

But one top Administration analyst, Rudolph G. Penner, senior economist at the Office of Management and Budget, disagrees, calling the Okun estimate "an exaggeration." he concedes, however, that in the short run the new restraint by lower-level governments could moderate the recovery.

Payrolls at state capitals and city halls now account for about 14 percent of the nation's total employment. The sector's jobs have grown faster in recent years than total United States employment and five times faster than Federal employment.

But the experience of past years—with spending propelled by the growth of Federal grants programs, the rise in welfare rolls, the Federal highway program, the increase in salaries of public employees. Federal revenue sharing may not be repeated.

Changes are already under way. According to a recent survey of 48 states and 140 local governments by the Joint Economic Committee of Congress, at least $8 billion has been drained out of the sector's spending stream during 1975 by emergency budget actions at the state and local level.

One result of these moves, the study says, is the elimination of about 140,000 government jobs—the equivalent of a little over a tenth of a percentage point in the unemployment rate.

The $8 billion of changes turned up by the survey came in three forms of governmental action: $3.6 billion of tax increases, $3.3 billion of cuts in current outlays and a $1 billion in postponed capital construction projects.

It is considered ironic by any observers that at a time when the Federal Government has cut taxes once and contemplates cutting them again to stimulate the economy, state and local governments are heading in the opposite direction, taking stimulus out of the system in an effort to achieve fiscal respectability.

STATUTES CURB DEFICITS

The reason, in part, is that states, cities and counties—unlike the Federal Government—are generally bound by statutes to run their affairs without running deficits. Borrowing money is allowed, but, in general, only to finance capital expenditures or to tide the government over a cash-flow problem until revenues from another source come in.

Although borrowing money is one way to bridge a budget gap, New York City's difficulties this year in repaying its creditors has soured the municipal market for many government borrowers. Although total borrowing this year is expected to be near record highs of $251 billion, raising interest rates have frightened voters into rejecting new bond issues for additional capital spending.

This has forced many governments to pursue the tough political course of raising taxes or cutting outlays to make ends meet.

As a result, states and localities are spending money at roughly a record-breaking $10 billion annual rate of deficit. Without the $8 billion of spending cuts and tax increases reported to the Joint Economic Committee, the deficit would amount to $18 billion.

This marks a dramatic turnaround from the $4 billion surpluses that the sector ran in the prerecession year of 1972. The result was an $8 billion deficit during 1974, a year of deep recession and rampant inflation.

These official deficit figures, from the Federal Government's National Income Accounts, omit an additional $24 billion of long-term debt issued this year, a near record amount.

STRINGENT BUDGET POLICIES

The states and cities reporting the most stringent budgetary actions are those with the weakest local economic conditions and the highest unemployment rates.

The Joint Committee found a "significant mismatch" between resources and needs when it analyzed the fiscal conditions of three groups of states—those that produce energy, the farm states, and those with high unemployment.

The 13 energy producers, according to the report, are in "a very strong financial position" on average. These are Alabama, Arkansas, Oklahoma, Texas, Louisiana, West Virginia, Ohio, Utah, Indiana, New Mexico, Montana, Wyoming and Tennessee. Overall, these states pursued very moderate spending cuts or tax increases this year.

The 18 states with relatively high unemployment were Oregon, Washington, Delaware, Pennsylvania, Florida, Georgia, North and South Carolina, Connecticut, Maine, Massachusetts, Rhode Island, Vermont, New Jersey, New York, Michigan, California, and Nevada.

Another relatively prosperous group of states discovered by the Congressional study are eight heavily agricultural states, namely Iowa, Minnesota, North Dakota, South Dakota, Wisconsin, Kansas, Nebraska and Idaho. They also were able to avoid major moves toward budgetary restraint during 1975.

"In 1973 and 1974 we had a net transfer of wealth in the United States to the energy or farm producer-states," said Ralph Schlosstein, an economist with the Joint Economic Committee, who directed the group's study.

However, a recent drop in farm prices and farm income. Mr. Schlosstein said, could put the farm states into the same difficult predicament as the 18 states in the study with jobless rates at or above the national average.

As a group, these states have "severe financial problems." They have been hit by the recession on both sides of their budgets—expenditures up for unemployment compensation and welfare, while revenues have been reduced. And they have little surplus left to live off this year, the study said.

The result has been a necessity on the part of officials in these areas to cut spending or raise taxes of citizens who can ill afford it.

"Restraints are being put on hardest in just those regions and states with the worst economies," Mr. Schlosstein said.

Officials in these areas hardest hit by unemployment seem to agree. In Detroit and Newark, they endorsed the effort in Congress to adopt counter-cyclical revenue sharing on top of the existing non-cyclical program that pumps out about $6 billion a year for state and local governments.

Although the immediate economic strain in the United States has obviously taken its toll on state and local spending, analysts insist that more than the business cycle is at work to cut back growth of the sector.

A major dampening force, they say, began in the late 1960's when the nation's school-age population dropped, lifting the pressure on lower-level governments to spend money on education outlays.

An even more powerful potential force in dampening the growth of state and local spending may be what a Congressional budget expert called "the fundamental fedupness of this country with public spending." He, like many others, attributed popularity of Edmund G. Brown Jr., Governor of California to this anti-government spirit.

Governor Brown is struggling now to hold California spending increases to as most, the inflation rate by forcing what he calls "very tough choices" on the legislature choices between salary increases and education at outlays, between colleges and child care, between health and conservation.

TAX DEMAND SEEN

"I know there will be a strong demand for new beer and liquor taxes and an increase in the gasoline tax," Governor Brown says. "But I certainly will work to avoid them as I did in the last year. I have a rather jaundiced view of any new taxes."

A similar sentiment was expressed by the Governor of Texas, Dolph Briscoe. Though he is feeling little financial pressure these days because of his state's energy tax revenues, he is already worrying about balancing the budget in fiscal 1978—two years away. To avoid a tax increase then, he has pledged to trim the budget.

A similar attitude prevails in the state house in Massachusetts, where Gov. Michael S. Dukakis has just acceded reluctantly to a $364 million tax package to support his minimal budget of $3 billion.

[From the Portland Press Herald, Dec. 8, 1975]

BUDGET CRISES

The nation has become so preoccupied with New York City's desperate financial situation that it tends to overlook painful symptoms of the same illness elsewhere in the country.

Budget crises may not be of epidemic proportions but they are so common as to indicate a widespread fiscal problem.

Right here in Maine it's almost impossible to know what the financial situation is. Governor Longley's office talks of costs reduced, money saved and the prospect of a legislative session without a tax increase.

But members of the Appropriations and Financial Affairs Committee warn that only swift action can avoid a financial crisis in the state's affairs. They say they have found no substantial savings, that a school deficit could go as high as $9 million and that the state income will fall short $2–$3 million. There are mutterings of a strike by state employes unless wages are adjusted and the University of Maine is taking drastic action to meet its money problem.

In the preoccupation with New York City, it was hardly noticed that one of that city's smaller municipal neighbors, Yonkers, was rescued from default. Governor Carey and the state legislature provided $25 million in emergency aid in return for which Yonkers surrendered its fiscal responsibility to an Emergency Financial Control Board.

The Commonwealth of Massachusetts is in shaky financial condition. Bay State officials have overestimated revenues, including federal aid that never materialized, while underestimating expenses, particularly welfare. At the same time, costly new social programs were introduced.

The nation's Capital is in trouble too. The District of Columbia faces a $45.5 million budget deficit this year and it has $1 billion in unfunded pension obligations. As in New York City, the ratio of municipal workers to city residents is unusually high.

New York City's condition is acute. But it is an illness to which a great many cities and states are susceptible and Maine is not without its symptoms.

Mr. HUMPHREY. I support the Local Government Public Works, Capital Development and Investment Act of 1975, H.R. 5247. I support this bill because it is an integral component of any realistic economic recovery program. It will create jobs both in the public and private sectors, it will reinvigorate the construction industry, and it will assure the continual provision of essential public services.

While every section of this bill will make a meaningful contribution to the strength of economic recovery, I would like to speak specifically about the title of this bill which provides emergency antirecession grants to State and local governments. This idea, I am proud to say, was first offered to Congress by the Joint Economic Committee, which I chair. In its 1971 "Mid-Year Review of the Economy" the Joint Economic Committee recommended:

The Federal Government should adopt a system of grant payments to compensate state and local governments for the shortfall in their own tax revenues caused by high unemployment.

A similar recommendation was reiterated in the committee's December report "Achieving Price Stability Through Economic Growth" and later in the "1975 Joint Economic Committee Report." The countercyclical aid proposal that I sponsored with my distinguished colleagues from Maine (Mr. MUSKIE) and Tennessee (Mr. BROCK) in April, and which is now incorporated in this legislation, contains many of the same provisions that the Joint Economic Committee has consistently recommended since 1971.

As Members of the Senate are aware, State and local governments have been victimized by an unprecedented budget squeeze. Last year, runaway inflation and soaring energy prices played havoc with the costs of providing essential State and local government services. This year, recession has administered the second blow of the economic double whammy—seriously reducing the revenues received by State and local governments and causing expeditures for unemployment-related services to soar.

Back in May the joint economic committee surveyed 48 States and 140 local governments and found that they were undertaking unprecedented tax increases, expenditure cutbacks and employee layoffs in order to keep their budgets in balance. States, counties and cities were raising taxes by $3.6 billion, cutting current service expenditures by $3.3 billion and canceling $1 billion worth of capital construction. A total of 140,000 employees were going to be laid off or not replaced due to the recession. These facts and figures were a compelling argument for this bill back in April.

But this situation has deteriorated even further since the joint economic committee did its survey in May. Many States and localities have discovered that the draconian measures that they have already undertaken have not been enough. In May, New York State anticipated a $560 million deficit; today, it is $700 million. In May, Michigan felt that $95 million of expenditure cuts were necessary; today, they are struggling to cut $300 million out of the budget. Georgia was not going to make any cuts; now that State is eliminating $22 million in expenditures. Even the lower-unemployment-rate States have suffered. California's anticipated balance at the end of the year has fallen from $350 million to $160 million; Illinois from $308 million to zero.

Many cities and counties have also suffered from a further deterioration in their budgets. Oklahoma City expected a $70 million surplus at the end of the year; now they will have nothing. Westchester County, N.Y., expected to maintain expenditures at current levels; they since have cut $25 million. Montgomery, Ala., expected no cuts would be necessary, but they have cut expenditures $8 million and they still have an $8 million deficit. Portland, Oreg., thought they could make it through the fiscal year without increasing taxes; taxes just went up $2 million.

These are not isolated incidents, they are part of a pervasive trend. The recession has devastated all budgets; States and localities; large cities and small cities; counties and townships; even a few wealthier States. No one can deny that the need is there.

But this bill will do more than allow States and local governments to maintain essential services without raising taxes during the recession. It will prevent States and localities from taking budget actions that directly contradict our national economic policies. As it is now, the Federal Government cuts taxes and States and localities raise taxes. The Federal Government hires public service employees and State and local governments lay them off just as fast. Government is giving with one hand and taking away with the other. Our economic recovery is just too fragile to survive this absurdity and inconsistency. Any economic policy in which the Government giveth and the Government taketh away is doomed to failure.

Moreover, this bill has the additional advantage of not being the least bit inflationary. The program turns off completely when the national unemployment rate declines to 6 percent, long before we reach full utilization of resources and

the concomitant upward pressure on prices. In addition, the program does not waste scarce resources, because the assistance is targeted to only those communities with unemployment rates in excess of 6 percent. Not one dime will be spent after the need for the program has been eliminated and not one dime will be spent in a State, county, or city that has no need.

Mr. President, the need for this program is enormous. Every day more and more States and localities are confronting massive budget problems—all a result of Federal mismanagement of the economy. It is time that the Federal Government take responsibility for the problems that it has created. I urge all of my colleagues to join Senator MUSKIE, Senator BROCK, and myself in supporting this landmark piece of legislation.

Mr. McCLURE. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. RANDOLPH. Mr. President, I move that the vote by which the conference report was agreed to be reconsidered.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME LIMITATION AGREEMENT—CONFERENCE REPORT H.R. 5559

Mr. ROBERT C. BYRD. Mr. President, I ask that the time on the next conference report be limited to not to exceed 20 minutes, to be equally divided between Mr. LONG and Mr. CURTIS.

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

PRIVILEGE OF THE FLOOR—H.R. 5559

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. Don Morehead be granted the privilege of the floor during the consideration of the next conference report.

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

AMENDMENT OF THE INTERNAL REVENUE CODE—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on H.R. 5559, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5559) to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of December 16, 1975, at page 40848.)

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. LONG. Mr. President, the press of this Nation has accurately and well reported to the people the nature of the compromise reported in the conference report on H.R. 5559. From the point of view of the Senate, it was a very successful conference. We regret that we were unable to persuade the House of Representatives to agree to the amendment on the housing credit, but the practical realities of the situation made it such that that amendment could not be agreed to.

With that exception, with a small modification, the House accepted the Senate amendment.

So we bring H.R. 5559 back from conference in much the same form as agreed to by the Senate.

It is a 6-month extension of the tax reduction and involves a revenue reduction in the fiscal year 1976 of $6.1 billion, which means that it is within the limits set by the second budget resolution.

It also provides an earned income credit or work bonus of the type included in the Senate bill for those with incomes of $4,000 or less, with a phaseout of the earned income credit for those with incomes between $4,000 and $8,000. This provision is the same as that agreed to by the Senate except that we agreed to a House request for a "disregard" provision. This means that for those already on welfare or some other Federal aid program the month before the earned income credit is paid, the earned income credit refund will be disregarded in determining whether their welfare or other payment should be reduced. For someone newly applying for welfare, however, receipts representing a refund of taxes obtained through the earned-income credit would be taken into account in determining eligibility. This gets rid of the administrative problem that I have heard complaints about and also gives assurance that if somebody is on welfare and takes a job, the receipt of the earned income credit will not decrease their welfare payments. At the same time, by doing it this way we provide an incentive to work for those receiving welfare payments.

In the area of the per capita tax credit and the standard deduction, the House and the Senate conferees compromised out their differences. In the case of the standard deduction, we took a minimum and also a maximum deduction, which was as nearly as possible halfway in between the standard deduction allowances of the House and of the Senate. In the case of the tax credit also, we took a tax credit of $35 rather than the $30 of the House bill or $45 of the Senate bill but also provided that the tax credit can be higher than this in some situations. The tax credit provided for in the conference is to be 2 percent of the first $9,000 of taxable income but never less than $35 for the taxpayer, his spouse, plus any dependents that he may have.

The housing credit, which was added to the bill on the Senate floor, was not agreed to by the House conferees. While I personally favor extension of the housing credit, there was a general desire on the part of the conferees not to include in the bill any controversial provisions. As a result, this was omitted from this bill but undoubtedly will be considered subsequently on the floor of the Senate.

The revenue loss from the corporate tax reductions is estimated at $1.9 billion for a full year. The half-year extension will reduce revenues by $1.0 billion, with a reduction in fiscal year 1976 receipts of $585 million.

The total income tax reductions will reduce revenues at an annual rate of $16.8 billion. Because the extension is for 6 months, the reduction in revenues will be $8.4 billion. For fiscal year 1976, the revenue loss is $6.13 billion. The difference between the half-year and fiscal year revenue losses is due to the lag in collections of 6 to 8 weeks. The fiscal year revenue loss is slightly less than the amount allowed for in the second concurrent budget resolution, buit it is approximately the same amount.

The individual income tax reduction is distributed primarily among the lower range of income taxpayers, and 63.9 percent of the reduction is received by taxpayers with adjusted gross incomes below $15,000. As a result, the reductions will go to those people who are most in need of tax relief and are most likely to spend it and stimulate the economic recovery.

I urge the Senators to enact this 6-month tax reduction as soon as possible. It is important to prevent an increase in taxes on New Year's day. The 6-month extension also is consistent with the President's desire to reduce both taxes and Government spending in fiscal year 1977. This brief extension of the tax reductions will make it possible for Congress to review the budget for fiscal year 1977 before June 30, 1976, and decide how it wants to adjust both spending and taxes.

Mr. President, I am ready to respond to any questions Senators may wish to ask about it.

Mr. CURTIS. Mr. President, we now have before us the conference report on H.R. 5559. This legislation provides for a reciprocal tax exemption for the rental of railroad rolling stock, but its principal purpose is to extend certain of the expiring provisions of the Tax Reduction Act of 1975.

The House and Senate bills dealing with this subject contain different provisions both with respect to the duration of the tax cut extension and the types of substantive provisions that would be utilized to effectuate this extension.

With respect to the duration of the extension, the Senate bill provided for

a 6-month extension through June 30, 1976, while the House bill generally provided for a full calendar year extension. In addition, the changes in the standard deduction in the House bill were permanent in nature. Under the conference report, the extension, including changes in the standard deduction, are limited to 6 months, thus reflecting the Senate approach.

As my colleagues are aware, Mr. President, there were some significant differences between the substantive provisions in the House and Senate bills. The conferees agreed with the decision of the Senate that these substantive provisions should be structured so that the withholding tables now utilized for individuals could remain in effect for the first 6 months of calendar year 1976. With respect to the substantive provisions themselves, the conferees agreed to set the low-income allowance or minimum standard deduction at $1,700 for single persons and $2,100 for married persons filing joint returns. The percentage standard deduction was maintained at 16 percent and the maximum standard deduction was set at $2,400 for single returns and $2,800 for joint returns.

The conferees reduced the credit for taxpayers and dependents to $35 and added an alternative credit of 2 percent of taxable income up to $9,000. The effect of this provision, when combined with the conference action on the standard deduction, is to target the tax cut extension slightly more toward persons in the middle-income ranges. In effect, this represents a compromise between the House provisions and the Senate provisions.

The conferees also accepted the earned income credit which was included in the Senate bill. In addition, the conferees considered the extent to which the earned income credit should be disregarded in determining eligibility for AFDC benefits. The conferees agreed that the earned income credit would be disregarded if an individual was already receiving AFDC benefits but that there would be no "disregard" for purposes of determining initial eligibility for AFDC benefits.

With respect to the corporate tax reductions, both the House and Senate bills contained the same substantive provisions, which are targeted principally toward small business. The conferees agreed with the Senate that, like the individual tax cut extension, this extension should be limited to 6 months. Thus, for the first 6 months of calendar year 1976, the corporate surtax exemption would be $50,000, and the first $25,000 of corporate income would be taxed at a 20-percent rate. The next $25,000 of corporate income would be taxed at a 22-percent rate, and all corporate income over $50,000 would be taxed at a 48-percent rate.

The conference report does not contain any limitation on Federal spending or any similar provision. This is because neither the House nor the Senate bill contained any provision dealing with the question of Federal spending. Hence, the conferees had no option with respect to this issue.

On balance, Mr. President, the conference report deserves favorable consideration by those who voted for the original Senate bill. Given the necessity of reaching some compromise with the House, the conference report maintains much of the basic philosophy of the original Senate bill. For this, I commend our distinguished chairman for his efforts in the conference to preserve the Senate position.

Personally, I will vote against the conference report, not because of what was agreed to or rejected in conference, but because I believe that tax reductions must be accompanied by comparable reductions in Federal spending. I took that position with respect to the original Senate bill and I continue to hold it.

Mr. President, the debate on this tax bill showed something that is quite encouraging, and that is that so many Senators were discussing the budget in its entirety.

As I said the other night, I have the greatest commendation for the members of the Committee on the Budget for their dedication and hard work. I do believe that, by the very nature of the law, they are operating under certain disadvantages. Their authority is statutory. Congress can change it at any time, and may, as the Senate can change the rules here. The power may be of considerable value, since to hold an amendment subject to a point of order would be overcome by a majority vote. Therefore, I believe that ultimately we have to come to a discipline in spending based upon the Constitution.

That is the reason why I have introduced, worked for, and we have had hearings on a constitutional amendment to compel a balanced budget.

Mr. President, one further thing. I believe it will be easier for the Congress of the United States to maintain a balanced budget than a controlled deficit. Suppose we are committed by the Constitution to balance the budget. Individuals or corporations come to us and say, "We want some money." We can say, "We cannot do it unless we increase taxes."

Maybe we should increase taxes. Maybe we should eliminate something else. But at least there will be discipline then.

If we try to operate under a controlled deficit, how are we going to say to any individual or group, or any Senator or Representative, for that matter, "We want a $60 billion deficit, and we do not want to go to $62 billion."

That is almost tweedledee or tweedledum as far as the trend of the country is going, so far as the inflationary impact and the headlong plunge toward ruinous inflation are concerned.

So, Mr. President, I commend all of my colleagues who have shown such interest in budgetary matters. I submit we will never have a satisfactory authority to maintain a budget until we put it in the Constitution also, that it must command a balanced budget with a self-enforcing provision; and I believe that can be done.

Here is one problem under the existing budget law: Next spring we will face a budget for a year beginning October 1. Nine months of that year is within the jurisdiction of another Congress. In that situation, it is just absolutely impossible to have any real discipline in spending with only statutory authority.

Mr. President, I yield the floor.

Mr. FANNIN. Mr. President, I favor extending the present tax cuts in order to give the individual more control over his earnings. However, I find it necessary to vote against the conference report on the tax reduction extension bill. My reasons for opposing this bill at this point are the same as those stated in the "additional views" submitted by Senator HANSEN and myself in the Finance Committee report.

This bill fails to give any consideration to the necessity of considering tax reductions and spending reductions simultaneously. The Congress must take affirmative action immediately if it is to gain control of our runaway budget increases. As I have stated many times before, the Federal Government has achieved a balanced budget only 1 year during my 11 years in the Senate. Clear signs are rising all around us that the Nation is heading toward financial collapse.

Mr. President, I realize that the President's dollar-for-dollar budget cut for tax cut proposal created significant problems for the new congressional budget procedures. It had been my hope that some accommodation could have been reached with the White House on this issue. I am disappointed that our negotiation failed on this point.

Despite the procedural difficulty in the President's proposal, I believe it would be a great disservice to the American taxpayers to allow the budget curtailment issue to be hidden behind procedural questions. We must all recognize that the existence of the new congressional budget process does not mean that we have gained control over the budget. Unless the Congress acts immediately, the Federal budget will increase from $370 billion in fiscal year 1976 to $423 billion in fiscal year 1977, an increase of $53 billion or 14 percent. These figures frighten me. I admonish my colleagues to view these increases with rightful alarm and to take responsible action to alter this course of self-destruction.

Mr. DOLE. Mr. President, I shall vote for the conference report on H.R. 5559, extending the present reduced rate of taxation on personal and corporate income for the last 6 months of 1976. But I do so with some hesitation, because I believe that Congress should make a commitment today to couple future tax reductions with similar reductions in Federal expenditures.

I am able to vote for the conference report only because the tax reductions called for by this legislation do not affect revenues for fiscal year 1977, which begins on October 1, 1976. If the tax reductions in this bill led to revenue losses in fiscal year 1977, I could not lend them my support. For an extension of tax cuts beyond June 30, 1976, without concomitant reductions in Federal spending would only serve to encourage continuation of Federal budget deficits in the $70 to $80 billion range. Clearly, this would

not be acceptable to the President, the American people, or me.

The 6-month continuation of the present tax rates will offer Congress an opportunity to address the concept of conditioning future tax reductions on comparable spending reductions. As a member of both the Finance and Budget Committees, I plan to closely scrutinize all types of Federal spending—from the Defense budget to HEW, from farm programs to Government travel allowances, and from Federal business subsidies to food stamps.

No area of Federal spending should be immune from careful examination by authorizing committees, Appropriations Committees, and the Budget Committees. The spending cuts imposed as a result of this examination may enable Congress to extend—and perhaps even expand—these tax reductions in fiscal year 1977. If Congress fails to make meaningful and realistic spending reductions, preferring instead to follow the "business as usual" approach with respect to Federal outlays, then further tax reductions may not be warranted.

PRESIDENT'S FOCUS IS CORRECT

The President's tax and spending cut proposals have focused national attention on the need for a fundamental reexamination of the proper role and size of the Federal Government. The American people are disillusioned with the trend toward bigger Government and the higher taxes and persistent inflation which inevitably accompany it.

I am convinced that the vast majority of our constituents recognize that the Federal Government cannot and should not attempt to solve every problem or meet every perceived national need. The minority which has favored a predominant Federal role is being forced to reconsider the wisdom of massive Federal involvement. Almost universally, there is a recognition that the wisest course of action does not always require a barrage of inflationary Federal dollars.

NEED FOR OVERSIGHT

To facilitate a thorough review of Federal spending in future years, I have introduced legislation, along with a bipartisan coalition of 17 cosponsors, calling on the General Accounting Office, the Congressional Budget Office, and the Senate Government Operations Committee to develop a standard oversight methodology to be utilized by each standing committee in reviewing the effectiveness of the programs it has authorized.

This legislation is necessary in light of the poor record of oversight undertaken by Congress in the past. We need to identify the ineffective Federal programs as well as costly duplication which exists today, because several committees, without consultation, have legislative programs to meet a single unidentified national concern. While the structured oversight process envisioned by this bill could not be implemented until late next year, the time to start an invigorated oversight process is now. American taxpayers expect and, justifiably, are beginning to demand that the Federal Government be just as thrifty with their tax dollars as taxpayers are with the ever-dwindling take-home portion of their paychecks.

SUPPORT FOR CONFERENCE REPORT

So while I will vote for the conference report on this short-term extension of tax reductions, I agree wholeheartedly with President Ford that future tax reductions will be possible only in conjunction with spending cuts. In this respect, I commend to my colleagues the lead editorial in today's Wall Street Journal. I have had my differences with the editorial board of this newspaper on previous spending bills, while I believe the central thrust of today's editorial is right on target. Those who would doubt that the editorial writer has accurately gaged public opinion on the need for reductions in Federal spending should talk to their constituents over the upcoming recess.

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

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

[From the Wall Street Journal, Dec. 17, 1975]

THE PRESIDENT'S TAX BOX

The 94th Congress is about to send President Ford a bill that asks us to believe taxes and spending should not and cannot be considered together. In all innocence, congressional Democrats who believe this ridiculous position somehow calculate that the President can't deal with it and come out a political winner. They think Mr. Ford has put himself in a box from which there is no exit.

Their reasoning: If the President vetoes the tax bill, and the veto is sustained, every paycheck will be smaller in January because of the increased tax withholding. Should the tenuous economic recovery then falter, Mr. Ford will be blamed. On the other hand, if he signs the tax bill after having sworn up and down the country that he would never agree to a tax cut without a congressional commitment to hold down spending by an equal amount, he'll be confirmed as a weak and swerving President instead of a firm and unswerving one.

This conventional analysis, though, ignores the possibility that the President is in that box because he sees an opportunity there, and that he can win politically by persuading the public to join him therein. We not only think the President should be right where he is and that he should veto the bill. We also believe his only real problem lies in selling his very saleable position, persuading the public that he is being stubborn with Congress for good reason.

We think he has the best reason there is, which is that he is right and Congress is not only wrong but frivolously wrong. Congress insists on merely extending $16 billion in 1975 tax reductions for six months, at which time it pledges to only "consider" reducing spending by that amount in the fiscal 1977 budget. The President has proposed a tax cut amounting to $28 billion that is precisely matched by reductions in projected spending in fiscal 1977, and he only asks that Congress commit itself to spend no more than $395 billion in that year.

The only argument the Democratic leadership has offered on why it won't buy the $395 billion ceiling is that Congress has a new budget process, and the calendar for that process doesn't call for setting a ceiling until next June. It is simply not possible, Congress solemnly asks us to believe, for Congress to violate the official calendar of the new budget process in order to compromise with the President.

This is so much nonsense, and the President should say so when he vetoes the bill. The real reason the Democrats don't want to accept the ceiling is that they do not want to have the idea of tax reductions and spending limitations joined in the public's mind. And this is the real reason why Mr. Ford is so stubborn in insisting that the two be joined. Anything less perpetuates the Keynesian idea that there is a free lunch. The nation has now learned in New York that while you can defer taxes through borrowing for awhile, you eventually have to pay with interest for all spending. But Congress is resisting applying this lesson to the federal level.

It seems to us the public is not only waiting to hear this simple message from Washington, but that it knows in advance that it has to be true. President Ford doesn't have a dilemma at all, but a golden opportunity to unveil the free lunchers on Capitol Hill. He has the right position, the right philosophy, the right tax package. All he needs is the right words to explain that when spending goes up, taxes have to follow, and for taxes to go down, spending must come down too. If Congress wants to argue with him about this, we will find out who is in a box.

Mr. HANSEN. Mr. President, during the consideration of this bill, both in the Finance Committee and on the floor of this Chamber, I have stated my opposition to a simple 6-month extension of the prior tax reductions. My opposition is based on the fact that this bill does not give the necessary recognition to the importance of considering tax reductions and spending reductions simultaneously.

In October the President proposed a $28 billion tax cut, conditioned on the establishment of a $395 billion spending ceiling for fiscal year 1977. The $395 billion spending ceiling represents a $28 billion reduction in the level of spending increase for fiscal year 1977. In short, the President's plan represents a $28 billion tax reduction coupled with a $28 billion reduction in Federal spending.

The issue raised by the President of conditioning tax reductions on comparable spending reductions is one of paramount importance. I believe the Congress must not enact tax reducton extension legislation unless there is some assurance that there will be a comparable reduction in Federal spending.

Tax reductions without spending reductions result in larger Federal deficits and higher inflation. Certainly, the Congress should not move the Nation in this direction. Yet, that is exactly what this bill will accomplish.

Mr. President, we must be cognizant of the fact that, absent a comparable reduction in Federal spending, there is a direct relation between tax reductions and inflation. If this Government continues to spend money it does not have, the result will be higher and higher prices in the marketplace. The American people have too long felt the effect of inflation. We in the Congress must take the necessary steps to bring inflation under control. A vote for tax reduction without provision for a spending reduction is a vote for yet another round of inflation.

Mr. President, the American people want more purchasing power and less government, rather than less purchasing power and more government. This laudable goal can be accomplished through

enactment of a substantial tax cut coupled with a spending reduction. If the Congress would reduce the spending of the Federal Government, the size of the Federal Government would be reduced. The amount reflected in reduced Federal spending could be returned to the taxpayers in the form of tax reductions. Pursuit of this policy would not only reduce the size of the Federal Government and place more money in the hands of the American people, it would also lead to the generation of the capital and employment opportunities essential to the Nation's future prosperity and security.

The evidence is clear, in recent years Federal deficit spending has preempted the ability of the private sector to generate the capital necessary to remain strong. Unless the private sector of our economy is provided with sufficient capital, millions of American jobs will continue to remain in jeopardy.

Reduction of Federal spending will in part remove the Federal Government from the capital market and assure more capital for the private sector. Additionally, a substantial tax reduction will reinforce the capital market, thus providing more capital for the private sector.

Mr. President, none of these goals can be achieved unless the Congress is willing to couple spending reductions with tax reductions.

Mr. President, I readily recognize the procedures established by the Congressional Budget Act, and appreciate that a proposal which requires a certain spending ceiling may cause problems with the congressional budget process. However, I want to strongly indicate that I believe there is room in the congressional budget process for coupling spending reductions with tax reductions. If the Congress does not find a method to consider these two items simultaneously, I believe the Nation will suffer.

I was very disappointed that, during the consideration of this bill, a workable arrangement to consider tax reductions coupled with spending reductions was not found. I believe there was room for compromise, and if the Congress were truly dedicated to this approach, a workable arrangement could have been found.

I stated in the "Additional View," filed by Senator FANNIN and myself to the Finance Committee report on this bill, that I was hopeful that the Senate would be able to "develop an approach which would both provide for a limited extension of tax reductions as the committee bill does, and commit the Congress to a comparable reduction in the Federal budget with respect to the next fiscal year." I stated that if we are unable to develop such an approach, then I would be unable to support the bill.

Mr. President, despite what I believe is the necessity of such a proposal, an acceptable approach to couple tax reductions to spending reductions was not developed. I certainly regret that this was the outcome of our sincere efforts.

However, as I previously indicated, absent the coupling of a spending reduction to this tax cut extension, I cannot support this bill.

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

Mr. CURTIS. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All remaining time having been yielded back, the question is on agreeing to the conference report.

The report was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 2 p.m. today.

The motion was agreed to; and at 1:37 p.m., the Senate recessed until 2 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. GRIFFIN).

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the amendments in disagreement of the conference report on H.R. 9861.

The amendments in disagreement are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert:

"*Provided*, That none of the funds provided in this Act may be obligated for construction or modernization of Government-owned contractor-operated Army Ammunition Plants for the production of 105mm artillery projectile metal parts until a new study is made of such requirements by the Department of the Army; the Secretary of the Army certifies to Congress that such obligations are essential to national defense; and until approval is received from the Appropriations and Armed Services Committees of the House and the Senate, $637,200,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "of which no more than $15,000,000 shall be available for the Condor missile program until the Secretary of Defense determines and advises the Congress that the Condor missile system has successfully completed testing and can be released for production,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$205,600,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$604,400,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 751. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counselors, except when these services are certified as not being available on the military base to which the member is assigned, or when the recipient resides within 40 miles of a military medical facility which certifies that these services are not available; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) reconstructive surgery justified solely on psychiatric needs including, but not limited to, mammary augmentation, face lifts, and sex gender changes; or (f) any other service or supply which is not medically or psychologically necessary to diagnose and treat a mental or physical illness, injury, or bodily malfunction as diagnosed by a physician, dentist, or a clinical psychologist.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 753. Unless otherwise specified and during the current fiscal year, and the period July 1, 1976, through September 30, 1976, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: *Provided*, That, for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the

requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal-clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

Mr. TOWER. 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. CRANSTON. 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. CRANSTON. Mr. President, I ask unanimous consent that William Jackson and Emily Thuber of my staff may have privileges of the floor during consideration of the Angola matter.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

Mr. CRANSTON. In open session only.

Mr. ROBERT C. BYRD. I have no objection.

Mr. McCLELLAN. Reserving the right to object, what is the request?

The PRESIDING OFFICER. The request of the Senator from California is that two of his staff members be allowed the privileges of the floor during consideration of the Angola matter while the Senate is in open session.

Mr. McCLELLAN. I have no objection.

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

Mr. CRANSTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

TIME-LIMITATION REQUEST— S. 622

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request, I think, with interested Senators and those who are principals in the debate. I ask unanimous consent that at such time as the Senate resumes consideration of the motion to concur in the House amendments to the Senate amendments to the House amendments to S. 622, there be a time limitation of 2 hours thereon, to be equally divided between Mr. FANNIN and Mr. JACKSON; that the debate begin at 4 p.m. today; and that upon the expiration of the time, a vote occur upon the motion.

The PRESIDING OFFICER (Mr. ROTH). Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request for the time being.

Mr. TUNNEY. Reserving the right to object.

Mr. ROBERT C. BYRD. I have withdrawn the request.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976— CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate Nos. 49, 53, 75, 83, 98, and 101 to H.R. 9861 in the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. TUNNEY. Mr. President, I object to en bloc consideration of all the amendments. I have no objection to consideration of five of the amendments en bloc, but I want amendment No. 75 to be considered separately.

Mr. McCLELLAN. Mr. President, I modify my motion.

I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 49, 53, 83, 98, and 101.

The motion was agreed to.

AMENDMENT NO. 1303

Mr. McCLELLAN. Mr. President, I again move that the Senate concur in the House amendment to the Senate amendment No. 75. That will be the pending motion.

Mr. TUNNEY. Mr. President, I move to amend the House amendment to Senate amendment numbered 75 as follows:

Strike "$205,600,000," and insert in lieu thereof: "$172,600,000, none of which, nor any other funds appropriated in this Act may be used for any activities involving Angola other than intelligence gathering, which funds are".

This language is contained in amendment No. 1303 which is at the desk.

Mr. McCLELLAN. Mr. President, will the Senator yield? What is the objection to the money? Why cannot the Senator just move that no funds be used for this purpose?

The PRESIDING OFFICER. Will the Senator from Arkansas yield? The question is on agreeing to the motion to concur in the House amendment to Senate amendment numbered 75 with an amendment, which the clerk will report.

The legislative clerk read as follows:

That the House recedes and concurs with an amendment to Senate amendment numbered 75, with an amendment.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT REQUEST—S. 622

Mr. ROBERT C. BYRD. Mr. President, I renew my request with respect to the energy bill.

The PRESIDING OFFICER. Is there objection?

Mr. TUNNEY. Reserving the right to object, I do not know how much time Senators are going to want to take on this amendment and the debate thereon, but it would seem to me that if we could just continue the debate until we get a vote and then bring up the other conference report, it might make for a little bit more orderly procedure because there are a number of Senators who have indicated they wanted to participate in the debate, they wanted to listen to it and, do you not think, it would be better just to continue the debate until we reached a conclusion and then have a vote up or down and then move to the next business?

Mr. ROBERT C. BYRD. No, not under the present circumstances. The adoption of this unanimous-consent request would not have any impact upon the debate on this amendment in disagreement except that at 4 o'clock today the Senate, if it had not disposed of that amendment by 4 o'clock, would go to the House message on the energy bill, would stay thereon for 2 hours, vote on the motion pertaining to S. 622, and then go back to the pending motion before the Senate.

I think in the long run—with the Senate hoping to complete its business by the close of business on Friday, and many Senators having reservations on airlines and being forced to get out of here tomorrow at some point—it would be better if we could get this request agreed to and dispose of the energy bill, at a set time. Then the Senate would go back, if it had not previously disposed of it, to the pending question now before the Senate.

Mr. TUNNEY. I would like to propound, Mr. President, the following question to my distinguished leader: What about a vote on the pending amendment at 4 o'clock and, following the disposition of that amendment, we could then move on to the energy conference report?

Mr. ROBERT C. BYRD. That would be fine.

Let me get a time limitation on S. 622 first.

Mr. McCLELLAN. Which conference report are we asking about?

Mr. ROBERT C. BYRD. It is not a conference report. It is the motion to concur in the House amendment to the Senate amendment to the House amendments to the bill S. 622.

Mr. TOWER. I hope we could get this coupled with a time to take up.

Mr. TUNNEY. I am prepared to offer a unanimous-consent request that we have a vote on the Tunney amendment at 4 o'clock and, following the disposition of that amendment, we then move on to the energy conference report for 2 hours with a vote to be taken thereon at 6:15.

Mr. TOWER. Very well.

Mr. MORGAN. Mr. President, reserving the right to object, I think the amendment offered by the Senator from California is a very important amendment and will have far-reaching effects. I do not believe we should place any time limitation on it and, for that reason, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President

in view of the fact that objection has been made to the request of the Senator from California, I would like to renew my request that the Senate at 4 o'clock today proceed to the consideration of the motion on the energy bill with a 2-hour limitation thereon to be between Mr. FANNIN and Mr. JACKSON; then, upon the disposition of that bill, with a vote to occur immediately upon the expiration of that time, the Senate resume consideration of the amendment in disagreement on the defense appropriation act.

Mr. TUNNEY. I want to be cooperative, but the Senator from North Carolina has made the point that this pending amendment is very important, and that is the reason he has objected to a time limitation being placed on the amendment.

I would be perfectly prepared to have a 2½-hour or 3-hour time limit placed on it, but I think because it is important we ought to be discussing it in a fashion in which there is a degree of continuity developed in the debate rather than having 2 hours on the amendment and then shifting off for 2 hours onto the energy conference report and then coming back to it late in the afternoon or early in the evening and, perhaps, not winding the thing up until 11 o'clock at night.

I think it is only fair if this amendment is so important that we dispose of it this afternoon when we have Senators present. We all know in the evening many Senators—not many, some Senators—feel they have to leave the body and meet other commitments. I think we ought to dispose of this amendment right now, and if the Senators want to be over here and participate in the debate I think we can dispose of the amendment in 2 hours.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed at this time to the consideration of the motion on the energy bill, with a 2-hour limitation thereon, to be equally divided between Mr. FANNIN and Mr. JACKSON; that upon the expiration of that time, or earlier, if the time is yielded back, the Senate vote on the adoption of the motion, and upon the disposition of that vote the Senate then resume consideration of the pending amendment in disagreement to the defense appropriation conference report.

Mr. TUNNEY. Reserving the right to object, I would like to ask my distinguished leader if he anticipates any other business being inserted on the Senate floor prior to the disposition of this amendment when it comes up after the energy report is disposed of.

Mr. ROBERT C. BYRD. As far as the leadership is concerned, that would only be done by unanimous consent, and the Senator from California could prevent its being done simply by objecting.

Mr. TUNNEY. With that understanding I do not object to the immediate consideration of the energy report, but I think that once we start off with the amendment that we continue on it until it is disposed of.

Mr. McCLELLAN. Mr. President, reserving the right to object, what is the request? I could not hear the Senator.

Mr. ROBERT C. BYRD. The request is that the Senate proceed at this time to the consideration of the motion on the energy bill with a time limitation thereon of 2 hours; upon the expiration of that time—or upon its being yielded back before the expiration of 2 hours—the Senate vote on the motion on the energy bill and then resume consideration of the defense appropriations conference report, the amendment in disagreement.

Mr. McCLELLAN. Mr. President, I have no objection to the first part of the request. As to the second part, with respect to the time limitation, I found this morning that we had no control of time limitations and I, for the moment, have to object as to the time limitation on debate.

Mr. ROBERT C. BYRD. There is no time limitation on debate.

Mr. McCLELLAN. The Senator said 2 hours.

Mr. ROBERT C. BYRD. On the energy conference report, not on the Senator's bill.

Mr. McCLELLAN. As long as there is no time limitation on the pending amendment to the conference report I have no objection. But I had a bad experience this morning.

Mr. TOWER. Reserving the right to object, and I shall not object, actually this is consideration of S. 622 rather than a conference report.

Mr. ROBERT C. BYRD. Yes, the able Senator is right—it is the motion to concur in the House amendment to the Senate amendment to the House amendments to S. 622. I am so accustomed to referring to conference reports at this stage, the inadvertence comes natural. I thank the Senator for calling the correction to my attention.

Mr. GOLDWATER. Reserving the right to object, Mr. President, and I will not object, there is no time limitation on debate on the Tunney amendment.

Mr. ROBERT C. BYRD. I beg the Senator's pardon?

Mr. GOLDWATER. No time limitation on debate on the Tunney amendment.

Mr. ROBERT C. BYRD. No.

Mr. GOLDWATER. It could be debated at great length?

Mr. ROBERT C. BYRD. There is no time limitation.

Mr. GOLDWATER. And it probably will be.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Reserving the right to object, I wonder if I might suggest the absence of a quorum so that I might discuss a matter with the acting majority leader.

The PRESIDING OFFICER (Mr. HATFIELD). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. 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. TOWER. Mr. President, I ask unanimous consent that on an ensuing quorum, the time consumed be charged to neither side, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Reserving the right to object——

Mr. McCLELLAN. Will the Senator state his request? I do not know what has been going on here and I want to know, before I agree to something, what it is.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. I do not intend to object, but may I ask a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Would an amendment in the nature of a substitute to the Tunney amendment be in order?

The PRESIDING OFFICER. It would be.

Mr. GRIFFIN. Before the unanimous-consent request is agreed to, I send to the desk a substitute for the Tunney amendment and ask that it be stated.

Mr. JAVITS. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 1, line 1 of amendment Number 1303, strike the language after "$205,600,000," and insert: in lieu thereof "none of which, nor any other funds appropriated in this Act may be obligated or expended to finance the involvement of United States military or civilian forces in hostilities in or over from off the shores of Angola, which funds are".

Mr. JAVITS. Mr. President, reserving the right to object, I make a further parlimentary inquiry.

The PRESIDING OFFICER. The amendment is not drafted as a substitute. It could be offered as a perfecting amendment.

Mr. GRIFFIN. Is it in order as a perfecting amendment?

The PRESIDING OFFICER. It is in order as a perfecting amendment.

Mr. GRIFFIN. Then I offer it as such.

Mr. MANSFIELD. Would the Senator allow us to get the consent agreements reached?

Mr. JAVITS. I would like to ask a question.

On the energy, of course, I yield for that purpose.

The PRESIDING OFFICER. The Senator from Montana.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President——

Mr. TOWER. May we have order, Mr. President, so everybody will understand fully what this is all about?

The PRESIDING OFFICER. The Senator's point is well taken.

Will the Senate please be in order? The Chair would request all Senators to clear the well and go to their desks.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. Presi-

dent, at the request of the distinguished Senator from Arkansas (Mr. McCLELLAN) I renew the request.

I ask unanimous consent that the Senate now go to the consideration of the House message on S. 622, that there be a time limitation thereon of not to exceed 2 hours to be equally divided between Mr. FANNIN and Mr. JACKSON, that upon the expiration of that time or upon its being yielded back, the Senate vote immediately on the adoption of the motion to concur in the House message on S. 622, that upon the disposition of that motion, the Senate then resume consideration of the pending matter.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. For the moment, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The question is on the amendment of the Senator from Michigan.

Mr. JAVITS. Mr. President, I thought I had the floor for a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. JAVITS. With reference to the perfecting amendment just submitted by Senator GRIFFIN——

The PRESIDING OFFICER. The Senator will suspend.

Will there be order in the Senate, please? Attaches and others will please take their seats.

The Senator from New York.

Mr. JAVITS. Is a substitute in order notwithstanding the existence of a perfecting amendment unacted on?

The PRESIDING OFFICER. A perfecting amendment unacted upon would preclude the offering of a substitute amendment.

Mr. JAVITS. But a perfecting amendment on a substitute may be offered upon the disposition of the perfecting amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. And the perfecting amendment is not subject to further amendment?

The PRESIDING OFFICER. The Senator is correct, it is in the second degree.

Mr. JAVITS. I thank the Chair.

Mr. TUNNEY. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. TUNNEY. In reading the language of this amendment——

Mr. MANSFIELD. Will the Senator yield briefly?

Mr. TUNNEY. Yes, I yield to the Senator.

Mr. ROBERT C. BYRD. Mr. President, I renew my request. Let me state it again.

I ask unanimous consent that the Senate at this time—and I do not want to cut off any Senator who is about to offer——

Mr. TUNNEY. It was a point of order I was going to raise.

Mr. ROBERT C. BYRD. Very well.

I ask unanimous consent that the Senate at this time proceed to the consideration of the motion to concur in the House amendment to the Senate amendment to the House amendment to the Senate bill S. 622; that there be a time limitation thereon of 2 hours to be equally divided between Mr. FANNIN and Mr. JACKSON; that upon the expiration of that time or upon its being yielded back a vote occur on the motion; and that upon the disposition of that matter the Senate then resume consideration of the pending matter.

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH addressed the Chair.

Mr. McCLELLAN. Reserving the right to object—and I do not want to object and I will not if I can have this understanding with the leadership—that at any time after 6 o'clock tonight—I do not mind staying until then if this matter has not been disposed of, and I am not going to agree to a limitation of time—if this matter has not been disposed of, a motion will be in order to recess until tomorrow. I do not propose to stay here all night on account of 2 hours out for something on this pending business.

Mr. ROBERT C. BYRD. Yes; the Senator has that understanding.

Mr. McCLELLAN. Do I have that understanding?

Mr. ROBERT C. BYRD. Yes.

Mr. CLARK. I object to that.

Mr. ROBERT C. BYRD. Now, wait——

Mr. YOUNG. I object.

Mr. MANSFIELD. No.

Mr. YOUNG. I want to find out if there will be one of these foolish closed sessions or not.

Mr. GRIFFIN. The Senator from North Dakota objected.

The PRESIDING OFFICER. Objection is heard.

Mr. YOUNG. I withdraw my objection.

The PRESIDING OFFICER. The objection is withdrawn.

The Senator from West Virginia.

Mr. RANDOLPH. I am going to reserve the right to object.

Mr. ROBERT C. BYRD. Senators do not know what they are objecting to. There has been no request that there be a 6 o'clock recess.

The Senator from Arkansas merely wanted it understood that a motion to recess would be in order at 6 o'clock. This rulebook permits that. We do not need unanimous consent for that. That motion to recess is in order right now or at any time a Senator wants to make it today.

Mr. McCLELLAN. I want it understood that I could make it. I do not intend to stay here all night.

Mr. ROBERT C. BYRD. I hope Senators will not object on that flimsy basis.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

ENERGY POLICY AND CONSERVATION ACT

The PRESIDING OFFICER. The Chair lays before the Senate the message from the House which the clerk will state.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate to the amendments of the House to the bill (S. 622) entitled "An Act to provide standby authority to assure that the essential energy needs of the United States are met," and so forth, and concur therein with an amendment.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time consumed be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TUNNEY. I ask unanimous consent that the order for the quorum call be rescinded.

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

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1975—CONFERENCE REPORT

Mr. TUNNEY. I had a parliamentary inquiry, Mr. President. I wanted to ask the Chair whether or not the amendment that was offered by the Senator from Michigan (Mr. GRIFFIN) constituted legislation on an appropriation bill.

The PRESIDING OFFICER. The Chair will take the inquiry.

Mr. GRIFFIN. I might ask, Mr. President, whether the same objection will then apply to Mr. TUNNEY's amendment.

The PRESIDING OFFICER. Neither the amendment by the distinguished Senator from California (Mr. TUNNEY) nor the perfecting amendment of the distinguished Senator from Michigan (Mr. GRIFFIN) constitute legislation on an appropriation bill—they are both limitations.

The Senator from Ohio.

ENERGY POLICY AND CONSERVATION ACT

Mr. GLENN. Mr. President, I yield myself such time as I may need for an opening statement.

The PRESIDING OFFICER. Will the Senator suspend?

Mr. HANSEN. I ask unanimous consent that Nolan McKean of my staff be granted the privilege of the floor during debate on the pending legislation.

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

The Senator will suspend until the Senate is in order.

Will the Senators please take their conferences and discussion to the cloakroom?

The Senator from Ohio may proceed.

Mr. GLENN. Mr. President, I am the designee of Mr. JACKSON. He will be here shortly. I would like to make an opening statement.

Mr. President, although it has taken most of 1975 to get to this point with regard to energy legislation, I believe the act that we have before us today represents a good compromise position, and in the very best sense of the word "compromise."

Although the act involves many policy areas, pricing has obviously received the most attention. Congress started the year with some very hard-line concepts re-

garding lower price ceilings and averages, concepts in marked contrast to administration positions. This hard-line has gradually changed, moving upward to the act's provisions for a composite which existed in January of 1975, just prior to the tariff. With OPEC on the scene, prices in January can be looked at as "free-market including OPEC influence," hence the $11.28 figure for new oil which then existed and which the act reflects in the $7.66 composite. An $11.28 price, of course, is only one of the options available to the President under the average price formula, but it is the one most likely to be used in a two-tier system. This final position represents the acceptance of a substantial move upward in pricing for many Members of Congress, and there was a general feeling that "enough is enough," no more give on this or other points.

However, after lengthy discussions, it was apparent there were still serious administration reservations regarding this pricing level.

That, plus the fact that no one at either end of Pennsylvania Avenue can know with absolute certainty what our general economic condition will be in the years ahead, led to another provision in the act. This compromise gives the President far more flexibility to mold and shape the program as time shows the adequacy or inadequacy of the starting position.

Once again, there was reticence at the congressional end to see the program become this flexible. However, with the idea that the President can agree with the "lower than he would like" pricing if he has real flexibility to adjust pricing at stated intervals as needs arise and conditions change, that concept was finally accepted. The above, subject to either House or Senate disapproval, is in itself a compromise, since some Members started out talking "both Houses" specific approval.

Another area of flexibility debated at great length was using the GNP deflator plus 3 percent incentive—10 percent approximately—as an automatic Presidential prerogative, and that was included.

Compromises obviously please no one completely, in the branches of Government or in the industry affected. The industry is naturally pushing for higher prices, but I must say I have been somewhat surprised at the excessive statements made to the press by some oil spokesmen.

It has also been unfortunate that the news reports have concentrated on price rollbacks and the political implications of an election year postponement of increases. To me, using the January 1975 pretariff price was a natural place to start, and it made sense to delay an increase through the first year or so of economic recovery, which we hope continues.

It has been interesting to note the economic writers changing estimates of the impact of this act. First, it was to be 5 cents per gallon rollback at the pumps, then 3 to 3½ cents, then 2 cents, and the last figure—Wall Street Journal, I believe—was 1 to 1½ cents.

I think the estimates may well be down to no rollback at the pumps before long. This does not indicate that I have any dispute with the committee nor with the figures that were put into the RECORD by our distinguished chairman (Mr. JACKSON) last evening during debate on this bill.

The only reflection on this is that some of the economic writers of the country have overly indicated in their assessments of the price impacts of this bill I think perhaps too much has been made of the rollback aspect of the bill.

Overlooked by most people have been the many other far-reaching provisions of this act.

Just in part, some of the major ones are:

Conversion of certain facilities to coal;

FEA guaranteed loans to increase coal production;

Steps promoting the use of recycled oil;

Authorizing maximum efficient rate production from certain fields;

Energy efficiency labeling for home appliances;

Programs to encourage increased industrial energy efficiency;

Grants to States to help develop and implement conservation programs suited to local conditions;

Fuel economy performance standards for automobiles and other light vehicles; and many other provisions which I shall not go into.

I know what has transpired this year on the congressional side and realize how far we have come in a spirit of compromise. I believe this act reflects the best that can be achieved now, and sincerely hope it will be signed.

As we know, the energy problem is extremely complex and plays a pivotal role in our economy, society, and indeed the welfare of the whole world. I do not like to compromise the disruption that might be attendant to a veto of this legislation, arrived at after very lengthy good-faith negotiation between the Houses of Congress and the administration.

I believe this bill can provide the starting point—a basis for solving our vexing energy problems.

I urge my colleagues to join me in making every effort to pass this legislation.

Mr. FANNIN. Mr. President, first of all I commend the distinguished Senator from Ohio for his determination that we have a good bill. We have worked together on many phases of energy legislation, not only this particular energy bill, but the ERDA bill and other bills that have come before us, and he has certainly done yeoman service in getting the best out of the members of the conference committee that could be obtained. I know that we did come out with a better bill—although I am not satisfied with it—because of his hard work, and, as I say, his determination that we do something about our energy shortage.

Mr. President, it is regrettable to me that we do not have a bill that I can support. It is not my intention today to delay action on this bill. We shall be voting on it soon, but before we vote, I would like to analyse this measure, because I believe that is in order.

I shall comment briefly on four areas of great concern to me. They are:

First, national energy policy and the impact of this legislation upon it; second, the legislative history and procedural peculiarities associated with this bill; third, an examination of some of the bill's more onerous provisions; and fourth, the future implications if this bill becomes law.

The later, of course, is the factor that is most important.

As to national energy policy, there is not a member of this body who would disagree that our three primary national goals regarding the petroleum sector of our energy economy are to: first, step up domestic production; second, reduce consumer demand; and third, reduce the level of our oil imports.

These are our goals, and I feel that there is not a member of this body who would dispute that prices for domestically produced oil have a very influential bearing on the extent to which each of these three goals will be achieved. The relationship between supply and price was eloquently articulated in this classical quotation from the writings of Milton Friedman. He said:

> Economists may not know much, but we do know one thing very well—how to produce shortages and surpluses. Do you want to produce a shortage of any product? Simply have Government fix and enforce a legal maximum price on the product which is less than the price that would otherwise prevail. Do you want to produce a surplus of any product? Simply have Government fix and enforce a legal minimum price above the price that would otherwise prevail.

It is clear that a $7.66 composite price for domestic oil even with a 10 percent annual escalator is much less than a "price that would otherwise prevail." The result: guaranteed shortages.

The bill also contains another provision prohibiting a "legal minimum price." The result: guaranteed shortages.

With a guaranteed shortage of domestically produced oil, the inevitable result—disputed by no one in this body—is that dependence on increasingly larger amounts of foreign oil will occur.

With an artificial ceiling on oil prices demand will increase, another fact not in dispute.

Accordingly, the relationship of this bill to achieving our national energy goals is as follows:

First. It will decrease domestic production.

Second. It will increase consumer demand.

Third. It will increase oil imports.

There is nothing esoteric about these relationships between price and supply. American voters understand this relationship.

Less than a month ago Louis Harris conducted a nationwide poll in which 1,519 Americans of all walks of life were asked about their views on energy policy.

Here is how they answered Mr. Harris and I am quoting from his report:

> By 61 to 17 per cent, a majority believes that decontrol would "give oil companies an

incentive to develop new oil and natural gas production in the U.S."

By 53 to 25 percent, the public rejects the charges of opponents of decontrol that "if the price of oil and natural gas produced in the United States were deregulated, no more new oil and natural gas would likely be discovered here at home."

Perhaps the most significant attitude held by Americans on the deregulation of oil and natural gas is the view of a 47 to 24 percent plurality that "the price of gasoline would likely go up to the short run, while additional discoveries would keep the price from going up more in the long run.

This shows that the American public understands the energy problem and it shows that the American public will not be fooled by this bill. So let us not try to fool ourselves.

So much for energy goals. Now to this particular bill, and the legislative history and procedural peculiarities of this legislation. The genesis of this bill bore the number of S. 2589 in the 93d Congress which also contained price rollbacks and was vetoed.

A second version was introduced as S. 3267. Its development involved negotiations with the administration which were terminated because of no hope of reaching agreement on many of its major provisions. S. 3267 died on the vine.

Substantially the same bill was reintroduced in the 94th Congress as S. 622, the bill now before us. In February of this year, negotiations on S. 622 with administration officials took place. These negotiations also failed. Yet, the bill was reported anyway and the Senate passed S. 622 on April 10.

Here is what the Washington Post had to say about the bill after the Senate's action on April 10 of this year:

That bill is a hodgepodge. Part of it gives the President certain emergency powers, which he might use in case of another oil embargo, unless blocked by Congress. But to this marginally useful grant of authority, the Senate Democrats attached a complex provision, full of high-sounding aspirations and short of policy directions. It commands the Federal Government and all 50 States to devise energy conservation programs (again subject to congressional veto) that will supposedly cut energy use the equivalent of 800,000 barrels of oil a day without hurting anyone.

It is as near-perfect an example of buck passing as Washington has ever seen.

By the most charitable interpretation, the Senators abdicated their own responsibility for hard decisions and left the country with what can only be called a false-front facade of an energy policy.

Five long months later the House substituted the text of its H.R. 7014 and sent it back as an amendment to S. 622 asking for a conference. After some confusion, a conference was finally held and the Senate appointed 25 conferees. Seldom was a quorum present. Seldom was any legislative language voted upon in person or by proxy by the conferees. Instead, conferees were asked to vote upon abstract concepts, some of which were never even reduced to written outline form. Not only were 25 conferees involved in the conference, as if that were not enough, two more Senators not appointed to the conference also participated, made motions and voted.

Only a bare majority of 13 Senators signed the conference report; 12 did not.

The conferees were never given a copy of their conference report until hours before it was filed. Not only did the conferees not participate in any review of their conference report before it was filed, they did not even draft one word of its language. The conference report was drafted by persons who were never elected to Congress.

If this was not bad enough, the House, on Monday, defeated the conference report, removed two major provisions from the language of the defeated conference report and sent it back to the Senate in a form that could not be amended. With such a strange and dubious history, it is difficult to imagine how this bill could be seriously touted as a monumental hallmark of the legislative process.

So much for its legislative history. Now to its contents:

The removal by the House of 102(c)(4) punishs the independent coal miners who are operating coal mines or have closed them down by denying them access to loan guarantees. The Senate should not tolerate this deletion.

The leasing prohibitions related to the Outer Continental Shelf in section 105 cannot help but retard OCS development.

Section 106, as we have argued throughout the history of this legislation, could result in a "taking without compensation." The only consolation is that persons adversely affected by the operation of this section can sue. But they can only recover if they can prove that there was a "taking."

The automotive fuel economy provisions, part A of title III, require 1985 mileage standards that it is highly doubtful the auto manufacturers can meet. If they are able to meet them, it will be only through the flooding of the market with tiny cars whose performance and safety features will in all likelihood constitute a setback for consumers.

Part B of title III pertaining to appliance manufacture will create a regulatory morass and will also set standards that appliance manufacturers may not be able to meet.

The other conservation provisions of the bill are also highly questionable, particularly in light of the fact that the pricing provisions will result in increasing rather than reducing energy demand. Conservation by Government fiat will not work.

The pricing provisions, as I earlier indicated, are counterproductive to achieving energy self-sufficiency and will escalate our level of oil imports. They also could contribute to driving up the price of foreign oil and virtually guarantee OPEC countries $17 billion more by 1980 and $31 billion more by 1985 in revenues than would be the case if decontrol occurred immediately. This impact on our balance of payments promises to be grave.

The section 403 entitlements modification in the words of the Federal Energy Administration, "has a severe impact on the equalization of crude costs between competing refiners. It also has an adverse impact on consumers."

Section 456 authorizes the President to become the sole purchaser of all imported oil, a provision which, if implemented, will cause pandemonium and is clearly unworkable.

Section 457 allows the Federal Government in essence to take over management of all U.S. refineries.

Sections 501–506 launch the General Accounting Office into wholesale raids of the proprietary data of American energy producers and users.

Finally, the congressional review sections are a living testimony to the fact that Congress is neither capable of establishing energy policy itself, nor willing to permit the administration to do so.

So much for individual provisions of the bill. Let us discuss the future implications if it is enacted.

This bill sets the stage for nationalization of the U.S. petroleum industry. A glance at the history of nationalization in England tells why.

Following the Labour Party's victory in the 1945 elections, the new Government established a nationalization planning operation called the Committee on the Socialization of Industries. From this was soon given birth the bills nationalizing coal, electricity, gas, and other industries. The Labour government was substantially aided in its implementation of its nationalization program by virtue of the fact that strict price controls instituted during World War II were still ineffect when Labour took over in 1945. It is tuted during World War II were still instituted during World War I in Great Britain gave the Labour Party great impetus in its almost successful effort following that war to nationalize coal.

Price controls, regulations pertaining to procedures for wage bargaining leading to higher incomes for the labor forces, and other regulations imposing higher costs on the operation of various industries all led to a situation of chronic under investment of capital. It simply became more difficult for management to generate sufficient income to reinvest and, under the circumstances, borrowing sufficient additional capital was prohibitively expensive. Caught between an economic rock and a hard spot created by Government policies, businesses were run into the ground. They had considerable difficulty sustaining themselves as viable commercial institutions within the British economic climate and substantially greater difficulties competing in world trade. As a result, management's will to survive was significantly eroded and therefore its political resistance to nationalization became progressively weaker.

Mr. President, we seem to be launching ourselves on a similar course with the enactment of S. 622.

As we look back to this debate 3 years and 4 months from now from the vantage point of an even more seriously deteriorated domestic petroleum supply situation, there may be some consolation in the fact that some of us in 1975 identified the handwriting on the wall.

Mr. President, at this time I have an

article by John D. Emerson, a well respected energy economist, on the impacts of oil prices of this new energy bill. It covers world oil prices and goes into considerable detail on the relationship of this bill to U.S. energy supply.

I shall not take time to cover this complete article, but it is a splendid reference for information regarding what has happened in the world market and what will happen here in this country if this legislation is approved.

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

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

IMPACT ON OIL PRICES OF NEW ENERGY BILL

1. The existing two-tier price system, while not perfect, has the merit of providing an adequate incentive to develop new domestic crude oil production. It has the further merit of being self-liquidating since "old" oil, presently about 60 percent of the total, will decline for natural reasons to about 30 percent in 1980 and 10 percent by 1985 as the reserves become exhausted.

2. The mechanics of a system that requires different grades of oil in different locations to conform to a specific weighted average represent an administrative nightmare. Individual companies could not implement it, neither could the Federal Energy Administration.

3. Under the proposed formula, if price controlled "old" oil remains at an average of $5.25 a barrel, the price of "new" oil could only rise at 4.4 percent a year—far below any reasonable estimate of inflation. If the price of "old" controlled oil is allowed to rise with inflation, the impact on the price of "new" oil would be worse. It would increase by only 1.7 percent a year.

4. With the weighted average price of all domestic crude oil controlled and with "old" oil prices also controlled, producers would have an incentive to produce as little "new" oil as possible. The fewer the barrels of "new" oil, the higher the allowable price per barrel.

For every potential barrel of "new" oil that was not found, developed, and produced, one barrel of foreign oil would have to be imported at world prices. OPEC itself could not have devised a plan more calculated to perpetuate OPEC's oligopoly position.

5. The pricing formula in the new energy bill is at variance with the principles of Project Independence.

JOHN D. EMERSON,
Energy Economist.

WORLD OIL PRICES

Oil is a commodity like rubber, sugar, copper, or wheat, and economics teaches that in the long run, the free market price of a commodity should be equal to the marginal cost of production. What does this mean in the world of oil today?

The first phrase to examine is "in the long run". This is an aspect of pricing that many people have difficulty with. Quite often the reaction of consumer prices to changes in supply/demand relationships is buffered by movement in and out of storage. Thus it may be months before basic changes in supply or demand are reflected in prices.

"The free market price" implies a price that is arrived at by willing and informed buyers and sellers operating in a marketplace that is free of governmental restrictions and monopolistic practices. Despite the unceasing stream of charges and accusations, there is no good evidence of monopolistic practices in the private sector of the petroleum industry. There are just too many companies involved. The concentration of economic power is far less than in such industries as automobiles, steel, or copper. When it comes to government distortion of free market economics, however, that is another matter. All over the world, in both oil producing and consuming countries, tariffs, quotas, and excise taxes are the rule rather than the exception. During the past two years in the United States, the multiplicity of regulations issuing from the Federal Energy Administration has usurped management decisions in every phase of the petroleum industry. In the OPEC countries, the same situation exists. Companies no longer have control over prices or rates of production; even the destination of their oil shipments can be dictated by government.

The last part of the commodity pricing formula refers to "the marginal cost of production". Included in the costs of production should be an allowance for profit that is commensurate with the risks of the operation. In the oil producing business, more than in most industrial activities, unit production costs vary tremenodusly from one part of the world to another. Moreover, even in the same region, these costs will vary over time as the cheapest resources are used up and the industry has to move on to more expensive areas.

The price of oil is set by competition in the marketplace, which given the international nature of oil, may be thousands of miles from the point of production. Thus location and transportation costs play an important role in the value of crude oil to the producer. The producer with the lowest delivered costs is in the best competitive position. If only his oil were needed to satisfy demand, no other oil would be produced. This, of course, is not the case in the real world. Crude oils with widely differing delivered costs are required to satisfy world oil demand. Since oil cannot sell at widely differing prices in the same market, the price is set by the highest cost barrel that is needed to satisfy the demand. Producers with lower cost crude would be foolish to accept a lower price than the market is willing to pay. This is not a static situation. New oil is continuously being discovered in different parts of the world with the result that the marginal costs of production are changing constantly. In these highly inflationary times, of course, the change is generally upward.

The foregoing is intended as a preamble to a discussion of worldwide crude oil price developments. Although crude oil is essentially a homogeneous substance, there are differences apart from location that influence the price such as sulphur content and refining characteristics. It is true to say that no two crude oils have precisely the same value to the user. For this reason the most practical course of action is to discuss basic price changes in terms of one particular crude oil and then consider changes in the differentials between this "reference" crude and other crude oils.

Saudi Arabian Light 34° crude oil is widely accepted as the most appropriate reference crude. It is by far the largest source of crude oil in international trade and, because of its relatively low production costs, is not likely to be priced out of the market under any pricing system that rests on marginal costs of production.

Until the formation of OPEC in 1960, crude oil prices meant posted prices. Companies publicly posted the price at which they were willing to sell a particular grade of crude oil, and this price was consequently the basis on which producing country governments calculated their income tax and royalty receipts fluctuated with changes in both volume and price.

OPEC's principal success during the sixties was the prevention of any downward movement of the posted price, and consequently, of government per barrel revenue. Total revenue became linked to volume alone. However, the sixties was a period of great oversupply in world crude oil markets, and the companies were unable to obtain the full posted price in the marketplace. Discounts off the posted price of up to 25 percent were quite common with the companies absorbing the full discount out of their profits. While these conditions lasted, the oil industry had no desire to increase the posted price since this would have resulted in higher taxes. Governments of oil producing countries, of course, had quite opposite aims.

Early in the seventies, the world oil supply demand balance began to swing in favor of the sellers. The Teheran and Tripoli Oil Agreements of 1971 and the Geneva Currency Agreements of 1972 and 1973 were evidence of OPEC's greatly increased bargaining power. By January 1973 the posted price of crude oil had risen by almost 50 percent in three years. Although, in historical terms, this increase was substantial, it did little to slow the growth of oil demand since prices for other forms of energy were even higher.

Under the income tax and royalty rates in effect at that time, increases in the posted price of crude oil resulted in increases in oil company profit margins, as well as increases in government revenue. An illustration is given below:

Arabian Light (34°) Crude Oil

	August 1970	*January 1973*
Posted price per bbl	$1.80	$2.59
Royalty at 12½%	.23	.32
Production costs	.12	.12
Taxable income	1.45	2.15
Income tax at 55%	.80	1.18
Government revenue (income tax and royalty)	1.03	1.50
Company profit margin based on posted price	0.65	0.97

The increase in the oil company's profit margin was in practice more dramatic because in 1970 oil was still selling at a discount off the posted price, whereas by 1973 these discounts had virtually disappeared. This big rise in the companies' profit margin was a bone of contention with producing country governments who believed that the companies' traditional margin of 25–30 cents a barrel was ample recompense. Accordingly, on Oct. 16, 1973, OPEC countries raised the posted price far above the price that could be recovered in the marketplace with the intention of reducing the profit margin. The posted price of Arabian Light (34°) crude oil was increased to $5.12 a barrel, resulting in a tax paid cost to producers of $3.16—higher than the posted price at the beginning of the year.

This oil price increase had already been decided before the October war broke out. The Arab embargo, however, which followed the war, sent short-term spot prices up into the $15–$20 a barrel range and paved the way for the January 1974 price increases. At that time, Arabian light crude oil was posted at $11.65 a barrel, and the company's tax paid cost increased to about $7.15 a barrel. The old income tax and royalty formula at these high prices left far more money with the companies than was acceptable to OPEC governments. The situation was modified, however, by an increase in "participation"—the compulsory purchase by the OPEC governments of a share of the industry's production assets. Since the government had only a small market for the oil it acquired

under "participation", most of it was sold back to the companies at close to the posted price—93 percent became the magic number.

Thus it happened that when the Arab oil embargo ended in March 1974, the oil companies acquisition costs contained two separate elements—the cost of their equity share of production calculated under the old formula and the cost of the "buy-back" oil. The weighted average of these two elements resulted in average acquisition costs of about $9.25 a barrel, and this price became the basis for the industry's worldwide pricing.

Within weeks of the end of the embargo, OPEC governments learned some economic facts of life. Influenced by the January price increases, the world demand for oil turned down for the first time in over twenty years. The demand for oil at $10 a barrel was not the same as the demand at $2.50 a barrel. That was the first lesson. The second lesson concerned marginal costs and prices. OPEC discovered that in a weak market you cannot sell oil based on 93 percent of posted prices ($10.83/bbl.) in competition with similar oil which is based on acquisition costs of $9.25 a barrel. When consumers cut back, the first oil to be shut in was the expensive OPEC "participation" oil.

This two-tier price system lasted until November 1974 when most OPEC countries raised the royalty and income tax rates to levels that would yield tax paid costs for equity oil approximating the OPEC market price (93 percent of the posted price). As a sop to public opinion, the posted price was lowered by 40 cents a barrel on Arabian light (34°) oil, but the increased costs to producing companies resulted in higher prices to importing countries. The two-tier price system came to an end, and company acquisition costs of both equity and buy back crude were established at about $10.46 a barrel. This represented a $1.00 a barrel increase over the companies' previous average acquisition costs.

Consuming nations responded to these additional price increases by reducing their demand for oil still further. In most industrialized countries, the demand for oil thus far in 1975 has been below 1974 levels, and of course below 1973 levels. This was the background against which the October 1975 price increases were debated by OPEC.

There was, of course, no economic justification based on supply/demand relationships for oil prices to increase at all this year; supply costs, including a *normal* profit margin, were so far below the administered price level for oil. The justification for higher prices was based on the notion that international commodity supplies are entitled to be protected against the effects of world inflation and changes in international exchange rates. Apart from escalation clauses in long-term contracts, this theory is not customary in international trade mainly because in the absence of an effective monopoly, it is impossible to enforce.

It is undoubtedly true that during much of the past two decades the terms of trade have moved against the OPEC countries and that some correction was morally justified. The January 1974 price increases, however, were more than adequate compensation for loss of purchasing power in earlier years. It is always possible to select specific years to prove a point, but on the basis of any reasonable analysis, no further increases in oil prices could have been justified for several years. This fact was not lost on some OPEC members and may account for the modest, by current standards, size of the price rise. After some initial confusion, this turned out to be a 10 percent increase in the posted price of the reference crude oil which is currently set at $12.38 a barrel.

In the past few weeks, the price of other crude oils, both OPEC and non-OPEC, have been adjusted to the change in the price of Arabian 34° oil. Very few of these changes corresponded precisely to the 10 percent increase in the price of the reference crude for the very good reason that during the past four years most of the world's crude oil prices have been out of phase with the reference crude.

This situation would not have happened in a free market. Market forces would have kept world oil prices properly aligned with each other almost on a day to day basis. The market was not free, however. It was administered by governments. Although the basic prices already reflected quality and location advantages, governments added on premiums for these factors which as long as demand remained strong, they could get away with. When demand weakened, early in 1974, these add-ons priced a number of crudes out of the market.

The lower demand for oil created a shipping surplus almost immediately, and freight rates plummeted. The tanker market is one of the best examples of the free enterprise system. Lower freight rates reduced the value of African crudes by up to a dollar a barrel in the big European market. These oils were also affected by a lessened concern over the use of relatively expensive, low sulphur fuel oil which followed the tripling of oil prices in January 1974. On the other hand, the lower world demand for oil impacted more on heavy industrial fuel oils than on gasoline and home-heating oil. Thus crude oils with a high gasoline content became more valuable to refiners. The complexity of these pricing factors is far beyond the ability of a government bureaucracy to respond to rapidly even though the need to adjust was apparent.

Since OPEC was far from united in its recent price decisions, governments took the opportunity to realign their prices versus the reference crude. They should realize that even if they have guessed right today, in six months time the situation will probably have changed.

The table below shows the variations from Arabian light of a number of other OPEC crudes both before and after the October 1st price increase.

Official selling price differentials from Arabian Light 34° ($ per bbl)

	Oct. 1, 1975	*Prior to price increase*
Iranian light—34°	+$0.11	+$0.21
Kuwait—31°	−0.21	−0.10
Abu Dhabi—39°	+0.41	+0.41
Qatar—36°	+0.15	+0.34
Iraq Kirkuk—36°	+0.23	+0.21
Algerian—42°	+1.24	+1.29
Libya—37°	+0.70	+0.64
Nigeria—34°	+1.19	+0.94
Indonesia—35°	+1.29	+2.14

The first four crude oils in the table are all shipped out of the Persian Gulf so that virtually none of the price differentials can be attributed to transportation costs. The changes represent the producing government's perception of the value to the refiner versus Arabian Light. The marketplace will signal rapidly whether their judgments are correct.

At today's depressed freight rates, the transportation difference between Persian Gulf crudes and Mediterranean crudes delivered to North Europe and East Coast United States is only 30 to 40 cents a barrel. It can be seen from the table, therefore, that Iraq's Kirkuk crude is priced very competitively, and this is reflected in the fact that only Iraq among Middle East OPEC countries has increased its level of production this year. Among the African crudes, Libya appears to be most closely aligned with the reference crude. Algerian and Nigerian crude oils are entitled to an additional premium over Libya because they yield more gasoline and less fuel oil which matches the current market demand pattern. Again, the market will quickly determine whether the quality premiums are realistic.

There are no official selling prices for Venezuelan oils, but based on the new acquisition cost plus a 21 cent profit margin, oficina 35° crude would sell for $12.55 a barrel—$1.04 above the reference crude. The transportation differential is currently only about 30 cents a barrel, making this oil considerably overpriced in the U.S. market.

Of all the OPEC nations, Indonesia increased prices the least. The official selling price of its Minas 35° low sulphur crude moved from $12.60 a barrel to $12.80. The differential versus the reference crude narrowed from $2.14 a barrel to $1.29. The transportation differential to Japan, Indonesia's principal market, is, however, negligible because Persian Gulf producers can use larger and cheaper ships than can be accommodated in Indonesian ports. Thus, even the $1.29 differential looks excessive and is unlikely to be realized.

In the manipulation of posted prices and "participation" terms which led to the new official selling prices, the oil companies' profit margin was increased slightly in most countries, but the typical margin remained betweed 20 and 25 cents a barrel (about one-half cent a gallon). Only those countries with higher investment costs or needing to attract new investment allowed higher profit margins. And these are only on paper. Unless the marketplace approves them, volume will suffer and so will the overall profits.

As long as 10 million barrels a day of surplus producing capacity exists in OPEC, prices will remain under pressure in all the producing countries. We have almost surely not seen the end of price adjustments as different countries seek a competitive edge.

Just as foreign oil prices are administered by OPEC, United States prices are administered by the Federal Energy Administration—at least on the up-side. *When demand is weak, market forces are still the controlling factor on the down-side.*

For national security reasons, domestic oil prices were supported by the oil import control program for many years. By 1972, however, the delivered price of foreign oil had risen to the same level as domestic oil. There was, therefore, no further need for an import control program, and the controls were lifted in May 1973 leaving only a modest tariff on imports. The United States was once again directly linked to the world market. It was not surprising, accordingly, when world prices tripled in January 1974 that United States domestic prices began moving up to the import parity level.

At that time, however, the government's principal concern was with inflation, and it reacted with a partial freeze on oil prices. *The problem was to prevent higher oil prices from adding to inflation while at the same time maintaining an incentive for increased drilling to realize the aims of Project Independence.*

These conflicting goals were handled by the creation of a two-tier price system for domestic crude oil. Oil production was designated as either "old" or "new." Old oil was defined as production at the 1972 level on a lease by lease basis. "New" oil is production from reserves added after 1972. As an incentive to increase domestic oil production and to prevent the premature abandonment of existing producing wells, two modifications of the price control on oil oil are permitted. Stripper well production, though technically "old" oil, may be priced as "new" oil. Additionally, for every barrel of "new" oil pro-

duced from a lease, another barrel of "old" oil may be released from price control.

Thus, the current makeup of domestic crude oil prices is approximately as follows:

Old price controlled oil—5290 thousand barrels daily @ $5.25.

Stripper well production—1000 thousand barrels daily @ $14.00.

Released oil—590 thousand barrels daily @ $14.00.

New oil—1520 thousand barrels daily @ $14.00.

Total 8400 thousand barrels daily @ $8.49.

The two-tier price system, while not perfect, has the merit of providing an adequate incentive to develop new domestic production. It has the further merit of being self-liquidating since "old" oil, presently 60 percent of the total, will decline for natural reasons to about 30 percent by 1980 and 10 percent by 1985 as the reserves become exhausted. The recent debate in Congress over the timetable for decontrol represented nothing more than the acceleration of an inevitable process.

The new energy bill, currently before the President, is a very different proposition, however. It provides for prices to be controlled through the overall weighted averages of "old" oil and "new" oil. The initial level is $7.66 a barrel, which is some 80¢ a barrel below the existing average level, although only 10 cents a barrel below the average price if the $2 a barrel tariff is eliminated. *The immediate effect of price rollback and tariff elimination would be to reduce the price of "new" crude (including stripper and "released" oil) to $11.75 a barrel.*

It should be emphasized that the prices referred to are weighted averages. Quality and location affect prices in the United States just as they do overseas. All "old" oil does not sell for $5.25 a barrel. It ranges from $4–$6 a barrel. The same applies to new oil prices. The weightings are constantly changing among "old" oils, among "new" oils, and between the two. *It would be an administrative nightmare to price all the crude oils in the United States in such a way that the average would equal the Congressionally mandated level. Individual companies could not do it and neither could the Federal Energy Administration. Two tier pricing is one thing, but to try to work back from an average is quite different.*

Quite apart from the administrative chaos involved, the whole concept of a weighted average price that increases by a maximum of 10 percent a year is contrary to the aims of Project Independence. At present, the relationships between "old" and "new" oil is about 63:37. By the end of forty months, this position will be reversed due to a natural decline in the production from old wells. Assuming for the moment that total production remains unchanged, the following calculations illustrate the effects of the new energy bill:

Current position under new bill

100% @ weighted average price of $7.66/bbl.

63% "old" oil @ weighted average price of $5.25/bbls. equals

37% "new" oil @ weighted average price of $11.75/bbl.

Position after forty months

100% @ weighted average price of $10.54/bbl.

37% "old" oil @ weighted average price of $5.25/bbl. equals

63% "new" oil @ weighted average price of $13.65/bbl.

The average increase in the price of "new" oil during this period of time would be 4.4 percent a year—*far below any reasonable estimate of inflation.* If in addition to the national average price, "old" oil prices were also increased at 10 percent a year, reaching a level of $7.30/bbl. by April 1979, the price of "new" oil would be forced down to $12.45 a barrel.

With the weighted average domestic price fixed by law, and the controlled "old" oil price also fixed, it is a simple mathematical certainty that producers would have an incentive to produce as little "new" oil as possible.

If producers limited their investment so that they only produced as much "new" oil as "old" oil in April 1979, then under the formula they could sell that oil for $15.83 a barrel. *The nation would lose over 2 million barrels a day of potential production that would have to be made up by higher imports.* All in all, a policy more adverse to this country's energy interests would be hard to conceive.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, what is the time situation?

Mr. FANNIN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BUMPERS. Yes.

Mr. FANNIN. Mr. President, I ask unanimous consent that Elwin Skiles of Senator TOWER'S staff be accorded privileges of the floor during voting and the consideration of this legislation.

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

The time remaining is 48 minutes for the Senator from Arizona and 47 minutes for the Senator from Ohio.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Richard Arnold of my staff be permitted privileges of the floor during the debate of this matter.

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

Who yields time?

Mr. GLENN. Mr. President, I yield whatever time the Senator from Arkansas may need.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I wish to make a few remarks that go to some of my personal feelings about the bill, having served on the conference committee and before that on the Committee on Interior and Insular Affairs.

This bill is not perfect, and I do not think anyone on the conference committee, those who approved it and those who did not, would suggest that it is.

But I do not think there is anyone on the conference committee who would suggest that there was not a free and open discussion, that people did not labor with a great deal of dedication and concern for the future of the country so far as our energy policy is concerned, and that we did not try our very best to meet all of the opposition and all of the alternative proposals that were suggested in the utmost good faith.

It is admittedly, as I said, not a perfect bill, but, in my opinion, it addresses issues that absolutely must be addressed in the energy conservation area, and I think that most everyone on the conference committee will agree with that. My guess is that the primary opposition to the bill emanates from the pricing policy that was arrived at by the conference.

But I think one thing that ought to be borne in mind is that in arriving at a domestic average price of $7.66, as opposed to the present domestic average price of $8.75, people who say we have rolled the price of domestic oil back by $1.09 a barrel should bear in mind that is not quite true.

As a matter of fact, when the President imposed a $2 import fee on all imported crude oil last year, as to the price of decontrolled or, shall we say, uncontrolled domestic production, which constitutes probably slightly in excess of 40 percent of the production in the United States right now, we saw the domestic producers of uncontrolled oil raise their prices not just to follow the OPEC price, but to add the $2 import fee.

To make it simple for computation purposes, instead of 40 percent of uncontrolled oil in this country bearing that $2 import fee, let us assume for a moment that 50 percent of domestic production carried an increase price of $2, which was based on the import fee. That means that all of the domestic oil would have been raised on an average of $1 a barrel simply because the President said to put a $2 import fee on all imported crude oil.

So, Mr. President, if we use that hypothesis, which is only slightly in error, we actually lowered the price of domestic crude by 9 cents a barrel, and that is taking into consideration the OPEC increase which was recently announced.

I cannot conceive of anyone objecting to this bill on the basis of so slight a rollback which was so patently correct in its theory and its implications.

Then, of course, there was the case of my own State of Arkansas which happens to be the No. 1 State in the Nation in the use of propane per capita. In the winter of 1973 and 1974, propane prices in my State tripled because there was a loophole in the law, and all of the oil companies who were in the propane business, were allowed to raise prices any amount they wished to without any interference by FEA.

There is a provision in this bill which will prohibit such an outrage ever occurring again because the oil companies will no longer be allowed to tilt the price of their products over on something like propane in the middle of the winter simply because they know people must have it. In the future propane will not bear more than its proportionate share of the cost of production.

I felt that that was extremely important.

I shall not attempt to go through the whole bill because I have not been here during most of the debate, and I am sure most of it has been covered. I do not wish to be repetitious or redundant.

Mr. President, the people of the country would like to see this bill passed. They are tired of confrontation politics. They feel that they are being held hostage to the confrontations which seem endless between the executive and legislative branches.

While the Administrator of the Federal Energy Administration did not come to me and say, "Senator, the President will sign this bill if you do these things," it certainly was my impression—and I

yielded on some points that I would not otherwise have yielded on—that if I did yield and if the conference yielded and we agreed to the suggestions made by the Administrator, the President would sign the bill. We certainly were led to believe, by implication, that the President wanted this bill as badly as we wanted it. A majority of the members on that committee acceded to some things that they did not want to accede to, in the belief that we could engage in a détente with the President and at least, as I say, lessen the hostilities between the executive branch and the legislative branch.

Mr. President, some Members of this body have not yet firmly fixed their minds on how they intend to vote, but it is my honest conviction that, while the bill is not perfect, it is infinitely better than nothing. The consequences of what will ensue by a defeat of this bill or even a Presidential veto—which certainly could not be overridden—are much too devastating to contemplate or for me to try to point out.

So I implore my colleagues to think very seriously when the roll is called on this bill.

The PRESIDING OFFICER (Mr. HANSEN). Who yields time?

Mr. GLENN. Mr. President, I yield myself such time as I require.

I thank the Senator from Arkansas for his remarks. I agree with him wholeheartedly regarding the nature of the compromise that was worked out during the many months that were spent on this bill. The impression that we all gained of the willingness of the administration to go along, when we not only came up considerably on the pricing that we had originally sought at this end of Pennsylvania Avenue but when we also provided a flexibility within this act for the President to come back at any time on a quarterly basis, 90 days after the beginning of this act, and propose any types of pricing changes he wants, subject to the disapproval of either House.

That type flexibility is something, quite frankly, that I would not have thought possible at the beginning of this year, because it does permit the President to mold and shape this legislation with regard to whatever the economic situation is at the particular time. He can mold it to fit an economic recovery or a rapid recovery. It has far more flexibility than I would have thought possible when we started working on this energy legislation this year.

This is a very comprehensive bill, one that does not please everyone, as the distinguished Senator from Arkansas pointed out, but it is one that I think forms a basis of cooperation between the administration and Congress in this very highly complex matter. It gives us a good platform from which to start and to continue working out our energy problems in the years ahead.

So I appreciate very much the remarks of the Senator from Arkansas.

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

Mr. GLENN. I yield to the Senator from Washington such time as he may require.

Mr. JACKSON. Mr. President, on Monday, the House of Representatives deleted two portions of the conference report on S. 622 from the bill. These deletions are:

First, on page 8 of the conference report, paragraph (4) of subsection (c) of section 102 dealing with the definition of term "developing new underground coal mines" has been deleted.

Second, the amendment adding part B of a new title V to the Motor Vehicle Information and Cost Saving Act (15 U.S.C. 1901 et seq.) entitled "Application of Advanced Automotive Technology," has been deleted. In the conference report this language is contained in section 301 on pages 51 through 58.

Technically, the conference report on S. 622 has been rejected by the House. The bill before the Senate this afternoon is identical to that conference report except for the deletions noted above.

Mr. President, in view of the action of the House and the manner in which S. 622 comes before the Senate, I consider the appropriate portions of the joint explanatory statement of the committee of conference on S. 622 to be a part of legislative history of the bill before the Senate, along with the hearing, committee reports, and floor discussions on the respective House and Senate bills.

I ask unanimous consent that the summary of the conference report and a description of title IV of S. 622, "Petroleum Pricing Policy and Other Amendments to the Allocation Act," be printed in the RECORD.

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

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 622) to increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all after the enacting clause and inserted a substitute text. The Senate receded from its disagreement to the amendment of the House to the text of the bill with an amendment which was a substitute for both the House amendment to the text of the bill and the Senate bill. The House recedes from its disagreement to the amendment of the Senate to the amendment of the House to the text of the bill with an amendment which is a substitute for both the House amendment and the Senate amendment thereto. The differences between the House amendment, the Senate amendment to the House amendment, and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

THE ENERGY POLICY AND CONSERVATION ACT

Summary

The Energy Policy and Conservation Act of 1975 is the result of the deliberations of the Conference Committee convened to reconcile provisions of H.R. 7014, the Energy Conservation and Oil Policy Act, and S. 622, the Standby Energy Authorities Act. Before requesting Conference the Senate added to S. 622 as amendments the texts of three previously passed Senate bills: S. 677, The Strategic Energy Reserves Act; S. 349, The Energy Labeling and Disclosure Act; and S. 1883, the Automobile Fuel Economy Act.

The Act reported by the Conference Committee establishes a comprehensive national energy policy to:

(1) maximize domestic production of energy and provide for strategic storage resrves of crude oil, residual fuel oil and refined petroleum products;

(2) to minimize the impact of disruptions in energy supplies by providing for emergency standing measures;

(3) provide for domestic crude oil prices that will encourage domestic production in a manner consistent with economic recovery; and

(4) reduce domestic energy consumption through the operation of specific voluntary and mandatory energy conservation programs.

In the short term, the Act is designed to reduce the vulnerability of the domestic economy to increases in import prices, and to insure that available supplies will be distributed equitably in the event of a disruption in petroleum imports.

For the long run, the Act will decrease dependence upon foreign imports, enhance national security, achieve the efficient utilization of scarce resources, and guarantee the availability of domestic energy supplies at prices consumers can afford.

I. Measures to Increase Domestic Supply

The Energy Policy and Conservation Act provides for direct actions to increase domestic oil production and the development and use of alternatives to petroleum and natural gas. Provisions of the Act will:

Extend the authority of the Administrator of the Federal Energy Administration (FEA) to direct powerplants, and other major fuel burning installations, to convert to the use of domestic coal;

Authorize the FEA to guarantee loans to increase coal production by encouraging the opening of new underground coal mines;

Increase competition in the oil industry by limiting joint venture bidding by major oil companies in the development of crude oil or natural gas on the Outer Continental Shelf;

Authorize the President to restrict exports of energy supplies and energy-related materials under certain circumstances; and

Authorize the President to require the production of crude oil and natural gas from designated fields at the maximum efficient rate of production or the temporary emergency production rate.

In addition to providing for expanded domestic energy supply, the Energy Policy and Conservation Act will substantially reduce the ability of foreign energy producers to influence the foreign or domestic policies of the United States by threatening to reduce U.S. imports of petroleum. The Act creates a Strategic Petroleum Reserve of up to one billion barrels of crude oil, residual fuel oil and refined petroleum products to insulate the domestic economy from future supply interruptions.

The plan for the Reserve, which is subject to review and disapproval by either House, must be submitted to Congress not later than December 15, 1976.

The plan must include provision for the creation of regional petroleum product reserves in regions where more than 20 percent of demand for such products is met by imports.

The FEA Administrator is authorized to require importers and refiners to store in read-

ily available inventories, as reserves, up to three percent of their imports as throughputs for the previous calendar year.

The legislation also creates an Early Storage Reserve consisting of not less than 150 million barrels of crude oil, residual fuel oil and refined petroleum products, to be stored within three years of the date of enactment.

II. Standby Energy Authorities

The Energy Policy and Conservation Act grants specific standby authority to the President, subject to Congressional approval, to develop and implement regulations mandating the conservation of energy and the rationing of gasoline and diesel fuel in the event of a severe energy supply interruption.

The provisions authorize the President during periods of acute energy shortages to take specific actions to conserve scarce fuels, to alleviate fuel shortages and to increase domestic energy supplies.

The Act provides for energy conservation and rationing contingency plans to be developed to reduce non-essential energy consumption and assure the continuation of vital services in the fact of severe energy supply interruption.

The conference substitute contains the following standby powers:

To prescribe energy conservation plans (including rationing plans);

To authorize actions necessary to carry out U.S. obligations under the International Energy Program;

To authorize persons in the oil industry to develop and carry out voluntary agreements for international oil allocation under a grant of limited antitrust immunity;

To authorize the President to transmit information to the International Energy Agency.

The energy conservation authorities may be exercised if:

(1) a contingency plan for the exercise of the authorities has been approved by concurrent resolution of the House and Senate;

(2) the President has determined that implementation of the contingency plan is required by a severe energy supply interruption or the International Energy Program.

In addition, a plan which provides for rationing cannot take effect if either House of Congress disapproves the President's request to implement such a plan.

The authority for international voluntary agreements and the exchange of information may be exercised at any time in order to carry out the International Energy Program.

III. Energy Conservation Programs

The Energy Policy and Conservation Act establishes aggressive and effective programs for energy conservation designed to encourage the maximum efficient utilization of domestic energy resources.

The Act contains provisions that:

Establish mandatory average fuel economy performance standards for any passenger automobiles and other light duty highway vehicles;

Require energy labeling of major home appliances and certain other consumer products, and authorize energy efficiency standards for major appliances;

Authorize block grants-in-aid for States to assist in the development and implementation of state-administered energy conservation programs; and

Establish a program to encourage increased efficiency of energy use by American industry;

Establish a program for energy conservation within the Federal Government; and

Promote the use of recycled oil.

These provisions are designed to increase energy efficiency through the operation of orderly conservation programs rather than through steep price increases that would hamper the Nation's economic recovery, increase unemployment contribute to the inflationary spiral and impact regressively on consumers.

Mandatory fuel economy performance standards are established for passenger automobiles and other light duty highway vehicles. Standards for passenger automobiles would be applicable in model year 1978 and thereafter.

Each manufacturer or importer of passenger automobiles would be required to achieve the following fleet average fuel economies: 18 miles per gallon (mpg) in model year 1978, 19 mpg in model year 1979, 20 mpg in model year 1980 and 27.5 mpg in model year 1985 and thereafter. Standards for model year 1985 and thereafter may be modified administratively to the maximum feasible level, but either House may disapprove a modification below 26 mpg.

Standards for model years 1981–84 would be set by the Secretary of Transportation at the maximum feasible level. The Secretary would also set standards for vehicles other than passenger automobiles at the maximum feasible level for each model year.

If a manufacturer or importer failed to meet the required average fuel economy standards, he would be liable for a civil penalty, which could be waived or modified under certain specific conditions.

The Energy Policy and Conservation Act would require test procedures for, and energy efficiency labeling of, major home appliances to provide consumers with information essential to making an informed judgment in the purchase of these appliances.

Products explicitly covered include refrigerators, freezers, dishwashers, clothes washers and dryers, water heaters, air conditioners, television sets, kitchen ranges and furnaces.

The required label must include representative annual operating costs associated with the use of these products unless the FEA determines that labeling would not be feasible or the FTC determines it would not be likely to assist consumers in making purchasing decisions.

The Administrator is required, within specified periods after enactment, to prescribe energy efficiency targets for covered products. These targets would be set at the maximum level that would be economically and technologically feasible, and would require at least a 20 percent overall improvement in aggregate energy efficiency for all types of new major home appliances in 1980, in comparison to 1972 levels.

If the FEA prescribes a labeling rule for a class of major household appliances and then finds (1) that labeling will not suffice to induce manufacturers to produce (or consumers to purchase) products of that class which achieve the maximum energy efficiency that is technologically feasible and economically justified and (2) that the benefits of increased energy efficiency outweigh any increased consumer costs and any decrease in utility of the product, then the FEA would be authorized to prescribe an enforceable energy efficiency performance standard for that class of product. The FEA would be required to exercise this authority in certain cases where industry is unable to achieve energy efficiency improvement targets.

The Act authorizes a 3-year $150 million Federal grant-in-aid program to assist States in developing and administering State energy conservation programs. These programs will have as a target a 5 percent reduction in energy consumption by 1980 below levels projected for that time.

The Act identifies conservation measures to be implemented by the States, but calls for administration of the programs on the State and local levels.

To be eligible to receive Federal funds a State program would be required to include the following energy conservation measures:

Lighting efficiency standards for non-Federal public buildings;

Programs to promote carpooling, vanpooling, and public transportation systems;

Energy efficiency standards and policies in procurement by State and local government;

Thermal efficiency and insulation requirements for new and renovated buildings; and

a traffic regulation permitting right turn on red.

State programs could contain other conservation measures, including a standby energy conservation plan to be put into effect during a severe energy supply emergency.

Within Federal guidelines for the composition of acceptable energy conservation plans, States would establish programs in a manner tailored to local economic, geographic and climatic conditions. The Act thus provides impetus, direction and financial assistance for energy conservation while protecting the States' interest in self-determination and local control.

Industrial energy efficiency

The goal of the industrial efficiency program is to promote increased energy efficiency by establishing voluntary energy efficiency improvement targets.

Voluntary industrial energy efficiency targets would be set for the ten most energy-intensive industries. Each target would represent the maximum feasible improvement in industrial efficiency which a particular industry could achieve by January 1, 1980. The ten most energy-intensive industries would be required to report annually on their programs in attaining energy-efficiency targets.

Federal energy conservation programs

In addition, the President would be required to develop and implement a ten-year plan for energy conservation. This would deal with procurement, lighting standards, construction guidelines, restrictions on hours of operation, thermostat settings and other conditions related to the operation of Federal buildings.

IV. Oil Pricing

The Energy Policy and Conservation Act establishes a pricing formula for domestically-produced crude oil which provides for an initial crude oil price rollback and authorizes gradual increases in the prices received by domestic producers over a 40-month period. The new oil price policy:

Establishes a domestic composite price of $7.66 per barrel. This represents a rollback of $1.09 from the current domestic average estimated by FEA at $8.75 per barrel. In combination with the removal of the $2 per barrel import tariff, this program will result in a significant reduction in the price of the crude oil run in domestic oil refineries. A provision of the Act specifically requires that these reductions in crude oil costs be reflected in the prices of refined petroleum products paid by consumers.

Grants the President broad flexibility to set prices for various categories of oil production so long as the average domestic price does not exceed the composite price of $7.66 established by the Act;

Permits upward adjustment in the domestic composite price to take account of inflation, and, if the President finds it necessary, to provide an additional increase in the composite price of no more than three percent per year as an incentive for the development of high-cost production, to maintain production from marginally profitable properties, or to encourage the application of enhanced recovery techniques. The sum of these two adjustments may not exceed 10 percent per year unless further authority to modify the upward adjustment rate is obtained from the Congress;

Allows the President to submit to the Congress at three month intervals following enactment, proposals to modify the 3 percent incentive adjustment and the 10 percent ceiling on adjustments if the President finds that such a modification is likely to result in an increase in domestic production. These proposals would take effect unless disap-

proved by either House of Congress under expedited review procedures;

Directs the President to submit to Congress on February 15, 1977, an analysis of energy supply, demand and import relationships which have evolved under the Act;

Directs the President to submit to the Congress on April 15, 1977, a report on the impact of anticipated Alaskan oil production levels and prices on domestic oil prices and on incentives to increase and maintain production in the lower 48 States. The President may then propose, subject to Congressional review, the exclusion of up to two million barrels per day of Alaskan production from the composite price ceiling and the establishment of a separate ceiling for this production not to exceed the highest price granted to significant volumes within the composite;

Extends the basic petroleum allocation authority contained in the Emergency Petroleum Allocation Act and the oil pricing provisions described in the Energy Policy and Conservation Act for 40 months;

Converts this oil price control and allocation authority to standby status at the end of the 40-month period; and

Provides that the standby authority terminates five years after enactment.

V. General Provisions

The Act sets forth provisions of general applicability relating to procedural requirements for agency actions, judicial review, and enforcement.

Disclosure of Financial Interests

Among the more important provisions, employees and officers of the FEA and the Department of the Interior who perform regulatory or policy-making functions under this Act are required to disclose their financial interests in oil, natural gas, or coal.

Verification Audits of Energy Information

The legislation also authorizes the Comptroller General to conduct verification examinations to verify the accuracy of energy and financial information filed with Federal agencies to permit independent and objective evaluation of energy data from which realistic projections can be made and on which future energy policy decisions will be based.

IV—Matters Related To Petroleum Pricing Policy and the Allocation Act

OIL PRICING POLICY

The Emergency Petroleum Allocation Act of 1973 was enacted to deal with the nation's petroleum needs in the face of a severe shortage of crude oil and its products. Regulations formulated under this Act established a "two-tier pricing system". "Old oil" (oil produced from a property at a level equal to or less than the amount of oil produced from that property during the same calendar month of 1972) is controlled at the price which prevailed in the field on May 15, 1973, plus an additional $1.35 per barrel. This results in a national average price for such oil estimated by FEA to be $5.25 per barrel.

The second tier in the present regulatory system consists of three categories of domestic product that are not subject to ceiling prices. First, the Allocation Act provides that oil from properties producing less than 10 barrels per day per well in the previous year ("stripper well" oil) is not subject to the old price ceiling. Second, the Federal Energy Administration regulation under the Allocation Act provides that oil from producing properties which exceeds the level of production from the same property in the same calendar month of 1972 is not controlled to the extent of that excess. If a property was not producing in 1972, all of the current production is considered "new oil". And, third, a volume of old oil equal to the amount of "new" oil produced from a property that was producing in 1972 is simultaneously released from the price ceiling on old oil ("released oil").

Thus, oil from a property which was producing 1,000 barrels per day in a calendar month of 1972 would be subject to the old oil price ceiling for the first 1,000 barrels per day produced in the same calendar month of 1975. If, however, this property increased its production to 1,200 barrels per day, the extra 200 barrels are not subject to the old oil price ceiling, and an additional 200 barrels are released from the old oil price ceiling. Thus, the first 800 barrels per day of current production would be subject to the price ceiling, and the other 400 barrels per day would not be controlled. Exceptions are made by the FEA, on an individual property basis, for wells which require high-cost production.

OLD OIL

House amendment

The House amendment prescribed a ceiling price of $5.25 on each barrel of old oil, except that old oil produced from fields certified to have applied tertiary recovery techniques could be sold at such higher price as the President established by rule, but the average of such higher prices could not exceed $10.00 per barrel, plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 88th month following enactment.

The concept of "released" oil was not included in the House amendment.

Senate amendment

The Senate amendment directed the President to maintain the price of old oil at the current level of $5.25 per barrel; "released" oil was excluded from the definition of, and the ceiling price for, old oil.

PRODUCTION ABOVE 1972 LEVELS

House amendment

The House amendment set a ceiling price of $7.50 per barrel, plus an inflation adjustment factor of two-thirds of one percent for each month after the 45th month following the enactment of this legislation on the volume of oil produced in a month from a property in excess of the average monthly production from the property during an eight-month period of 1972. Provision was made for oil subject to tertiary recovery to be sold at such higher price as the President established by rule, but the average of such higher prices could not exceed $10.00 per barrel, plus an inflation adjustment factor of two-thirds of 1 per cent for each month after the 88th month following enactment.

Senate amendment

The Senate directed the President to determine the percentage rate of decline which would normally be expected in production from individual oil reservoirs, absent the application of enchanced recovery techniques. The amount of crude oil which was produced from such a reservoir in excess of this decline curve could be sold at a price not in excess of $7.50 per barrel. Oil produced therefrom in excess of the unadjusted 1972 level could be sold at the highest price applicable to new oil of such quality in such producing area.

NEW OIL

House amendment

The House amendment imposed a statutory price ceiling of $7.50 per barrel, plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 45th month following the enactment of this legislation, on oil produced from properties which were not producing in 1972 ("new oil") and on stripper well lease production which did not qualify for an "independent exemption."

This price ceiling did not apply to new oil which was produced from (1) the Arctic Circle and the Outer Continental Shelf; (2) property certified as utilizing tertiary recovery techniques; and (3) "high cost" properties, including marginal well properties. The President was authorized to establish, by rule, higher prices for new oil from such areas and properties provided that the average of such prices did not exceed $10.00 per barrel plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 88th month following enactment.

The House amendment imposed a statutory ceiling price of $11.50 per barrel of oil (plus $.05 per barrel for each month after the date of enactment) applicable to (1) the first 3,000 barrels per day produced by an independent producer from "qualifying properties," and (2) stripper well production by an independent producer. An "independent producer" was defined as a producer who did not engage in both refining and retailing operations and whose average daily production of crude oil in the preceding year did not exceed 15,000 barrels per day.

Senate amendment

The Senate amendment directed the President to set a ceiling price on production classified as new, released, or stripper oil which was not to exceed the prevailing field price on January 31, 1975, of approximately $11.28 per barrel.

ADJUSTMENT IN PRICE CEILING

House amendment

The House amendment authorized the President to propose an increase in the ceiling price for old oil which could take effect if not disapproved by either House of Congress. The President was not, however, authorized to raise administratively any of the other price ceilings.

Senate amendment

The Senate amendment authorized the President to propose increases in any price ceilings which could take effect if not disapproved by either House of Congress.

DURATION OF PRICE CONTROLS

House amendment

The House amendment did not provide for any termination of price ceilings on domestic oil production. The price ceilings were set forth in the form of an amendment to the Emergency Petroleum Allocation Act of 1973, and the House amendment extended that Act without including any provision for its expiration or termination. A mechanism was provided, however, for converting the authority to specify price (or the manner for determining price) from a mandatory requirement to a standby authority, subject to disapproval by either House of Congress. If the Congress did not disapprove the exemption, any oil or product could have been exempted from existing allocation and price controls. The President would thereafter retain authority to reimpose controls upon a determination by him that reimposition was necessary.

Senate amendment

The Senate amendment authorized the President to decontrol classes of oil production, subject to disapproval by either House of Congress within 10 days of submission of a section 4(g)(2) decontrol plan under the expedited congressional review procedures. The price ceilings were set forth in the form of an amendment to the Emergency Petroleum Allocation Act of 1973, and the Senate amendment extended that Act only until March 1, 1976.

CONFERENCE SUBSTITUTE ON OIL PRICING POLICY

The conference substitute establishes a pricing policy which calls for a continuation of controls on the price of crude oil over the next 40 months. Under the terms of the substitute, the President is to have a substantial measure of administrative flexibility to craft the price regulatory mechanism in a manner

designed to optimize production from production from domestic properties subject to a statutory parameter requiring the regulatory pattern to prevent prices from exceeding a maximum weighted average.

INITIAL PRICING FORMULA

The conference substitute directs the President to amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act within two months of the bill's enactment to establish ceiling prices applicable to any first sale of domestic crude oil so as to result in an initial weighted average first sale price not to exceed $7.66 per barrel.

The conference substitute specifies a "first sale" price (with discretion in the President to impute, in a manner to be specified by regulation, an equivalent price for interaffiliate transfers). The first sale price, which is currently the price to which FEA's current ceiling prices rules apply, is the price charged in the first transfer for value by the producer or royalty owner, which transfer usually but not always occurs at or near the wellhead. The first sale price for crude oil may, in some instances, include costs for transportation and other services.

It is the intention of the conferees that the term "first sale" be defined in the regulations to make clear that it applies to the first transfer of a barrel of crude oil for value in an arms-length transaction. With respect to transactions between affiliated or associated companies, FEA has the authority to impute a transfer value which bears a reasonable relationship to transfers between unaffiliated persons in arms-length transactions. It is the conferees' understanding that the regulation defining "first sale" could extend principles and procedures now applicable under current regulations to determine transfer prices for imports as well as the point of sale and sales price of old crude oil and stripper well oil, to all ceiling prices promulgated under the new pricing program.

While the President is to have considerable discretion in structuring the price regulatory mechanism (as noted above), the Committee contemplates that, at least initially, current differentiations between new and old oil production will be maintained, subject to such modification as is necessary to conform the present regulation to the requirements of this Act. It is the conferees' understanding that should the President structure the price regulatory system in this manner, an initial ceiling price of approximately $11.28 per barrel could be applied to new oil and production from stripper well leases so as to preserve significant price incentives for optimizing production from these sources.[1] Necessarily, working within the parameters of a maximum average weighted first sale price restraint, any system devised by the President which would permit higher prices for old oil production will reduce his ability to provide significant upper-tier price incentives for other classifications of domestic production.

Consequently, the conferees imposed procedural limitations which require the President to make specific findings should he take any action which results in higher prices for current old oil production volumes. Thus, the President may not depart from the current regulatory control of old oil, unless he finds that the departure will provide a positive incentive for the application of enhanced recovery techniques, or for deep horizon development of, old oil producing properties, or as necessary to take account of declining production with respect to such properties. In any such circumstance, the President must also find that the departure from current controls is likely to result in greater production from such properties than would otherwise occur had the departure not been made. Thus, prices for old oil volumes would be permitted to increase only upon a reasonable assurance that there would be a positive production response.

The President is granted broad authority to establish ceiling prices for classifications of domestic crude oil production if he finds that such classifications are administratively feasible and will optimize domestic production. Subject to the statutory requirement that any such ceiling price and such classification be supported by appropriate findings, the President would have authority, in certain instances, to establish a ceiling price which could be at levels above the then current market clearing price as long as the actual weighted average first sale price for the totality of domestic crude oil production does not exceed the maximum weighted average price allowable under this Act.

As a matter of emphasis, the conferees wish to point out that the President is not required to establish a price mechanism of particular dimension or with specified characteristics provided the maximum weighted average first sale price limitation is not exceeded. The numbers of tiers employed and the types of classifications used will depend upon the President's determination as to what is administratively feasible and can be supportable pursuant to the findings set out in the statute. In this regard, the conferees intend that the term "administratively feasible" be understood to mean a workable pricing program which is both fully enforceable under section 5 and compatible with achieving the policy objectives set forth in section 4(b)(1) of the Emergency Petroleum Allocation Act.

ADJUSTMENTS TO THE MAXIMUM WEIGHTED AVERAGE PRICE

The initial maximum weighted average price of $7.66 per barrel is subject to periodic adjustments to take account of inflation. An additional increase of no more than 3% per year may be made to the maximum weighted average price as production incentive to encourage the development of high cost, high risk properties, including production by independent producers; properties located on the Outer Continental Shelf and North of the Arctic Circle; and deep wells or deeper horizons in existing wells located both onshore and offshore.

The 3% production incentive adjustment may also be applied if the President finds such application will encourage utilization of enhanced recovery processes or the maintenance of production from marginal wells, including production from stripper wells and that such application is likely to provide a positive incentive for increased domestic crude oil production. The sum of the inflation factor adjustment and any production incentive adjustment factor applied in any given year may not increase the maximum weighted average price in excess of 10 percent per year.

Computation of the inflation adjustment factor is to be based on the GNP deflator published by the Department of Commerce, and adjusted by the President to exclude any portion of the published deflator which is directly attributable to OPEC price increases. If the Department of Commerce undertakes any major changes in their method of computing the GNP deflator which would have significant effect on the adjustment for inflation provided in the oil pricing formula proposed in the conference substitute the President would be authorized and expected to modify the adjustment for inflation in a manner determined to be appropriate to avoid any unintended aberration.

Subject to the statutory requirement that certain actions be supported by specified findings which are subject to review by the Courts or the Congress (as the case may be), whether to employ any upward adjustments to the maximum weighted average price and questions related to the timing of any such amendments are matters within the discretion of the President.

Ninety days after the date of enactment of this legislation, at not less than ninety day intervals thereafter, the President may submit to the Congress a proposal in the form of an amendment to the pricing regulations to increase the 3% limitation on the incentive adjustment factor, a proposal to increase the overall 10% annual limitation on adjustments to the maximum weighted average price, or a proposal to increase both.

Disapproval of such a proposal by either House within 15 days would prevent the amendment to the regulation from taking affect.

On February 15, 1977, the President is required to submit to the Congress a report containing an analysis of the impact on the economy and the supply of domestic petroleum products of all amendments adopted pursuant to this section including the supply of domestic petroleum products of ceiling prices promulgated to implement the maximum weighted average price requirement of the conference substitute, and may at that time submit a proposal to continue or modify the incentive adjustment factor, to increase the overall annual limitation factor on upward adjustments or both. Disapproval of this proposal by either House within 15 days would prevent the amendment to the regulations from taking effect. If an initial proposal is disapproved, the President may submit an additional amendment concerning the same subject matter within 30 days of the initial disapproval. Failure of the President to submit any such proposal on February 15, 1977, or disapproval of his first and second submissions, of any, would prevent the continued application of the continued application of the production incentive adjustment factor until such time as a proposal to reinstate this adjustment factor is proposed by the President under his authority to do so at ninety days after the last submission and is not disapproved by either House.

CARRYFORWARD PROVISION

The President is required to periodically test the price regulatory mechanism to determine whether actual prices are within the statutory parameter of the maximum allowable weighted average first sale price. Adjustments in the pricing formula are required in any subsequent period to adjust for any excess above the maximum allowable price and may be made to offset any determined deficiency.

If, during any period, the actual weighted average price is less than the allowable maximum weighted average price solely because (overall) market conditions and competition produced actual sales prices below established ceiling prices (such as may result from a break in OPEC prices), such prices would be deemed to have "resulted" from the price regulatory system. On the other hand, in the circumstances where the President, having made the appropriate findings, has specifically established a ceiling price for a particular classification of domestic production above the market clearing price, it is contemplated that the market clearing price will be used as the price which results from the regulation for the purpose of testing compliance with the maximum weighted average first sale price established by the statute.

The conferees understand and expect that the administration of the crude oil pricing policy described in the Act will require an expansion in scope, quality and timeliness of the collection and analysis of data by the Federal Government describing the produc-

[1] This calculation assumes a weighted average price of old oil of $5.25. Should the $5.25 average price prove to be an inaccurate measure of actual prices the President shall take this into consideration before making any upward adjustment in upper tier prices.

tion and sale of domestic crude oil. Under current FEA regulations, each domestic refiner is required to report, on form FEO–96, the average prices of domestic and imported crude oil and the composite average price of all crude oil acquired during any given month. Form FEA–P–102, which contains the basic information for the operation of the current crude oil entitlements program, requires reporting of the volumes of domestic old oil, domestic uncontrolled oil and imported oil processed by each refiner in a given month. The prices obtained from refiners include transportation costs, inventory fees and other charges and/or margins associated with transactions taking place between the time oil is produced and the time it is acquired by the refiner, while the data describing volumes of oil processed in each category do not necessarily reflect the production of such oil in a given month.

Certain producers of new and released (but not stripper) crude oil currently report, on form FEA–90, both production volumes and first sale prices of such oil. FEA estimates that companies accounting for 87 percent of domestic production are reached in this survey. At present, no data series compiled by FEA or by any other Federal agency covers production and prices of all categories of domestic crude oil.

The conferees expect that a data collection system which substantially increases current FEA coverage of the volumes and first-sale prices of domestic crude oil production will be required to carry out the pricing provision of the Act. The conferees do not intend to preclude the use by the President of valid, reliable, and statistically representative sampling techniques to accomplish the monitoring of domestic oil prices. However, to the extent that the reporting system upon which crude oil price regulation is based covers less than the relevant universe of sources of primary data, the conferees fully intend that the measure of actual weighted average first-sale prices of domestic crude oil which is adopted for purposes of this Act shall be valid, reliable and completely defensible, whether based on a continuation and expansion of the existing FEA data system or its replacement by a new and more comprehensive one. Finally, the conferees intend that the current FEA audit of crude oil price and production data be continued or replaced by a new system which results in a more complete and comprehensive auditing of actual domestic oil pricing practices.

ALASKA PRODUCTION

On April 15, 1977, the President is required to submit to the Congress a report on the adequacy of the then current weighted average price to provide positive incentives for the development of Alaska oil production without reducing ceiling prices and production incentives in the lower forty-eight states.

If the President finds that the then current maximum weighted average price is not adequate to provide such positive incentive, he may submit to the Congress a proposal, in the form of an amendment to the pricing regulation, to exclude up to 2 million barrels per day of Alaska production flowing through the Trans-Alaskan pipeline referred to in paragraph 2(a) in subsection (g) from the calculation of the actual weighted average price. Such a proposal must include a proposed ceiling price or prices for such excluded Alaska production, the average of which cannot exceed the highest actual weighted average first sale price permitted under the regulation for significant volumes of any other classification of domestic oil. Such proposal must be supported by findings justifying the level of such ceiling price or prices. Disapproval of the proposal by either House within 15 days under expedited procedures would prevent such an amendment to the regulations from taking effect.

If such an amendment is disapproved, the President can send an additional proposal for exempting Alaska production within 30 days of the initial disapproval. If either proposal becomes effective, beginning on January 1, 1978, and at no sooner than 90 day intervals thereafter, the President may submit to the Congress, proposals to modify the ceiling price or prices established in his initial Alaska exemption proposal. If either House disapproves the proposal within 15 days, the proposed modification may not become effective.

JUDICIAL REVIEW

Because the conference substitute provides Congressional review of certain amendments to the regulation under section 4 of the Emergency Petroleum Allocation Act, judicial review of such amendments and any supporting findings has been circumscribed in part.

PASS THROUGHS IN PRICES OF COST DECREASES

The Conference Substitute states that the President is required to promulgate a pricing regulation which requires a dollar-for-dollar pass through in prices of all decreases in the costs of crude oil, residual fuel oil, and refined petroleum products which have occurred or will occur. Under current regulations, the opportunity is provided for a refiner or marketer to pass through its increased crude oil or product costs. This is done by allowing the maximum lawful selling price of each seller to be increased upward to reflect increases incurred in the cost of crude oil or products purchased. The Conference Substitute requires that *decreases* in a firm's cost of crude oil, residual fuel oil, or refined petroleum products be fully taken into account in computing that firm's maximum lawful selling prices.

Until now such a provision has been unnecessary because few, if any, firms have enjoyed a reduction in their input costs. The pricing provisions contained in the Conference Substitute and the removal of import fees should, however, result initially in a significant reduction in the actual weighted average first sale price of domestic crude oil. This provision of the Conference Substitute will help to assure that as much of the crude oil price reduction as is possible will be passed through the various levels of refining and distribution to the consumer level. Of course, it cannot realistically result in a full and immediate dollar-for-dollar reduction of any seller's current selling price if that seller is already below its maximum lawful prices and if the Federal Energy Administration does not alter the rules regarding so-called "banked costs".

This provision of the Conference Substitute requiring a dollar-for-dollar pass through in prices of cost decreases in crude oil, residual fuel oil, and refined petroleum products is very much related to the provisions in the Conference Substitute pertaining to cost passthroughs and proportionate pricing. In a letter of December 6, 1975 from Federal Energy Administrator Frank Zarb to the Honorable Henry M. Jackson, Mr. Zarb estimated that the maximum effect on domestic product prices as a result of the pricing provisions in this Conference Substitute would be about 2.5 cents per gallon. In that letter Mr. Zarb went on to explain the relationship between the price decrease, and the way that it could be expected to flow through to the consumer. A portion of that explanation is included in this statement to clarify the relationship between the passthrough in prices of cost decreases provisions of the Conference Substitute and the provisions on banked costs:

The question of how fast this decrease will flow through to ultimate consumers depends more on market conditions than on law or FEA regulations. Under Section 4(b)(2)(A) of the Emergency Petroleum Allocation Act companies are authorized to pass through to consumers increased costs of crude oil, but FEA regulations interacting with market conditions have prevented them from doing so on a current basis. As of November 1, 1975, refiners collectively had unrecovered crude oil cost increases of about $1.4 billion that they were authorized to recoup in higher prices but had as yet been unable to recoup because of the competitive pressures of the marketplace.

These "banks" of unrecovered costs are not equally distributed among all refiners. Most are held by refiners who had higher than average feedstock costs before FEA's old crude oil entitlements program began operating. Accordingly, some refiners who currently have little or no banked costs because they have been passing through increased crude oil costs on a current basis will be required to pass on immediately in product prices any reduction in their average crude feedstock costs caused by this bill. In a market characterized by plentiful supplies of product, this mandatory reduction in prices by some refiners will place substantial competitive pressures on other refiners to meet these lower prices so as to preserve their market shares and their volumes of sales.

The exact timing and extent of price reductions therefore simply cannot be predicted with any degree of confidence. They depend on the individual business decisions of literally thousands of refiners, distributors, and retailers of petroleum products. Each is caught between two conflicting motivations: trying to collect as much as possible of any increased costs not yet recovered, versus the need to meet competition so as to keep volume and market share up. Profit-maximizing behavior for each company will be different depending on its own circumstances.

The general direction of the forces at work is clear. Currently, product markets are characterized by plentiful supplies and prices below those allowable under existing law and regulations. For those refiners without "banks" of unrecovered product costs, regulations will force lower prices early, thereby imparting downward pressure on all market prices. How fast that flow-through will be, on which products it will occur and in what amounts will be determined entirely by the interaction of supply and demand in the marketplace so long as prices are below legal limits.

Regardless of the rate at which the cost reductions flow through in lower prices to consumers, the Conferees may rest assured that their actions, if enacted by the Congress and signed by the President, should result in a savings to consumers of about 2.5 cents per gallon on petroleum products. These savings, however, will not necessarily be evidenced by actual and immediate decreases from current product price levels at the point of final purchase. They will also be evidenced by a reduction in prices in future months as a result of the immediate reduction in the amount of cost that refiners and resellers will have available for passthrough to consumers in those future months. Thus, prices will be less in future months than they otherwise would have been under a continuation of the present program. The combined effect of the operation of FEA regulations and competition in the marketplace should assure that consumers will reap the full benefit of the rollback one way or the other. What cannot be specified with any precision is exactly how that benefit will be distributed over time and among the products covered by price regulations.

The conference substitute repeals existing section 4(d) of the Emergency Petroleum Allocation Act, requiring that all domestic production be allowed for domestic use, and existing section 4(e), granting stripper wells an exemption from price controls. In view of

the explicit language in Section 103 of the conference substitute prohibiting the export of crude oil and petroleum products, the less specific language of Section 4 with regard to the domestic allocation of petroleum products is no longer needed.

Under the conference substitute, stripper well ceiling prices come within the President's broad discretion to set ceiling prices to implement the maximum weighted average price requirement of the legislation. It is the conferees' understanding that, within the limitations of the conference substitute, the President will most likely establish a separate stripper well ceiling price of approximately $11.28—the equivalent of the upper tier under a continuation of the current two-tier pricing program subject to limits of the conference substitute in order to assure sustained rates of production from such properties.

LIMITATIONS ON PRICING POLICY

House amendment

The House amendment amended section 4(b)(2)(A) of the Emergency Petroleum Allocation Act of 1973 to provide that no passthrough of any net increases in the acquisition cost of crude oil (which were incurred after the enactment of this legislation) would be permitted more than 60 days after the date on which these increases were incurred.

In addition, the House amendment required that the specification of, or the manner for determining, the prices of residual fuel oil and of each refined petroleum product by a refiner whose facilities are located in the United States, shall reflect a proportionate distribution of costs.

Senate amendment

No provision.

Conference substitute

The conference substitute provides that any crude oil costs increase incurred by refiners in the month preceding the effective date of the amendment to the Allocation Act regulation mandated by section 8(a), or any time thereafter, which are not passed through within the 60 day period which follows the month in which such increases are incurred, as product prices charged by a refiner may not be subsequently passed through by such refiner at a later date, except as provided in this section. To permit such later pass through, the President must report to the Congress respecting his findings that such authority is necessary to alleviate the impact of significant increases in crude oil costs, to provide for equitable cost recovery by refiners and to avoid competitive disadvantages to individual refiners. Any such later pass-through is further limited by an overall 10% per month limitation.

With respect to such net increases in the cost of crude oil incurred one month prior to the effective date of the pricing program by the Conference and not passed through as of that date, not more than ten percent of the amount of such banked costs in effect on that day can be passed through in any subsequent month.

With respect to net increases in the cost of crude oil incurred after one month prior to the effective date of the Conference substitute pricing program, and subject to passthrough beyond the allowable 60 days pursuant to the appropriate Presidential findings, passthrough in any given subsequent month cannot exceed ten percent of the total of such net cost increases incurred after such date and not passed through within the allowable 60 days.

The net effect of both these limitations on banked cost passthroughs is to limit such passthroughs beginning with the effective date of the conference substitute's pricing program to ten percent of any banks in existence on the last day of the last calendar month prior to the effective date plus ten percent of any amount incurred one month prior to effective date and not passed through within 60 days of the month in which incurred.

Any allowable increase in the cost of crude oil, residual fuel or other refined petroleum products must be permitted to be passed through on a dollar for dollar basis to all levels of the petroleum distribution chain.

This provision also prohibits the distribution by volume any increase in the cost of crude oil to Number 2 oils, aviation fuel, and propane produced from crude oil in greater than a directly proportionate amount. Under current regulations, refiners are not permitted to passthrough crude oil cost increases on a greater than directly proportionate by volume basis to Number 2 oils, heating oil and diesel fuel and propane. This provision adds aviation fuel to this proportionate pricing formula and elevates the regulatory scheme to statutory status. The conference committee fully intends, however, to preserve the existing flexibility to tilt away from propane and home heating oil as provided in existing regulation.

Such proportionality in cost passthroughs pertaining to these three categories of refined petroleum products applies to all net increases in the cost of crude oil, including those incurred in the month preceding the effective date of the conference substitute's pricing formula and passed through within the allowable 60 days, those incurred in the month preceding the effective date and passed through after the 60 day limitation, pusuant to the appropriate Presidential findings, and the ten percent limitation, and all such costs incurred before the effective date of the Act's pricing program and subject to the appropriate ten percent passthrough limitations.

With respect to the conference substitute's proportionate distribution of costs requirement, the President may, by order, permit a deviation from proportionate passthrough upon a finding that such deviation would be consistent with the objectives specified in section 4(b)(1) of the Allocation Act and will not result in inequitable prices to any class of users of such product.

PROHIBITION OF MINIMUM PRICES

House amendment

The House amendment prohibited the President from prescribing minimum prices for crude oil, residual fuel oil, or any refined petroleum product.

Senate amendment

No provision.

Conference substitute

The Conference substitute follows the provision in the House amendment, but confines its reach to negating the use of any authority under this Act or the Emergency Petroleum Allocation Act.

EXEMPTION FOR SMALL REFINERS

House amendment

The House amendment added a new subsection to section 4 of the Emergency Petroleum Allocation Act of 1973 to exempt from any provision of the regulation promulgated under section 4(a) which requires refiners to purchase entitlements for crude oil based on the number of barrels of such refiner's crude oil input, the first 50,000 barrels per day of the input of a refiner whose total refining capacity (including that of affiliates) was not in excess of 100,000 barrels per day on January 1, 1975 and whose capacity did not thereafter exceed that daily amount. The exemption was made effective with respect to any payments due on or after the last day of the month in which this legislation was enacted.

Senate amendment

The Senate amendment amended section 4 of the Allocation Act to provide that any requirement of the section 4(a) regulation as to the purchase of crude oil entitlements would not apply to the first 50,000 barrels per day of those refiners whose total refining capacity (including that of affiliates) did not exceed 100,000 barrels per day on January 1, 1975. The exemption would be effective as to payments due with respect to crude oil receipts and runs to stills which occurred on or after February 1, 1975.

Conference substitute

The conference substitute follows the provision in the House amendment.

PHARMACEUTICALS

House amendment

The House amendment amended section 4(b)(1)(A) of the Emergency Allocation Act of 1973 to make clear that protection of public health includes needs related to the production of pharmaceuticals.

Senate amendment

No provision.

Conference substitute

The conference substitute follows the provision in the House amendment.

PRIORITIES FOR MINERAL EXTRACTION

House amendment

No provision.

Senate amendment

The Senate amendment amended section 4(b)(1) of the Allocation Act to include a priority for exploration, production and extraction of minerals essential to the requirements of the United States and for any required transportation which is related thereto.

Conference substitute

The conference substitute follows the Senate amendment.

PENALTIES FOR ALLOCATION ACT VIOLATIONS

House amendment

The House amendments increased the amount of the civil penalty which could be imposed under the Emergency Petroleum Allocation Act of 1973 to (1) a maximum of $20,000 for violations related to the production and refining of crude oil; and (2) a maximum of $10,000 for violations related to the wholesale distribution of residual fuel oil or refined petroleum products. The maximum such penalties for retail-level violations remained $2,500. The criminal penalties for Allocation Act violations were changed to authorize (1) imprisonment for not more than one year; (2) a fine of up to $40,000 for willful violations related to crude-oil production or refining; (3) a fine of up to $20,000 for willful violations related to the wholesale distribution of residual fuel oil or any refined petroleum product; and (4) a fine of up to $10,000 for willful violations, at the retail level, related to the distribution of residual fuel oil or of any refined petroleum product.

Any individual director, officer, or agent of a corporation who knowingly and willfully authorized, ordered, or performed any act in violation of the Allocation Act and who had notice, or reasonably should have had notice, of such corporation's noncompliance, would be subject to these criminal penalties, regardless of whether or not civil penalties were imposed on the Corporation.

Senate amendment

No provision.

Conference substitute

The conference substitute follows the House amendment. With respect to those provisions of the House amendment which permitted corporate directors, officers and agents to be held individually responsible

for those violations of the corporation which they knowingly and willfully authorized, ordered, or performed, the conference substitute limits the authority to seek a term of improvement to circumstances when the director, officer or agent had knowledge or reasonably should have known of prior notice of noncompliance received by the corporation. With the exception of this latter proviso, nothing in the section is intended to change existing case law relating to the individual responsibility of corporate directors, officers or agents for violations of those corporations.

It should be pointed out that under FEA regulations, each day of a continuing violation is considered a separate violation for purposes of the penalty provisions under the current Act. Such a construction is necessary if the penalty provisions are to provide a meaningful deterrent to violations which are continuing in nature, such as the failure to supply oil or products pursuant to an allocation regulation or order. Although the maximum penalties have been substantially increased by the conference substitute, there are still likely to be numerous instances in which the maximum penalty would not deter unlawful conduct unless such a construction were applied. The Committee therefore expects the FEA to continue to view each day of a continuous violation to be a separate violation.

ANTITRUST PROVISION IN ALLOCATION ACT

House amendment

No provision.

Senate amendment

The Senate amendment added a new subsection to section 6 of the Emergency Petroleum Allocation Act of 1973 and removes the provisions of that section which relate to assertions of a defense in antitrust litigation. The new provision makes it an affirmative defense, in an action for breach of contract, that the alleged breach was caused solely by compliance with the Allocation Act or regulations or orders thereunder.

Conference substitute

The conference substitute follows the provision in the Senate amendment.

REEVALUATION OF SECTION 4(a) REGULATION

House amendment

The House amendment amended the Allocation Act to direct the President, within 30 days after enactment of this legislation, to conduct a review (including notice thereof and an opportunity for interested persons to comment in writing and orally) of the appropriateness and continuing efficacy of, or need for, any of the provisions of the regulation promulgated under section 4(a) of that Act with respect to the attainment of the objectives stated in section 4(b)(1) of that Act. Within 90 days after enactment, the section 4(a) regulation as he determined were necessary or appropriate to modify or eliminate any provisions thereof which were found to be inconsistent with, or no longer necessary to the attainment of, the section 4(b)(1) objectives. Any such amendment would take effect as provided under its terms.

Senate amendment

No provision.

Conference substitute

The conference substitute modifies the House Amendment by requiring the President to hold hearings within 60 days of enactment to determine the need for amending any regulations under the Emergency Petroleum Allocation Act in an effort to better achieve the objects specified in 4(b)(1) of the Act.

The President is required to submit to the Congress, within 120 days of the enactment of this legislation, an analysis of all such recommendations, and thereafter promulgate such amendments as are necessary to modify the regulations for the purpose of better attaining the objectives specified in section 4(b)(1).

The conferees believe that, in connection with the review and oversight of the FEA regulations under the Allocation Act, the following matters should be considered: (1) an equitable and proportionate distribution of costs among all refined products; (2) the contention by some that major petroleum companies are selling to their captive stations or employee-operated stations on more favorable terms than to branded and nonbranded independent marketers; (3) an evaluation of the feasibility of removing controls from the retail and/or wholesale level; (4) an assessment of whether crude oil purchasers and resellers who initiated business after the 1972 base period should be able to have an opportunity to establish a business and to compete with others for the purchase of crude oil from producers; (5) a review of the mandate to allocate on an equitable basis between regions, giving due regard to historical patterns rather than to create preferences between regions without reference to historical patterns; and (6) the extent to which environmental impacts are being adequately considered prior to making allocation decisions.

CONVERSION TO STANDBY AUTHORITIES

House amendment

The House amendment authorized the President to convert mandatory provisions of the Emergency Petroleum Allocation Act of 1973 to standby authority, subject to disapproval by either House in an expedited 15-day Congressional review procedure. The President was authorized to exempt from controls crude oil, residual fuel oil, or any refined petroleum product. Such amendment may apply to different market levels (i.e. production, refinery, wholesale distribution, or retailing) and may provide for scheduled or phased implementation. It would not, however give the President the authority to exempt first sales of domestic crude oil production from the statutory price ceiling.

Once exempted, the President would have standby authority to reimpose allocation and price controls and subsequently modify them without Congressional review.

Senate amendment

No provision.

Conference substitute

In early October 1973 the "Yom Kippur" war broke out in the Middle East. An embargo was imposed on the United States and other countries by the oil producing Arab countries. Suddenly, the Untied States was faced with the possibility of drastic shortages in crude oil supplies and spiralling of petroleum costs. In this crisis atmosphere, Congress passed the Emergency Petroleum Allocation Act in 1973 (EPAA). The Act gave the President the necessary authority to meet the shortage conditions that existed in the first half of 1974 with minimum impact upon the Nation while preserving the market position of the independent segments of the petroleum industry.

The conference substitute, thus, grants the President limited authority to amend the regulation prescribed under section 4(a) of the Emergency Petroleum Allocation Act if he determines that such amendment is consistent with the attainment of the public policy objectives specified in section 4(b)(1) of the Act, except as required by section 8(a) and that the regulation, as amended, provides for the attainment of those objectives, to the maximum extent practicable. If the President proposed to exempt crude oil, residual fuel oil, or a refined petroleum product or product category with respect to a class of persons or transactions with respect to any market level, he must submit such amendment to the Congress. Any amendment of this character may take effect if not disapproved by either House within 15 days under expedited Congressional review procedures.

The regulations promulgated by the Federal Energy Administration pursuant to the mandatory authority of the EPAA establish a comprehensive regulatory structure which cuts across and applies to all sectors of the petroleum industry. Conceptually, the regulations may be segmented into two parts—those provisions dealing with the pricing of covered petroleum products and those provisions dealing with allocation of those products.

The price regulations are further divided into three sets of rules, each dealing with one segment of the petroleum industry. The pricing provisions treat crude oil producers, refiners, and resellers and retailers.

The allocation regulations are divided into two allocation programs, one dealing with crude oil and one dealing with products refined from crude oil.

The United States still faces a critical energy problem. However, the dimensions of that problem are far different from those which existed in 1973 and were addressed by the EPAA. There is no longer a general shortage of either crude oil or refined petroleum products, with the possible exception of propanes. In many ways, the supply side of the market has returned to near the pre-embargo conditions which prevailed in 1972.

In view of these changed conditions, a comprehensive regulatory structure of the scope outlined above may no longer be necessary. On the other hand, to allow such a comprehensive structure to expire, overnight, may itself create severe dislocations. To the extent that mandatory controls are no longer needed or desirable, a gradual return to an unregulated market is preferable to sudden decontrol.

In addition, while some products or some markets may no longer need mandatory price and allocation controls, conditions are not identical throughout the entire industry. Moreover, certain policies adopted in Title IV of this legislation would require continuation of certain controls. Section 401 establishes a pricing policy applicable to domestic crude oil which promises to maintain domestic crude oil prices below the OPEC cartel-established world market prices. This policy requires a continuation of certain programs established pursuant to the authorities of the EPAA. Specifically, it is contemplated that crude oil cost equalization (entitlements) program would have to be continued or some equivalent devised to preserve competition so long as a substantial difference continues to exist between OPEC established world market crude oil prices and domestic crude oil prices established pursuant to Section 401.

Finally, so long as the United States continues to be dependent upon insecure or unstable foreign sources of crude oil for a substantial portion of the Nation's energy requirements, reimposition of an embargo could produce severe shortages such as those experienced during the Arab oil embargo of 1973–74. Therefore, the President must have authority on a standby basis to deal with such shortages. Such authority has been specifically requested by the President. A proposal regarding standby price control and allocation authority was included in Title XIII of the bill, The Energy Independence Act of 1975, proposed to the Congress by the President.

The conferees believe that the flexibility of the existing law and its demonstrated adequacy during the 1973–74 Arab embargo make it a prime candidate for conversion to a standby authority. The conferees believe that such conversion would be preferable to enactment of a separate authority.

Extension of the EPAA and its conversion to a standby authority offers, in addition, the potential for a smooth transition of petro-

leum markets from a closely regulated state to a large unregulated status subject to standby pricing and allocation authority.

For the purpose of this provision, "refined product category" means motor gasoline, Number 2 oils (including heating and diesel fuel), propane, or all or any portion of other refined petroleum products as a class (including natural gas liquids and natural gas liquid products other than propane).

Any amendment which proposes to exempt crude oil, if permissible under and consistent with the requirements and limitations of section 8, residual fuel oil, or any refined petroleum product or product category, from the regulation pertaining to allocation must be submitted to Congress together with a finding that such product is no longer in short supply and the exemption would not have an adverse impact on the supply of any other oil or product.

Any proposed exemption with respect to price must be accompanied by a finding that (1) competition and market forces would provide adequate protection for the consumer, and (2) such amendment would not result in inequitable prices for any class of users.

Any amendment submitted to the Congress must be accompanied by the President's findings on the potential economic impact of such amendment.

Any oil or refined product category which is exempted from the regulation is subject to the reimposition of the regulation if the President determines that such reimposition is necessary for and consistent with the objectives specified in section 4(b)(1). Subsequent re-exemption of that oil or refined product category would not be subject to Congressional review.

The President may also submit to the Congress an amendment to modify the regulation with respect to exemption from payments or purchases of entitlements for the first 50,000 barrels per day of inputs for certain small refiners, if he determines that such an exemption has resulted in unfair economic or competitive advantage with respect to other small refiners or otherwise seriously impairs his ability to provide for the attainment of the objectives of the Act.

Here the conference substitute has added a constraint on the President's authority to amend the regulation. This constraint, not found in the House amendment, has been included to clarify and make compatible the terms of this section with those contained in new section 4(e) relating to exemptions from entitlement obligations for certain small refiners.

TECHNICAL PURCHASE AUTHORITY

House amendment

The House amendment amended the Allocation Act to give the President discretionary authority to act as exclusive agent for and to become the technical purchaser of all imports into the United States of crude oil, residual oil, or any refined petroleum product, on a sealed bid basis. The contract authority was limited to amounts approved in appropriations acts.

Senate amendment

No provision.

Conference substitute

The conference substitute authorizes the President to prepare and submit to the Congress a technical purchase authority plan which would grant the United States the exclusive right to import all or any part of the crude oil, residual fuel oil or any refined petroleum products produced in foreign nations for resale in the United States.

There is a strict prohibition on application of the authority in a manner that would result in a subsidy or preference for any individual importer, purchaser or user of such products in the United States.

The authority cannot be used in a manner that will result in a profit or loss to the United States, except in the circumstance where the President finds that competitive-bid sales to purchasers in the United States below the acquisition price to the United States government may result in progress toward lowering world oil prices.

Such plan and submission must be supported by findings by the President that the likely effect of the procedure would be to reduce prices for imported oils and products.

Such plan would take effect if not disapproved by either House of Congress within 15 days under the expedited Congressional review procedure.

This provision also requires the President to submit to the Congress, within 90 days of enactment, a report on the feasibility of providing an incentive for reducing the price of imported oil by granting domestic producers an increase in the price of old oil corresponding to any decreases in the price of foreign oil.

DEFINITIONS UNDER THE ALLOCATION ACT

House amendment

The House amendment amended the definitions section of the Emergency Petroleum Allocation Act of 1973, (1) to make it clear that domestic crude oil production includes oil produced from the Outer Continental Shelf, (2) to add a definition of "motor gasoline" (the operative term in the House amendment provision establishing a mandatory gasoline allocation program), and (3) to indicate that the term "includes", when used in that Act, means "includes, but not limited to".

Senate amendment

The Senate amendment amended the definitions section of the Allocation Act to add a definition of "handicapped person" and a definition of "eligible person" (a handicapped person or the parent or guardian of such a person who must transport the handicapped person to and from special services).

Conference substitute

The Conference substitute does not propose any amendment to the definitions to be employed in the Emergency Petroleum Allocation Act. The concept of affording special consideration to handicapped persons is picked up and provided for in those sections of the Conference substitute in Title II which pertain to energy conservation plans and rationing. It should be stressed that the conferees' failure specifically to include oil produced from the Outer Continental Shelf in the definitional category of domestic crude oil reflects the strong belief of the conferees that such inclusion was unnecessary; the conferees have consistently interpreted the term as including such production and intend for it to be so regarded in the future.

DIRECT CONTROLS ON REFINERY OPERATIONS

House amendment

The House amendment amended the Emergency Petroleum Allocation Act of 1973 to authorize the President to require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum product produced through such operations. These adjustments could be made when they were necessary to assure the production of fuels in proportions necessary to obtain the objectives of section 4(b), or section 12 of the mandatory gasoline allocation savings program.

Senate amendment

The Senate amendment authorized the President to require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

Conference substitute

The conference substitute follows the House amendment, except that all reference to the mandatory gasoline allocation savings program has been deleted. (See supra). The conferees intend that this authority shall be narrowly applied and that it shall not be construed to authorize governmental operation of refineries.

INVENTORY REQUIREMENTS

House amendment

The House amendment amended the Allocation Act to authorize the President to require persons engaged in the business of importing, producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product to build upon draw-down inventories as the President may deem necessary to satisfy the requirements of the mandatory gasoline allocation savings program, and to carry out obligations of the United States under the international energy program. This authority is limited to requiring the maintenance of "90-day inventories." In no case could such persons be required to make physical additions to storage facilities.

Senate amendment

No provision.

Conference substitute

The conference substitute authorizes the President, if he finds an existing or impending regional or national supply shortage of any fuel, by order or by amendment to the regulation, to require adjustments in the amounts of crude oil, residual fuel oil or any refined petroleum product held in inventory by any persons engaged in the business of importing, producing, refining, marketing or distributing such products. The President may require distribution of inventories to specified persons or classes of persons at specified rates of distribution, or to specified levels of inventory accumulation, or the accumulation of such inventories at a specified rate or to specified levels. This authority may be exercised if the President determines that such order or amendment may be necessary (1) to the attainment of the public policy objectives stated in section 4(b)(1) of the Emergency Petroleum Allocation Act or (2) to carry out the obligations of the United States under the International Energy Program.

Such authority may also be exercised to require the maintenance of inventories at levels above or below normal operating levels, with the limitation that such requirements may not exceed the amount which would be used or distributed during any 90-day period of peak usage. In no event may any requirement for maintenance of inventories require a physical addition to storage facilities to comply with any such amendment or order.

HOARDING

House amendment

The House amendment amended the Allocation Act to prohibit persons in the business of producing, refining, distributing or marketing crude oil, residual fuel oil, or refined petroleum products from accumulating, during a severe energy supply interruption, "amounts of such oils or products in inventories or otherwise which are in excess of such person's reasonable needs".

Senate amendment

No provision.

Conference susbtitute

The conference substitute follows the provision in the House amendment, except that (1) the prohibited conduct is to be defined with specificity in the regulations; (2) only a "willful" hoarding is made a violation; and (3) exemption from this requirement is specifically provided with regards to activities required by the Industrial Strategic Petroleum Reserve provisions of this Act.

ASPHALT ALLOCATION AUTHORITY

House amendment

The House amendment amended the Allocation Act to authorize the President to provide for the mandatory allocation of, and to establish price ceilings applicable to, asphalt.

Senate amendment

No provision.

The conference substitute follows the provision in the House amendment, with an additional provision allowing the President to exempt asphalt from such mandatory allocations without regards to Congressional review provisions of section 12, once such an allocation program for asphalt has been established pursuant to this provision.

EXPIRATION OF CERTAIN AUTHORITIES

House amendment

The House amendment provided that all standby energy authorities and the authority with respect to the strategic petroleum reserve would expire at midnight on June 30, 1985. Any rule, regulation, or order issued pursuant to any such authority would expire at the same time. Expiration would not affect pending civil or criminal proceedings nor would it preclude any legal action based upon any act committed prior to expiration.

Senate amendment

The Senate amendment provided that all standby energy authorities would expire at midnight on June 30, 1977, except that such authority was authorized to be exercised until midnight on November 18, 1978 if required to implement the obligations of the United States under the international energy agreement. Expiration would not affect pending legal action or preclude any such proceeding brought after expiration based upon any act committed prior thereto.

Conference substitute

The conference substitute provides that at the end of 40 months, the mandatory requirements of the Emergency Petroleum Allocation Act convert to discretionary authority, and the limitations imposed by sections 4 (b) (2), 8, and 9 terminate. As standby authority the Act expires on September 30, 1981.

REIMBURSEMENT TO STATES

House amendment

No provision.

Senate amendment

The Senate amendment directed the President to provide financial assistance to States. A State would be eligible for such assistance if it established a State plan for energy conservation, provided satisfactory fiscal control and accounting procedures, and complied with applicable President regulations. The purpose of such grants would be to assist States in carrying out functions delegated to them under this legislation, in carrying out appropriate energy conservation, rationing, or allocation programs which qualify for an exemption from a Federal energy conservation plan, and in reimbursing them for functions carried out under the Emergency Petroleum Allocation Act of 1973. For the purpose of this section the amendment authorized $50 million to be appropriated for each of the 2 fiscal years including and following the effective date of this legislation.

Conference substitute

The conference substitute authorizes the Administrator of the Federal Energy Administration to reimburse States, to the extent of available funds, for functions performed under the Allocation Act and directs the President to report to the Congress no later than June 1, 1976, on the amount and nature of reimbursements made to States under this provision. The President must also report regarding recommendations as to whether authorization of additional funds are necessary for direct grants to States to continue the operation of the reimbursement program.

EFFECTIVE DATE OF AMENDMENTS TO THE ALLOCATION ACT

House amendment

The House amendment provided that amendments to the Emergency Petroleum Allocation Act of 1973 would take effect on September 1, 1975.

Senate amendment

No provision.

Conference substitute

The conference substitute is similar to the House amendment. Section 463 provides that the amendments to the Allocation Act made by this Act shall be effective as of midnight December 15, 1975, except as otherwise provided. The conferees expressly recognize the possibility that this Act may not be enacted until after December 15, 1975. For that reason, the December 15, 1975, date was expressly written into section 463 as the effective date so as to make it absolutely clear that no gap in the President's authority to promulgate regulations or to issue or enforce orders under the Allocation Act is intended, that the extension of the Allocation Act authority will apply retroactively to December 15, 1975, and that the regulation under section 4(a) in effect on December 15, 1975, shall be deemed to have been continuously in full force and effect thereafter.

Mr. JACKSON. Mr. President, I yield 10 minutes to the distinguished Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, the conference action on S. 622 is of intense interest to Members of this body.

The RECORD should reflect, in reference to the coal loan guarantee provision in the measure, that there was agreement between the Senate-House conference on this provision. The provision was modified on Monday in the House. The House restricted the coal loan guarantee provision to new underground mines. So under the provision, existing mines no longer would qualify. I reiterate, the broader based program was approved by the conferees.

Mr. President, this omission has materially weakened the conference agreement and it is with reluctance that I support the conference action as modified by the House.

I do so with the hope that the President will approve this measure. After 2 years of negotiation this legislation reflects the judgment of the conferees, although several provisions could be improved if additional time were available. However, the current program expired on December 15 and an extension is necessary.

I will continue to work for improvements in the energy field, particularly with regard to the coal loan guarantee program which, unfortunately, had to be modified by the House in response to procedural problems.

The RECORD should indicate that in 1974, there were only 73 mines in the United States that produced more than 1 million tons of coal annually, out of a total of about 600 million tons that year. By comparison, between 700,000 and 1 million tons were produced by 28 mines, of which 10 were deep mines. Between 500,000 and 700,000 tons were produced by 31 mines.

For between 400,000 and 500,000 tons, there were 43 mines. Between 300,000 and 400,000 tons, there were 59 mines. Between 200,000 and 300,000 tons produced, the number is listed at 101 mines. And, between 100,000 and 200,000 tons, there were 262 mines. In 1974, there were 524 mines producing between 100,000 and 1 million tons of coal annually. About one-half of these mines, according to the best information we can secure, are underground operations. Coal production is not dominated by large producers as for oil and natural gas.

Mr. President, the time required to open a new mine is considerably longer than that needed to expand an existing mine. We are thinking in terms of 3 years to bring a new mine into production, compared with 12 to 18 months to expand the output of an existing mine. It is also important to stress that the cost of opening a new mine is much greater. For example, it costs about $35 million for 1 million tons of annual production to open a new mine.

We must underscore this fact: It costs approximately $35 million per one million tons of annual production to open a new mine. This compares with approximately $20 million per million tons to expand an existing underground mine. Thus, by restricting the coal loan guarantee to only new mines, as the House action on the conference report has done, the total new coal tonnage will be reduced to about one-half of that which we would expect if existing mines could take advantage of the loan guarantees. Moreover, the time required is twice as long.

Since the provision was intended to supplement coal conversion, the effect of restricting it may well be a retardation of coal conversion itself.

It is very important for us to realize that the ban guarantee program was to foster new coal supplies and, I emphasize, to enhance competition. But the conference agreement now authorizes loan guarantees only for new coal mines. Such production must be either low-sulfur coal or coal which can be used in compliance with Federal or State requirements issued pursuant to the Clean Air Act.

I also underscore the fact, to be eligible, a mine must produce less than 1 million tons per year to qualify for such coal loan guarantees.

It has been my responsibility to discuss this problem with the chairman of the Committee on Interstate and Foreign Commerce of the House (Mr. STAGGERS), a Member of Congress from the State of West Virginia. Our State is either the second or first—the figures vary between West Virginia and Kentucky—in the production of coal.

We also have been in touch with Representative DINGELL, who as chairman of the House Subcommittee on Energy, has been articulate on this subject. I think I am correct in saying that they both support an action early next year on legislation that would expand the provision of the conference agreement to include existing coal mines.

I appreciate the work that has been done by all of the conferees on this legislation. There was very careful consideration of all provisions. I am fully conversant with them, and I express personal as well as official appreciation of the efforts of the able manager of the con-

ference report, the chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON). I now inquire of the Senator from Washington as to his feelings about this crucial matter. If legislation, which I intend to draft, in consultation with him and others, is presented early in the next session, could this measure be addressed promptly and thoroughly in the Interior Committee. I am hopeful that we could bring to the Senate and to the House such legislation to foster coal conversion. We must strengthen coal production in the United States from existing as well as new mines.

Mr. JACKSON. Mr. President, I can assure the distinguished Senator from West Virginia, (Mr. RANDOLPH), who has been so long active in this all-important area of energy—coal—that, at least as far as the chairman is concerned, he feels very strongly that there should not be a division, really, between old and new.

Mr. RANDOLPH. The Senator is correct.

Mr. JACKSON. Old mines have a lot of need for development and we may save money by prosecuting that effort.

Mr. RANDOLPH. Again, the Senator is correct.

Mr. JACKSON. In areas where development is already underway, to open up a new mine could be more expensive and take much longer, and time is of the essence in this matter. I wish to say, as the Senator (Mr. RANDOLPH) knows, I have strongly supported his position in Congress. I have strongly supported it in the Committee on Interior and Insular Affairs. I assure him that upon the introduction of the legislation which he has discussed, we shall move expeditiously for a hearing on that legislation.

I understand, too—I have not been in touch with Representative DINGELL, but from indirect touch with the staff of the distinguished chairman of the Subcommittee on Interstate and Foreign Commerce, Mr. STAGGERS, that he will join in that effort so we can move bilaterally and rapidly. I cannot make it any stronger.

I am fully in accord with the Senator's comments on this particular point and I shall do everything I can, as I have in the past, as the Senator (Mr. RANDOLPH) knows, to see that that such a program moves forward.

Mr. RANDOLPH. Mr. President, I appreciate the assurance of the Senator from Washington (Mr. JACKSON). I know that he joins me—in fact, we are partners—in an effort to secure the fullest utilization of coal in the United States of America. Toward that end, we are in agreement.

Mr. JACKSON. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. May I ask the Senator from Arizona for time?

Mr. FANNIN. How much time does the Senator desire?

Mr. DOMENICI. I believe 10 minutes would be adequate.

Mr. FANNIN. I yield 10 minutes to the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator from Arizona.

Mr. President, the two most dangerous problems that the United States faces today are inflation and lack of energy supply. At a time when Congress is making every effort to contain the inflation which has depressed our economy, the Senate is considering an energy proposal which threatens not only to jeopardize our effort to attain energy independence, by increasing our domestic supply, but encourages the inflation we are trying so desperately to control.

The bill is doubly dangerous because many of the adverse effects are not immediately obvious.

I would like to take a minute here to talk about the petroleum industry in New Mexico, a State which ranks sixth among the 50 States in the production of crude oil. The State of New Mexico contains 77.7 million acres and 33.9 percent has been proved productive of oil and/or gas, or is leased for possible future exploration. The petroleum industry is one of New Mexico's largest nongovernment employers, providing jobs for over 18,000 people in 1974.

The pricing provisions of the bill discourages rather than encourages domestic oil production and in the State of New Mexico, the provisions threaten the entire petroleum production industry. Approximately 60 percent of New Mexico's oil is old. Approximately 35 percent of the State's production comes from enhanced recovery methods with the remainder from stripper well production.

The provisions of this measure provide uncertainties for all categories of oil, because the President is given discretion to change the price in any category as long as the composite does not exceed $7.66. In addition, the price controls have been extended to new oil, released oil and stripper well oil. The composite price will cause an immediate rollback of "uncontrolled" oil prices from $13.50 to $11.28 per barrel. This will hurt the independent producer more than anyone else because they have a greater mix of new and stripper well oil than the majors.

The petroleum industry is the greatest single source of tax revenue for the State of New Mexico, its counties, cities, and other political subdivisions. The State of New Mexico Energy Resources Board and Governor Jerry Apodaca indicated that the price rollback provision could cause an immediate decrease of 7 to 10 percent in direct production revenues to the State of New Mexico.

My analysis of the pricing provisions of this conference report is that they are bad for the Nation as a whole, will lead to even higher dependency on foreign sources for petroleum, and will jeopardize the country's critical conservation efforts.

There will be no real savings for the American consumer because American development and exploration will be substantially diminished, thus forcing us into greater reliance on high-priced foreign crude oil.

I find the plan set forth by the conference to be deficient in achieving the three main goals of any responsible national energy policy. In reality, the proposal promotes consumption, when it should demand conservation; it prohibits expansion of domestic petroleum supplies, when it should generate such expansion; it makes us increasingly vulnerable to another embargo by foreign sources, when it should make us more self-sufficient.

Proponents of this legislation feel this proposal is responsible governmental action and will benefit the American consumer. I am convinced that both its immediate and ultimate effect will be just the opposite, and that we will see it work to the detriment of all consumers of energy in the Nation.

If this proposal were in the best interests of the Nation, and penalized the producing States, such as my home State, I would, nevertheless, vote for it and support it. But, this bill does not put the national interest first. It is contrary to the national interest.

Because of this, I shall vote against the measure, and if it passes the Senate, I will urge the President to veto the bill.

Mr. President, I have been in the U.S. Senate almost 3 years now. Of course, we all know that shortly after those of us who came here in 1972 arrived, the energy crisis hit the United States. I think it is fair to say that for many of us, we have spent a great deal of time and effort, energy, and enthusiasm, attempting to be innovative and concerned—all of this directed at bringing to the U.S. Senate some comprehensive energy policy. In particular, with reference to crude oil in the United States, we have attempted over these years to bring to the Senate and participate in the formulation of a policy for this country with reference to crude oil.

For a long period of time, under the guise of freezing the prices, we had the two-tier system in existence in this country which, basically, froze old oil and more or less let new oil in the United States find its market value. We had various exceptions such as stripper wells which might be old but, because of basic geological and economic reasons, were exempt from this system.

Literally, month after month this body struggled, with at least four committees having jurisdiction over energy, trying to come up with what everyone thought might be a better approach.

I can say for this Senator that even though my involvement was only on the Committee on Public Works, I am going to vote against this bill for a number of reasons. I would also like to express some serious concern I have about the procedure.

Mr. President, neither the House of Representatives, any Member in that House, on the floor of that body, nor any U.S. Senator on the floor of the Senate, has had a real opportunity to vote on the so-called composite price-fixing that is in this bill, a totally new and innovative idea that some might think is going to work.

But the point I want to make, Mr. President, is that after all that effort, after the effort of months of endeavors, voting up or down constructive and destructive amendments being brought

here to the floor on the old two-tier system, stripper wells, and the like, I have come to the floor of the Senate under a procedural system which gives me absolutely no opportunity to consider and recommend by amendment or otherwise make changes in this new and completely different approach called the composite system.

I understand at the conference what the House did to us; I understand that procedure. But I truly suggest to this body if we are confronted with difficult problems that cross jurisdictional lines, that go to the heart of America's economic growth and vitality, such as energy, and we are left with this procedural system which, basically, wrote a completely new energy bill in conference. There was no chance on the part of any Senator, other than the conferees to have any input. Then bring that pricing section here under a procedural design which says I have got to vote "yes" or "no" on the whole bill. This is admitting unequivocally that this body has no way to handle this kind of problem in the normal system of letting the Senators participate, and we are here and now delegating authority through this procedure to a conference made up of 4 committees, 25 Senators, and 5 or 6 House Members, we are abdicating the prerogatives of U.S. Senators to participate.

Now, had we come back with something similar to what either House had adopted, it seems to me either the conference or the method the House used of adopting our bill and taking the conference report as an amendment to it would make sense. But I think I am, as a newcomer, warning the Senate that at the heart of this problem is our committee jurisdictional hangup over energy.

If we have to abdicate every time we have a major energy problem to a group of conferees who are going to rewrite the entire energy law of our country, we are abdicating our right to participate in a meaningful way in that decision-making process.

Mr. President, we have done that here, and I honestly feel, as a junior U.S. Senator, not serving on the Committee on Interior or the Joint Committee but on the Public Works Committee, and from an energy-producing State, producing not just oil but one that is fifth in natural gas, sixth in crude oil, first in uranium—and I can go on almost ad infinitum—it just seems to me many people with that kind of interest are denied substantial rights under this process.

Mr. President, let me say there are many good parts to this bill. Many good bills that were passed by this body in a normal and ordinary manner, after proper hearing and presentation on the floor, were put into this composite, and then it went to conference. It does discourage me to have to vote against some of the good sections that are in it. But the composite provisions, as I see them, are inferior, Mr. President, and, I repeat, inferior, to the two-tier system with frozen old oil and new oil kind of seeking its market value, and a stripper exemption that we sat around here for months abhorring and that we sat around here for months saying, "So let us get rid of it, let us find something else to take its place." I can say unequivocally that 40 months hence an evaluation of this approach versus what we would have under the old system will, in my opinion, yield a conclusion that we were better off with a very weak, flimsy, developed almost totally administratively by the FEA under a general guideline of the Emergency Energy Act than this one.

In one major respect this particular provision, in my opinion, under any reasonable administrative procedure penalizes the production of new oil. It seems to me that secondary and tertiary recovery in this Nation are our only hope for extending the short life into some kind of real longevity of domestic crude oil which exists on the continental United States, and it is not going to be produced for any $7, $8, $9, or $10. There are huge secondary and tertiary pools that are going to cost $13 and $14. What we are going to see is all work stopped on those until we get close to the 40 months, and then see people go into it and then, mark my word, Mr. President, we are going to blame those people, independents and small producers who do that. We are going to say they are working against the interests of America's energy needs when, as a matter of fact, we are almost dictating that as a matter of economics they might as well get out and wait until this 40-month mishmash is about to go out of existence, and then get back into it.

In my statement I have our Governor—and a distinguished Governor, a Democratic leader in the Southwest, and he is not of my party persuasion—and his energy experts are saying that if you look clearly at New Mexico, you can expect less production during this composite pricing during the 40 months than you have today under the much-abhorred two-tier system which many of us thought was indeed working against the best interests of energy independence, only to find that this procedure of dreaming it up, dreaming the composite up, in conference and bringing it to the floor, with our having nothing to say but "yes" or "no," that that new one is worse than the one we all tried to get rid of.

Our State almost guarantees that its own income is going down, the production of crude oil is going to go down. So I can only ask where are we going to get the new oil to keep the equilibrium going? I ask where are we going to get this position of neutrality, maybe not getting any worse off than we are now, that is espoused by those who want this bill?

It seems to me we are going to be more dependent at the end rather than less. We are going to be paying whatever the foreign cartel wants us to pay, and instead of paying it for our own secondary and tertiary recoveries we will be paying it to Saudi Arabia or one of the others.

It seems to me on all scores it is bad economics, bad energy policy, and for the State of New Mexico as a producer it is bad for New Mexico.

I can genuinely say if it were only bad for New Mexico, and it was good for the United States, I would vote for it. But I think if it is bad for all of the producing States it means we are going to produce less, and if we are going to produce less, then it cannot be good for the United States. There is no way that less production of new crude oil in the United States during the next 40 months without some international agreement, which we can only hope for, is good; and, without that, less production can only be bad as we seek energy independence and alternate sources of energy for this great country.

I thank the distinguished ranking Member for yielding me the time he has.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. I yield 5 minutes to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I congratulate the distinguished Senator from New Mexico. He mentioned the manner in which the composite price idea was created, and the fact that there have not been hearings on the subject.

I think, as he, that it could very well be a Pandora's box that those who have created it will later on regret, because as it is pushed in one direction with a higher price there must be an adjustment down in another direction, and as new oil comes on there will have to be adjustments in the price of other oil.

Mr. President, I am opposed to S. 622, the Energy Policy and Conservation Act of 1975. It is not a sound or workable energy policy for the United States.

If S. 622 becomes law, imports of insecure foreign crude could increase to nearly 50 percent of our total petroleum consumption by 1980 to even greater proportions by 1985. Most of the incremental increase in these imports will have to come from OPEC nations. Thus, instead of freeing us from OPEC control, this Congress would be passing legislation to make us more dependent on the cartel. Such action is not in the best interests of the American people and I urge my colleagues to vote against this bill.

There are many provisions in S. 622 with which I object. Overall, it takes the entirely wrong approach to energy policy. Instead of employing market forces and individual freedom of choice to solve our Nation's energy problems, the bill envisions a controlled economy in which Government bureaucratic decisions replace the sound economic judgment of free men.

The ramifications of the bill's crude pricing provisions provide a good example. Prices of petroleum are to be controlled at artificially low levels. Thus, consumption is stimulated and supplies reduced. In an attempt to correct this market distortion, other provisions in the bill establish mandatory conservation standards for the automobile industry, the appliance industry, and major manufacturing industries. It establishes these mandatory standards in the face of ongoing successful voluntary conservation programs in which companies are cooperating with Government to accomplish conservation. This is nothing more than sound business practice. How-

ever, because companies differ in their financial makeup, in their product mix, and in their marketing practices, mandatory standards which remove flexibility could inflict serious harm on some individual companies. If all fuel would be priced in the free market, conservation measures would be implemented voluntarily by individuals and by businesses alike.

The most onerous provisions in S. 622 are those dealing with crude pricing. Even though the proponents of S. 622 argue that these pricing provisions provide adequate incentives to increase our production, this is just not true. The controlled crude prices mandated by this bill cannot even begin to provide the capital or the incentive necessary to solve our crude supply problem.

In the past, I have used as an illustration of the number of drilling rigs in use today with the number being used in 1955 when drilling activity was at its peak. It is appropriate to reiterate this example now.

In 1955 when the U.S. consumption of petroleum was 8.9 million barrels per day, there were on the average 2,700 rigs actively drilling in the United States. Now with consumption at nearly 17 million barrels per day, there are only 1,800 active rigs. In order to proportionately provide the same effort as there was in 1955, we should now have nearly 5,200 rigs drilling. Thus, our domestic drilling effort must nearly triple, and we are far behind.

The Independent Petroleum Association of America has presented an interesting analysis of this same question which shows that during the period from 1960 to 1973, the domestic petroleum industry invested on the average $2.5 billion per year to drill wells; in 1974, expenditures were $4.5 billion—nearly an 80 percent increase. Yet, this level of investment is still inadequate. As the IPAA states:

> To reverse the downtrend in domestic oil production and raise 1985 output to desired levels, we must almost double the 1974 expenditures for drilling in the year 1976–1980 and more than double the . . . expenditures in the succeeding five years, 1981–1985.

The perplexing problem faced by this Congress is how to accomplish this goal. Does S. 622 provide the solution? The answer is an unequivocal "no." The bill is a major step backward. Currently 40 percent of domestic production sells at uncontrolled prices. All prices will be controlled under this bill. New oil prices would initially be rolled back from current levels by nearly $2 per barrel and by nearly $1 per barrel if the import tariff is removed and the effects of the recent OPEC price hike fully work their way into our system.

Thus, rather than providing more capital for the petroleum industry to invest in exploration and development drilling, this bill initially reduces income to the industry by $1 to $2 billion annually. On top of the $2.5 billion reduction in investible funds resulting from the tax changes in the Tax Reduction Act, this additional loss could have a very disastrous impact.

In addition to the initial rollbacks on prices, the bill provides no means by which controls can ever be phased out. During the 40-month tenure of mandatory controls in the bill, the difference between the average U.S. price and the estimated world price widens to probably between $6 to $7 per barrel. Thus Congress would likely be less inclined to eliminate controls in 40 months than it is right now. Even though the pricing provisions revert to standby at the end of 40 months, Congress would probably continue the controls by either passing another extension or, depending upon who is President, demand that he exercise the standby authority. S. 622 is, therefore, just the first installment in a program to permanently control crude prices and regulate the petroleum industry.

The crude pricing provisions are a quagmire of uncertainty for producers, for several reasons.

First, because of the concept of the composite average price producers would have no idea from month to month what price they will be receiving in the future. The bill requires downward adjustments in the average price if in the previous 6 month period, the actual composite was above that permitted in the bill.

Second, the composite pricing method in itself is a disincentive for production because if producers succeed in discovering and producing new crude oil, which would most likely be priced above the composite, the mix of crude will be diluted thereby requiring a reduction in the price of all existing crude oil.

Third, because the President is given broad flexibility to design the pricing procedure, he will have to establish the categories of production and the prices to be received by those categories. If a new high priced category is added or if a price increased, the other categories of crude production will suffer a corresponding reduction. Such changes could conceivably be made throughout the life of the program, further adding to the uncertainty.

Fourth, there are numerous opportunities for Congress to disapprove administration actions to increase the incentives for production. These are—

In February 1977, the President may submit to the Congress a proposal to continue or modify the 3 percent production incentive. If he does not make this proposal or if Congress twice disapproves it, the production incentive adjustment cannot be applied thereafter and the only adjustment is a GNP adjustment.

In April 1977, the President may submit to the Congress a proposal to exclude Alaskan production from the composite price calculation. Depending upon the volume of Alaskan production, this could affect the price of new oil by as much as $1 per barrel. If the proposal is not made or if Congress twice disapproves, Alaskan oil will significantly reduce the price of all other crude oil.

Any proposal by the President to modify the 10 percent limitation or the 5 percent production incentive, which may be made at 3 month intervals, can also be disapproved by the Congress.

Fifth, the value of the GNP deflator could be greater than 7 percent or even greater than the 10 percent upward adjustment limitation. Thus the production incentive adjustment may not be implemented at all. Further, the President has discretion on whether or not to institute the production incentive adjustment.

Sixth, with the 1976 Presidential elections approaching, there is uncertainty as to who will be elected President and whether he will be inclined to make proposals to increase the incentives for our domestic producers to search for and produce more oil.

All the things I have just enumerated can affect crude price significantly and will act as additional disincentives to producers. Prudent business practice would require producers to forecast conservatively the prices used in the evaluation of exploration and production ventures. Thus less oil and gas will be found and produced in the future.

Mr. President, we have had experience with price controls in the past—in all cases they have created shortages. Natural gas is a notable example and recently the Senate voted to eliminate those controls. I am certain that some of the impetus for the favorable vote to decontrol natural gas arose because those Senators realized the disastrous impacts of natural gas shortages on their constituents. Although we are able to import enough crude oil to offset our domestic shortage of crude and some of the shortage of natural gas, it would be a terrible shame for this Congress to worsen the consequences of a crude oil shortage if in the future imports are cut off or curtailed. Another embargo would reak greater havoc now than the one in 1973; and if this bill becomes law, another embargo would cause even greater economic disaster and chaos in future years.

Even without another embargo, this bill would cost the United States dearly. Using figures generated by the FEA comparing import requirements of this bill with total decontrol, I conservatively calculate that the incremental volumes of crude oil which will have to be imported because of the S. 622 crude pricing provisions, will cost through 1985 a minimum of $150 billion. These funds will be removed from the U.S. economy where they could otherwise be employed. Also the value of the dollar abroad would be weakened, further contributing to domestic inflation.

There are a number of other aspects of S. 622 with which I disagree strongly. These are all regulatory in nature and are unnecessary. A few are:

The GAO auditing provisions which grant to the Comptroller General broad authority to audit the books of energy users and producers alike. This is an unwarranted intrusion by Government into the private sector and will add greatly to the manpower and paperwork requirements of already overregulated industries. It will discourage voluntary participation by industry with the Federal Government and it could damage the competitive position of private companies if proprietary information is leaked. Also contained in this GAO section are requirements for the SEC to develop accounting standards for the petroleum industry which would break

down for accounting and financial reporting purposes the various segments of the industry by function and location.

When coupled with the price and other controls contained in the bill, this is the first step toward public service regulation of the petroleum industry—an action which would have tragic consequences for the American people.

The mandatory fuel standards established for automobile manufacturers are arbitrary and possibly unattainable. Congress has not been successful at mandating consumer preference and technological advancement in the past and I strongly suspect it will fail miserably this time also. The unfortunate aspect, however, is that this section could have significant negative impact on automobile industry output with corresponding effects on all industries supplying materials to the automobile industry and on labor.

The bill grants to the President authority to become the sole importer of crude oil and petroleum products into the United States. Although designed to counter cartel action, it could very easily backfire because the cartel could collude on bids or oil values as it does now on price. Notwithstanding the very complex problem of supplying crude oil to individual refineries which in itself casts doubt upon the workability of the Federal import concept, I question its wisdom because OPEC countries could refuse to deal with the U.S. Government at all. It has been beneficial to the United States for the companies to buffer the political actions of producing and consuming governments.

This authority, if implemented, would be another significant step toward the nationalization of the petroleum industry. As our imports continue to increase, as they will if this bill becomes law, the Government would be controlling and allocating 50 percent of the crude oil to our domestic refining industry. Both small and large refiners alike owe their competitive viability to their own ingenuity and ability to acquire and purchase crude on the open market at the lowest possible price. If the Federal Government controls the majority of the feedstock of the refining industry, then even independent marketers will lose certainty as to the continuity of their supplies.

Mr. President, S. 622 is a bad bill—our country would be better with no bill than with this one. Instead of reducing imports and consumption and increasing domestic supply, the bill does the opposite.

Rather than removing us from OPEC control, it forces us to become more reliant.

Instead of decontrolling prices and letting the marketplace work, the bill controls indefinitely and distorts the marketplace.

Rather than reducing Federal regulation and bureaucracy, S. 622 increases regulation and expands bureacratic authority.

S. 622 is a hackneyed nostrum, conjured up by the Nation's Congress of energy alchemists, hoping to turn hot air into black gold.

It will not work.

I just want to say that I think what we are doing here is approaching energy the same way we have approached some of our war efforts, fighting with one arm behind our back.

It does not make sense to me that we approach this one, therefore, with price controls and other restrictions that are not placed on any other single industry in the United States. Yet, this is the industry that is producing the commodity that is needed by all the rest, that is in shortest supply. This is the one that is needed for our economy, for our national security, for our welfare, to make us self-reliant. Yet we go about it in a way of holding back, hamstringing ourselves.

We have approached it in the way of how to keep the prices down the best. I just do not think when we do that that we are really leveling with the American people and that we are coming up with an energy sufficiency program or one that will do the trick or the job for the United States.

Unfortunately, instead of bringing on additional reserves over what we are doing now, we will be bringing on less. There will be less wells drilled than would otherwise be drilled. There will be more oil imported than would otherwise be imported. We will become more reliant. We will have less conservation methods because the tendency will be to have a lower price.

On the other hand, the lower price hopes will be dashed on the rocks because it is self-defeating, because as we price our domestic crude at a lower level we necessarily must increase the amount we import, giving more leverage to the OPEC nations to raise their prices even higher.

So I am very disappointed that this is the result of about 3 years' work of a lot of people. I am disappointed because it is not a workable solution.

I certainly hope that it will not be passed. If it is, I do hope that the President will veto it and that we can sustain his veto because I do think the American people are ready, willing, and able to have an energy program that will work, that they are ready, willing, and able to pay what it takes to bring on the sufficient amounts of oil and gas, coal, alternate fuels, and do the research and development required.

I call on my colleagues to vote down S. 622 in the interests of having a free market. If there is a desire to have controls, have controls that will phase out and eventually lead to a free market that will maximize the efforts for a domestic energy policy that will guarantee sufficiency.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield 3 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, the Energy Policy and Conservation Act, S. 622, can be more accurately described as the Oil Importers Relief Act. This control plan would discourage domestic production and continue to subsidize the importation of foreign oil. In addition, it will adversely affect the economics of developing higher-cost alternate energy sources, sources we need such as coal, shale, solar, and geothermal. The crude oil average price plan found in this act might well insure for domestic oil production the fate that 20 years of price controls has wrought for natural gas.

In addition, the average pricing plan in this legislation does far more than just add stifling bureaucratic controls—it also would do the following:

Assuming that Congress continued to hold the lid on prices, this act would increase imports of OPEC oil by perhaps as much as 4 million barrels a day by 1980 and by 7 million barrels a day by 1985 over what they could otherwise be.

This in turn could increase annual OPEC revenues by $17 billion in 1980 and by $31 billion in 1985.

This could very well contribute to driving up OPEC's prices in the next decade.

This would most likely stifle exploration in the Gulf of Alaska and other high cost frontier areas.

Mr. President, the House amendments to S. 622 before us today on energy is counterproductive. What this country needs is a proposal that eliminates the unproductive cost of administering controls, increases domestic production, and minimizes our reliance on insecure foreign energy supplies.

In addition to the specific problems already referred to with the average price plan, the plan also retains all of the following disadvantages of previous price ceiling proposals.

In brief, it continues a price control system that just does not maintain and encourage domestic production. Instead—

It would continue and possibly expand the multiple tier price system and thus necessitate enlarging the costly, complicated control apparatus now operated by FEA.

It would continue and even increase the subsidization of imported oil by in effect granting entitlement payments for every barrel of improted oil.

The program would continue to offer greater incentives to the development of foreign oil than to domestic oil.

The Energy Policy and Conservation Act of 1975 merely supports the fact that as of today, this moment, 2 years after the Arab oil embargo—we have not developed an economically sound energy policy which will encourage the development of our large fossil fuel resources. This act really does essentially nothing to encourage the development for the reserves we own. The U.S. Geological Survey estimates that there is potentially more oil and gas in the ground at the present time than has been consumed in our past history—resources that we must develop and produce if we are to preserve our current standards of living and regain our strong, independent influence in international affairs. We have the technology—but not the proper incentives to deal with our energy needs. The Energy Policy Act supports Government

intervention in the form of controls which truly have hindered our ability to alleviate our energy shortages. So, how are we filling the gaps? —With increasing imports—over 6 million barrels per day for 1975, for which we are currently paying other countries $26 billion a year.

Mr. President, the relationship between the controls contained in S. 622 and increased imports has been explained in detail by Hans H. Helbing and James E. Turley, in their paper from the Federal Reserve Bank of St. Louis Review. Writing in the November 1975 issue they conclude:

Controls provide both disincentives to produce oil domestically and incentives to import oil. As imported oil becomes an increasing proportion of total domestic consumption, the effective domestic price of oil will increase also. The greater U.S. reliance on foreign sources of supply, in turn, enhances the unity of the foreign oil cartel such that the United States becomes increasingly vulnerable to external pricing and producing decisions. A situation has been fostered which would perpetuate rising world oil prices in the future.

In other words, not only does the program dictated by S. 622 increase imports of foreign oil, it would also result in higher prices for domestic consumers. In addition, the continuation of the so-called entitlements program would add to the injustices and irrationality of this approach to a national energy policy.

In essence, the price control and entitlements effort is an income redistribution program within the oil industry. Domestic "old" oil is taxed and the proceeds are used to subsidize the purchase of imported oil. This subsidy/tax program, through its effect on the relative prices of imported and domestically produced oil, has had a perverse impact on the national goal of self-reliance. Domestic production is discouraged by the imposition of price controls and therefore has continued to decline. This, in turn, has increased our reliance on external suppliers.

Mr. President, I believe that my colleagues should have the complete paper, "Oil Price Controls: A Counterproductive Effort," available for their consideration, and I ask unanimous consent that it be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. McCLURE. Mr. President, in summary, then, S. 622 would accomplish the exact opposite of our stated goals for a national energy policy. It would decrease domestic energy supplies, both from oil and new alternate sources, such as solar and geothermal, it would increase oil imports, particularly from the OPEC nations of the Eastern Hemisphere, and it would ultimately result in higher prices to the consumer, prices which we would have even less capability to influence than we do now.

Mr. President, I urge the Senate to reject this proposal and to begin work immediately on the creation of a rational energy policy. We have the knowledge and the resources to accomplish that job. The question remains if we have the will.

Mr. President, there are two or three additional remarks I would like to make.

I ask if anyone can answer the question, is it not a fact that any decrease in production of domestic oil or energy resources must be made up inevitably by increases of oil produced in foreign countries, the main portion of which will be in Arab countries?

Mr. GLENN. I will respond, Mr. President, to the distinguished Senator.

I do not think anyone could argue that if we do not have adequate production in this country that it will be made up from outside this country with additional buying and purchasing of oil outside the country.

But I think the question is of the pricing. The free market price in this country has been OPEC induced to give increases until the domestic price follows the OPEC price. That was the case for the "free market plus OPEC" price in this Nation of ours January 31 of this year, before our price was artificially raised by the President by including a tariff, and a later OPEC addition was placed on top of that.

Mr. McCLURE. My question was not whether the price is sufficient. My question is if production in the United States is not increased, whatever degree it might otherwise have increased, whatever that shortfall in increased production might be, it must be made up by increased imports from foreign sources, the major portion of which will be Arab oil-producing countries.

Mr. GLENN. I agree with the Senator from Idaho with only one exception; that is, whatever we are able to conserve in this country will reduce the necessity for additional imports.

Mr. McCLURE. There is no question of that. I support the conservation efforts.

But, if it is 1 barrel or 100,000 barrels or a million barrels that we fail to produce in this country, those barrels will be additionally imported from other sources.

In just the last few years, we have moved up on our reliance on Persian Gulf oil, Arab-country oil, from something on the order of 6 percent of our total supply to 20 percent of our total supply. That is where we stand now.

We are importing 40 percent of our domestically consumed petroleum supplies; 40 percent of the total is brought in from outside the United States. That has gone up from 30 percent to 40 percent while we have been arguing about the problem, and the proportion of that oil that has been from Arab countries has increased from 6 percent of the total to 20 percent of the total in the same period of time. Those are irrefutable facts.

I think there is no question that whatever our decrease in the increased production is that might be attributable to this bill, that whatever that decrease is, whether it is 1 barrel or a million barrels, that will be represented by increased Arab oil sales in this country.

The second question, in their composite price system, as we have now, if we have a higher proportion of new oil, that drives down the composite price unless we allow the increase—it does not drive down the composite price, but it is a leverage in which the old oil cannot either be increased or it must—the old oil must actually decrease in price, old oil production is declining year by year.

If we only maintain a level without any increased domestic production, a higher percentage of the total domestic production will be new oil; is that not a fact?

Mr. GLENN. The Senator from Idaho will probably recall that in conference we increased that composite from a considerably lower figure up to the $7.66, which permitted us to come up to the new oil price of $11.28, which took the free-market-plus-OPEC price from earlier this year.

The Senator is absolutely correct in that if we start trying to raise the $5.25 price, then we would have to cut down the top $11.28 price to keep that same composite.

But I would add to that, what we did was write in a tremendous flexibility into this bill, one I thought we would absolutely not be able to attain when we started out. It lets the price go up by the GNP deflator plus 3 percent per year. The 10-percent flexibility he has with those two figures should give ample room under the formula.

The PRESIDING OFFICER (Mr. BARTLETT). The Senator's 3 minutes have expired.

Mr. GLENN. I yield whatever is required on my time on this colloquy.

Mr. FANNIN. Very well.

Mr TUNNEY. Mr. President, 2 nights ago the House arbitrarily removed an extremely important part of this comprehensive energy package, torpedoing a 9-year effort by the Senate. The Senate has overwhelmingly passed in the last two sessions of the Congress legislation to institute a Federal program to develop advanced automobiles which are simultaneously fuel-efficient, safe, damage-resistant, and environmentally sound. This legislation was the outgrowth of 11 days of comprehensive hearings. These hearings demonstrated that the automobile manufacturers have consistently failed to carry out adequate research on advanced powerplant alternatives. In fact, our hearings demonstrated that the dollars devoted to alternative powerplant research by the automakers has been dwindling. The automobile manufacturers, with billions of dollars invested in the present powerplant configurations, not surprisingly have been reluctant to fully examine alternatives.

Several studies by the Federal Government have called for a major expansion of the Federal role in automotive research and development. Dixie Lee Ray, while Chairman of the Atomic Energy Commission, in a report entitled "The Nation's Energy Future," estimated that Federal funding for advanced propulsion systems should be $53 million in fiscal year 1975 and a total of $300 million for fiscal years 1975 through 1979.

A 1974 FEA report also called for greatly expanded Federal expenditures in the area of automotive R. & D. It stated:

Some simple estimates suggest that in order to generate the necessary new (automotive) technology, a national R & D investment on the order of $150 million per year

for the next 25 years or so will be required. Private industry is (prior to the current economic squeeze) investing on the order of one-third of this amount.

And the FEA report went on to state:

Integration of the national objectives of energy efficiency, alternatives to petroleum, and minimum environmental impact into a coherent long-term program requires perspectives and responsibilities well beyond those of the private automobile companies, whose objectives are rooted in the marketplace

Existing Federal programs in the area of advanced automotive technology are pitifully inadequate in relation to the demonstrated need.

A new program to systematically investigate advanced automotive systems is a essential adjunct to the mandatory fuel economy performance provisions of this legislation. Such a Federal program would provide assurance that all reasonable advanced automotive technology will be explored, would provide the technical data necessary for developing long-term regulatory policies and would also provide benchmarks necessary to evaluate industry's efforts to develop the most fuel-efficient, safe, and environmentally sound automobiles.

We can ill afford to place ourselves once again at the mercy of the automobile manufacturers to tell us what technology is or is not possible. For these reasons, I am extremely distressed that the House deleted these important provisions due to a jurisdictional dispute between two House committees.

This is a classic example of myopic behavior that has increasingly eroded the public's confidence in the Congress. Without a strong Federal advanced automotive technology program, the Congress will be unable to evaluate the claims of the automakers as to whether they can meet the fuel efficiency standards mandated in the legislation before us today. The House, in effect, put petty jurisdictional considerations ahead of the national interest. This Nation can ill afford such shortsighted action. I am hopeful that the House, on more careful consideration, will realize the critical need for this legislation and that we can rectify this serious error by rapidly passing advanced automotive technology legislation.

Despite my disappointment with the House action, I still believe S. 622 as amended should be accepted by the Congress.

After the Arab oil embargo, 17 major industrial nations, including the United States, formed the International Energy Agency to develop contingency plans in the event of future fuel shortages. A recent report by the International Energy Agency analyzing the preparedness of various of its members criticized the United States for having "no standards, no incentives, almost no taxes that would cut down energy consumption." In fact, only two other nations among the 17-member International Energy Agency ranked lower than the United States in terms of effective energy conservation programs.

The amended version of S. 622, the Energy Policy and Conservation Act, takes major steps to alter this situation. S. 622 as amended contains a group of proposals which establish an aggressive, effective program of energy conservation designed to achieve national security of energy supply and the maximum efficient utilization of our energy resources.

The energy conservation provisions in the conference report include measures which could save the equivalent of nearly 6 million barrels of oil per day by present oil import level.

S. 622 contains provisions that—

Establish mandatory average fuel economy standards for new passenger automobiles and other new light-duty highway vehicles;

Require mandatory labeling of major home appliances and certain other consumer products, with the additional requirement that consumers be provided with estimated annual operating cost information where possible;

Authorize block grants-in-aid for States to assist in the development and implementation of State-administered energy conservation programs;

Establish a program to promote increased efficiency of energy use by American industry;

Require Federal agencies to develop a 10-year plan for energy conservation;

Promote the use of recyclable oil.

These provisions are premised on the belief that improved energy efficiency can and must be accomplished by orderly conservation programs rather than through steep and unnecessary price increases.

I ask unanimous consent to have printed in the RECORD the following table put together by staff which lists estimates of fuel savings—in oil equivalent barrels per day—and dollar savings, if the conservation measure contained in S. 622 as amended are implemented, and petroleum imports are reduced accordingly.

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

ESTIMATES OF FUEL AND DOLLAR SAVINGS [1]

Program	1980 fuel savings (barrels per day)	1980 dollar savings [2]	1985 fuel savings (barrels per day)	1985 dollar savings [2]
1. Automobile fuel economy	780,000	$4,270,000,000	2,000,000	$10,950,000,000
2. Consumer product testing, labeling, and standards	120,000	656,000,000	500,000	2,740,000,000
3. State energy conservation	[3]	[3]	[3]	[3]
4. Federal energy conservation	[3]	[3]	[3]	[3]
5. Recycled oil	[3]	[3]	[3]	[3]
6. Industrial energy conservation	1,300,000	7,110,000,000	3,000,000	16,400,000,000
7. Total (excluding programs 3, 4, and 5	2,200,000	12,036,000,000	5,500,000	30,090,000,000

[1] To put the fuel savings in perspective: (a) 2,200,000 barrels of oil per day is the expected flow from the Trans-Alaska pipeline. (b) 5,500,000 barrels of oil per day is 85 percent of our current imports, is nearly equal to the current demands of our motor vehicle fleet, and could supply the energy requirements of 74 percent of the U.S. residential sector.

[2] In 1975 dollars, assuming an imported oil price of $15 per barrel.

[3] Estimates not available.

Mr. TUNNEY. In order to explain the energy conservation provisions in more detail I will now discuss certain key provisions.

FUEL ECONOMY PERFORMANCE STANDARDS

Average fuel economy performance standards would be established for new passenger automobiles and other new light-duty highway vehicles. Standards for passenger automobiles would be in effect in each model year after model year 1977, whereas standards for other light-duty highway vehicles—such as certain light-duty trucks, recreational vehicles, and other multipurpose vehicles—would be in effect in each model year which begins more than 30 months after the date of enactment of this legislation.

Each manufacturer or importer of passenger automobiles would be required to achieve the following fleet average fuel economies: 18 miles per gallon in model year 1978; 19 miles per gallon in model year 1979; 20 miles per gallon in model year 1980; and 27.5 miles per gallon in model year 1985 and thereafter.

Passenger automobile standards for model years 1981 through 1984 would be set by the Secretary of Transportation at maximum feasible levels. The Secretary would also set standards for vehicles other than passenger automobiles at maximum feasible levels for each model year.

If a manufacturer or importer failed to meet an applicable average fuel economy standard, he would be liable for a civil penalty, which could be waived or modified under certain conditions. A manufacturer or importer would also receive credit for exceeding an applicable average fuel economy standard in any model year.

A labeling program for new passenger automobiles and other new light-duty highway vehicles would also be instituted, as would a program to systematically ex-

amine fuel economy representations made with respect to retrofit devices—that is, devices capable of being added to existing motor vehicles.

It is estimated that the automobile fuel economy standards program will result in a fuel savings of 780,000 barrels of oil per day by 1980, and at least 2 million barrels of oil per day by 1985—assuming that vehicle miles traveled by the automobile fleet remains constant.

CONSUMER PRODUCT ENERGY CONSERVATION PROGRAM

Consumer efforts to conserve energy often have been stymied by lack of information on effective methods of achieving energy savings, and by the lack of overall direction and coordination of energy conservation programs. Since appliances account for approximately 8 percent of U.S. energy consumption, an important target of any conservation program must be consumers who will purchase and use household appliances. Part B of title III of S. 622, as amended, will require energy labeling of the following major consumer products and their hybrids:

(1) Refrigerators and refrigerator-freezers.
(2) Freezers.
(3) Dishwashers.
(4) Clothes dryers.
(5) Water heaters.
(6) Room air conditioners.
(7) Home heating equipment, not including furnaces.
(8) Television sets.
(9) Kitchen ranges and ovens.
(10) Clothes washers.
(11) Humidifiers and dehumidifiers.
(12) Central air conditioners.
(13) Furnaces.

And provides authority to extend energy labeling to other consumer products whose average household energy use is greater than 100 kilowatt-hours per year. Labeling of consumer products is not limited strictly to appliances.

A label must disclose estimated annual operating cost associated with the use of a consumer product unless certain determinations are made, such as that estimated annual operating cost labeling would not be feasible or would not be likely to assist consumers in making purchasing decisions. If either of these determinations are made, then the label must display some other useful measure of energy consumption. The FTC could also require that a manufacturer provide additional information to consumers relating to energy consumption.

Energy efficiency improvement targets would be set by the FEA for consumer products of types (1) through (10) listed above. These targets would be set at maximum feasible levels, but in any case would require at least a 20-percent aggregate improvement in energy efficiency for all such consumer products manufactured in 1980 relative to 1972 efficiency levels. Energy efficiency improvement targets would also be set for consumer products (11) through (13) listed above. Each of these targets would be set at the maximum feasible level which would be economically and technologically feasible to attain by 1980.

If a 20-percent overall energy efficiency improvement target is met, the estimated fuel savings are 120,000 barrels per day oil equivalent by 1980 and 500,000 barrels per day by 1985. Even greater savings can be achieved by increasing public awareness of the link between improved energy efficiency and cost savings. The labeling and consumer education programs have been designed to achieve this public awareness and are important elements in developing a conservation ethnic in the Nation.

The Administrator of FEA is also authorized to prescribe energy efficiency standards for specified consumer products under guidelines specified in the conference report.

It should be noted that section 333(c) of part B of title III of S. 622, as amended, is intended to make it an unfair or deceptive act or practice in or affecting commerce—within the meaning of section 5(a)(1) of the Federal Trade Commission Act—for any person to violate section 323(c)(2) of part B of title III of S. 622, as amended.

STATE PROGRAMS

S. 622, as amended, authorizes Federal grants-in-aid to assist the States in developing and administering energy conservation programs. The programs will provide for the maximum reduction in energy consumption by the States consistent with technological feasibility, financial resources, and economic objectives. The planning goal for these State programs is at least a 5-percent reduction in the energy consumed in any such State in the year 1980 from the projected energy consumption for such State for that year.

S. 622, as amended, requires the FEA to issue guidelines to provide for sufficient specificity for State planning efforts, but calls for administration of the programs at State and local levels.

In order to qualify for Federal assistance under this program, a State must include the following energy conservation measures:

Mandatory lighting efficiency standards for public buildings.

Programs to promote carpooling, vanpooling, and the use of public transportation systems.

Mandatory energy efficiency standards and policies to govern State and local procurement practices.

Mandatory thermal efficiency and insulation standards for new and renovated buildings.

Laws permitting motor vehicles to turn right on red traffic signals.

Within this framework and in accordance with FEA guidelines, States are free to develop energy conservation programs tailored to fit each State's economic, geographic, and climatic conditions. S. 622, as amended, thus strikes a balance between the need for Federal involvement and the State's need for flexibility in planning and implementation.

FEDERAL ENERGY CONSERVATION PROGRAMS

The President is required to develop Federal energy conservation programs which call for mandatory standards with respect to Federal procurement policies and the development of a 10-year plan for energy conservation with respect to Federal buildings.

In addition, the Administrator of FEA is required to establish a program of public education to encourage energy conservation, and to promote vanpooling and carpooling.

S. 622, as amended, additionally directs the independent regulatory agencies to conduct a study and report to Congress on energy conservation policies and practices instituted since October of 1973. The agencies are also required to report within 120 days on the feasibility and methods of developing programs to reduce energy consumption by 10 percent with respect to persons regulated by such agencies within 12 months after the institution of a program.

RECYCLED OIL

S. 622, as amended, provides a means to promote the use of recycled oil by altering certain labeling requirements of the Federal Trade Commission which give the impression that recycled oil is inferior to new oil intended for the same purpose. The conference substitute will ensure that recycled oil which is substantially equivalent to new oil may be so labeled and precludes the use of any term which connotes less than substantial equivalency. The EPA Administrator is also given labeling authority to prevent unnecessary disposal of oil and disposal in environmentally degrading ways.

INDUSTRIAL ENERGY CONSERVATION

Industrial participation is a crucial element of any meaningful energy conservation program. Industry consumes approximately 40 percent of all U.S. energy—the equivalent of over 15 million barrels of crude oil per day. If we are to reverse the dangerous drift toward increasing dependence on foreign energy sources and begin to use our scarce resources wisely—industry must rapidly improve its energy efficiency.

In order to stimulate industry's energy conservation efforts, S. 622, as amended, directs the FEA to establish and maintain a program to promote increased energy efficiency in American industry and to establish voluntary energy efficiency improvement targets for the 10 most energy-consumptive manufacturing industries. These 10 industries utilize the majority of energy in the industrial sector of the United States. These targets are to be set within 1 year of the date of enactment at levels representing the maximum feasible improvement which each of these industries can attain by January 1, 1980.

The chief executive officer—or his designee—of each corporation identified by the Administrator of FEA as being among the 50 most energy-consumptive corporations in each of the 10 identified industries, and which consumes at least 1 trillion Btu's of energy per year, must file an annual report with the Administrator of FEA describing the corporation's progress in energy conservation.

Conservation thus becomes an important concern of executives at the highest levels of the corporate structure.

If the Administrator of FEA determines that an industry subject to the reporting requirements under this section has an "adequate" voluntary reporting program—the corporation would be then allowed to continue reporting through such program. In determining "adequacy" of such a program the Administrator of FEA must determine that—

First, each corporation in such industry which otherwise would be required to report, participates fully;

Second, all necessary information is provided to the Administrator of FEA to gage progress toward meeting the established targets; and

Third, reports made to trade associations or other applicable groups in connection with such reporting provisions are retained for a reasonable period of time and are available to the FEA.

I would urge my colleagues to strongly support S. 622 as amended. I believe it will provide us major tools to combat our present energy dependence and allow this Nation to utilize its energy resources more wisely.

Mr. GLENN. What we also did was to write in a flexibility which permitted the President to come back on any phase of the pricing, any phase that he wants. He can come back in and make any proposal he wants, subject to either House disapproval. We started out even with a compromise on that. Originally, they wanted both Houses for approval instead of either House for disapproval. He can come back in at any time, in any 90-day period, and ask for any change he wants. He can greatly modify the price. So we are not as locked in to this as the Senator from Idaho would indicate.

Mr. McCLURE. Will the Senator yield 5 minutes to me?

Mr. FANNIN. How much time remains?

I yield to the Senator.

Mr. GLENN. Will the Senator yield for a moment?

Could we have a clarification on what time is left on both sides at this point?

The PRESIDING OFFICER The Senator from Ohio has 21 minutes and the Senator from Arizona 29 minutes.

Mr. McCLURE. Will the Senator yield 5 additional minutes?

Mr. FANNIN. I yield.

Mr. McCLURE. I want to make the point that although the bill has that amount of flexibility, how will the flexibility be used? We know that old oil production is declining in this country. As the old oil declines in total volume of old oil, if we do not increase total production in this country at all we will simply increase the proportion of new oil in the old oil-new oil mix. If new oil is left at the top, if old oil is not increased, just the simple mixture leverages down the new oil price. It has to in order to maintain the composite. That is not an incentive to produce more new oil. It is a disincentive on the production of new oil because the higher the new oil price goes the more it leverages down on the composite price.

Second, in regard to the flexibility, how will that be used? I have heard all kinds of promises made about how it is going to be used. One of the ways we can test how the promises have been made is who is in favor of this bill.

Mr. BUMPERS. Will the Senator yield?

Mr. McCLURE. If I may continue, the people I have seen in the oil industry who are in favor of this bill are people who own old oil. That means that they have the promise from someone, somewhere, that their price is going to be allowed to move upward. But if their price is allowed to move upward, that means that the new oil price cannot take any upward movement to correspond to any changes in world prices or inflation in our country.

What does the 10 percent mean? Much has been said about the 7-percent deflator. That 7-percent deflator is actually less than the increased cost of production. I do not think anybody will argue with me on that. If they get the 7-percent increase, and that is all they get, they still fall back on the purchasing power of the dollars generated compared to the cost of producing that oil.

So the deflator leaves them behind, but that is 7 of the 10 percent. So all they are being offered as a maximum in a real increase in oil price is 3 percent per year. Out of that has to come the difference between actual cost increase and the deflator index.

So the actual increase permitted under this bill, if the President chooses to exercise that right every quarter, is somewhat less than 3 percent, and that is only available to them if the deflator index is always under 7 percent. If the deflator index goes above 7 percent, that 3 percent is eroded to a greater degree. If the deflator index goes to 10 percent, then the entire possibility of an automatic gain ordered by the President is wiped out completely.

Much has been said about the President can come back to the Congress and ask for an increase in price every quarter. What do Senators really believe this Congress is going to do with the Presidential initiative for a price increase every 90 days? All it does is give us an assurance of a political exercise to keep the political demagogs inflamed every 96 days during the life of this bill. It is not going to be, and should not be, held out to anyone as being a realistic program for any kind of a price adjustment. People who believe that are either naive or they are trying to kid someone.

I have been around here long enough to have some idea of what the political responses are going to be every quarter during the balance of the life of this bill. I do not think anyone can really illustrate that there will be any favorable price adjustments aside from the possibility that old oil will be allowed to move up progressively during the life of this to the extent of the 10 percent per year that is built into this bill, 7 percent of that 10 percent being a deflater index that leaves them worse off. Four years from now they will be 28 percent behind where they are now just by the result of that, if that is all they get.

I thank the Senator for yielding time.

EXHIBIT 1

OIL PRICE CONTROLS: A COUNTERPRODUCTIVE EFFORT

(By Hans H. Helbling and James E. Turley)

The U.S. oil industry has been subjected to varying degrees of price controls since August 1971 when general price controls were levied on the entire U.S. economy. As controls were "phased-out" in other industries, more stringent price regulations were imposed on the oil industry in response to the October 1973 oil embargo and the subsequent quadrupling of world oil prices.

The oil price control program is directed at cushioning the domestic impact of sharply higher external oil prices. In this respect, the controls effect can be regarded as successful since the effective domestic price for petroleum remains, in fact, below world market prices. Economic analysis, however, indicates that the controls will (1) become ineffective, over time, with respect to the above stated intention and (2) will enhance the ability of external suppliers to manipulate prices.

In support of these conclusions, this article includes a discussion of the mechanics of the controls program as it currently exists. Using economic theory as a foundation, the eventual effects of controls on domestic production, imports, and the domestic price of oil are derived. In this regard, two of the more popular questions regarding decontrol are analyzed—will decontrol result in (1) higher domestic petroleum prices and (2) increased domestic production and reduced imports?

BACKGROUND

As indicated in Table I, U.S. oil refiners currently process about 12.9 million barrels per day (MBD). Of this total approximately 4.7 MBD, or 36 percent, are produced abroad.

The United States did not always rely to such an extent on external oil supplies. In the mid-1960s oil imports represented only 20 percent of total U.S. consumption. In fact, as late as 1971 import quotas on petroleum products existed in order to prevent "cheap" foreign oil from placing domestic oil producers at a "competitive disadvantage".

Beginning in 1966, the rate of increase in domestic petroleum production began to decline, and in 1972 domestic petroleum production in the United States actually decreased from its 1971 level. Several factors, including price controls and environmental and safety regulations, were responsible for increased U.S. reliance on foreign sources of supply.

OIL PRICE CONTROLS

Through a series of steps, the Federal Energy Administration (FEA) has decreed that "old" oil—that is, oil produced from domestic wells not exceeding the 1972 rate of output from these wells—can sell for no more than $5.25 per barrel. As of March 1975, imported oil sold for $13.28 and "new" domestic oil—that is, oil produced from both new wells and from old wells in excess of 1972 output—sold for $11.47 per barrel (Table II).[1]

In March 1975 (latest available data) total crude oil used by domestic refiners consisted of approximately 41 percent "old" domestic oil, 27 percent "new" domestic oil, and 32 percent imports. The effective domestic price paid by domestic refiners for a barrel of oil is simply the weighted sum of the three prices:

$$(0.41)\,X\$5.25 + (0.27)\,X\$11.47 + (0.32)\,X\$13.28 = \$9.49$$

Footnotes at end of article.

TABLE I.—SOURCES OF CRUDE OIL TO DOMESTIC REFINERS

	Total crude oil input to domestic refiners [1] (MBD)	Domestic sources					Imports (MBD)
			Old [2]		New [2]		
		Total (MBD)	MBD	Percent of total domestic	MBD [3]	Percent of total domestic	
1974:							
November	12.455	8.458	5.667	67	2.791	33	3.997
December	12.450	8.471	5.591	66	2.880	34	3.979
1975:							
January	12.608	8.644	5.014	58	3.630	42	3.964
February	12.549	8.488	5.178	61	3.310	39	4.061
March	12.186	8.333	5.000	60	3.333	40	3.853
April	11.983	8.567	NA	NA	NA	NA	3.416
May	11.957	8.464	NA	NA	NA	NA	3.493
June	12.251	8.344	NA	NA	NA	NA	3.907
July	12.641	8.304	NA	NA	NA	NA	4.337
August	12.909	8.238	NA	NA	NA	NA	4.671

[1] Total crude oil input to domestic refiners is the sum of total domestic and imported crude oil.
[2] The proportions of old and new crude oil are available only through March 1975.
[3] The quantities of old and new crude oil were derived from published data on total domestic production and the percentage breakdown between old and new.

NA—Not available.
MBD—Million barrels per day.

Source: Federal Energy Administration. "Monthly Energy Review" (October 1975).

Controls: The mechanics

As gauged by this effective (weighted) domestic price equation for oil, the controls program has been successful; the average input price of oil available to domestic refiners is, in fact, lower than the world market price. Achievement of this lower average price, however, has resulted in at least two adverse developments:

(1) Domestic producers are discouraged from producing "old" oil, insofar as the implicit rate of return of keeping oil in the ground exceeds that of investing the proceeds from the current sale of oil at $5.25 per barrel. For example, suppose domestic oil producers expect the price of "old" to eventually (say, in 39 months, as in recent proposals) rise to the price of uncontrolled oil. If it is assumed that the price of uncontrolled oil at that time will be about $12.00 per barrel, then by keeping oil in the ground until expiration of controls a producer can realize an annual rate of return of about 29 percent [2]—a return which greatly exceeds current market yields. Under these conditions profit-maximizing domestic oil producers would reject the option of producing now in favor of "holding back" until price controls are completely lifted.[3]

(2) Since some refiners have access to greater amounts of $5.25 oil than other refiners, another wave of bureaucratic rules and regulations was deemed necessary to prevent some firms from having a government-mandated competitive advantage over other firms. The nature and extent of these regulations are discussed below.

Entitlements

With the implementation of domestic oil price controls, the FEA recognized that some refiners depended heavily, in the short-run, on relatively high cost foreign crude, while other refiners had access to comparatively large quantities of the cheaper domestic "old" oil. In an attempt to equalize input costs to all refiners, the FEA adopted the "Old Crude Oil Entitlement Program". This program is designed to allocate "old" oil proportionately among all refiners such that apparent cost differentials are reduced; that is, equalization of the average cost per barrel is promoted.

Each month the FEA calculates a national average ratio of "old" crude to total crude usage. On the basis of this ratio, all refiners are issued entitlements to enable them to purchase "old" crude in the same proportion as the national average.[4] For example, if total crude usage in the nation in any particular month consists of 41 percent "old" crude, then *each* refiner is "entitled" to purchase at least 41 percent of his input mix at the controlled price of $5.25 per barrel, no matter where the oil actually comes from.

TABLE II.—AVERAGE CRUDE OIL PRICE TO DOMESTIC REFINERS

	Old		New		Imports		Effective domestic Price per barrel [1]	Weighted average price of new and imported oil [2]	Price of entitlement
	Price per barrel	Quantity as a percent of total	Price per barrel	Quantity as a percent of total	Price per barrel	Quantity as a percent of total			
1974:									
November	$5.25	45.5	$10.90	22.4	$12.53	31.2	$8.85	$10.25	$5.00
December	5.25	44.9	11.08	23.1	12.82	32.0	9.02	10.25	5.00
1975:									
January	5.25	39.7	11.28	28.8	12.77	31.4	9.27	11.25	6.00
February	5.25	41.3	11.39	26.4	13.05	32.4	9.04	12.00	6.75
March	5.25	41.0	11.47	27.4	13.28	31.6	9.49	12.56	7.31
April	5.25	[3]	11.64	[3]	13.26	28.5	[3]	12.54	7.29
May	5.25	[3]	11.69	[3]	13.27	29.2	[3]	12.64	7.39
June	5.25	[3]	11.73	[3]	14.15	31.9	[3]	13.07	7.82
July	5.25	[3]	[4] 12.30	[3]	[4] 14.03	34.3	[3]	13.38	8.13
August	5.25	[3]	[3]	[3]	[3]	36.2	[3]	13.56	8.31

[1] The weighted average price is derived on the basis of the equation presented in this article.
[2] The weighted average price of new and imported oil represents the sum of the price for "old" oil and the price for an entitlement.
[3] Not available.
[4] Preliminary.

Source: Federal Energy Administration, "Monthly Energy Review, and Petroleum Situation Report."

In principle, the refiner with access to less than the national average of "old" crude oil can present his entitlements to another refiner, who has more than the national average of "old" crude, in exchange for crude at a price of $5.25 per barrel. In practice, however, the physical exchange of oil rarely takes place. Rather, the entitlements are bought and sold among refiners, with the price determined on the basis of the difference between the controlled and uncontrolled price of a barrel of oil.[5] For example, in March the average price per barrel of "new" domestic and imported crude was $12.56. Therefore, the FEA established an entitlement price of $7.31 for that month. This is the price at which petroleum refiners exchanged entitlements in March.

Refiners with access to less than the national average of "old" crude can sell entitlements to those refiners with more "old" crude than the national average. The sale of entitlements represents a source of revenue to the refiner with less than the national average of "old" crude. The refiner who, for example, relies mainly on imported oil can use his entitlements revenue to reduce the effective cost of his crude oil input.[6] With "old" oil representing about 41 percent of the national input mix and the price of an entitlement at $7.31, the effective cost per barrel of imports to the refiner is reduced by $3.00 (.41 × $7.31). That is, imputs are subsidized to the tune of $3.00 per barrel. For every barrel of oil imported, the importer is entitled to purchase 0.41 barrel at the controlled price of $5.25 and is forced to pay the market price for only 0.59 barrel.

On the other hand, a refiner who uses more than the national average of "old" crude is required to purchase entitlements in order to enable him to process "old" oil in excess of the national average. A refiner who is able to meet his desired production schedule using only "old" crude is required to purchase entitlements for 59 percent of his input. In this case the effective cost per barrel to this refiner is increased by $4.31 (.59 × $7.31). That is, "old" domestic oil is taxed to the tune of $4.31 per barrel.

In essence, the price control and entitlements effort is an income redistribution pro-

Footnotes at end of article.

gram within the oil industry. Domestic "old" oil is taxed and the proceeds are used to subsidize the purchase of imported oil. The subsidy/tax program, through its effect on the relative prices of imported and domestically produced oil, has had a perverse impact on the national goal of self-reliance. Domestic production is discouraged by the impression of price controls and therefore has continued to decline. This, in turn, has increased our reliance on external suppliers.

AN EVALUATION OF SOME DECONTROL ARGUMENTS

Will decontrol lead to higher petroleum prices?

Regardless of whether petroleum prices are controlled or decontrolled, the price of crude oil to domestic refiners is going to increase. However, the price increases associated with either alternative have completely different implications for domestic production and imports.

The continued maintenance of the oil price controls program will not prevent domestic oil prices from rising. This would occur even without price increases for any of the three sources of supply ("old", "new", imports) to domestic refiners. As production of "old" domestic oil declines and imports increase as a result of the controls program, the *proportion* of the higher priced oil (domestic "new" and imports) increases, thereby raising the effective domestic price of petroleum.

The response to the lifting of domestic price controls will be an immediate rise in the price of petroleum. As long as the United States imports any oil at all, the price of crude to domestic refiners will be dictated by the foreign oil cartel. Accompanying the price rise, however, will be an increase in the quantity of oil produced domestically. Although the increase would probably not be of a magnitude to allow achievement of self-sufficiency in the short run, it does imply a cutback in imports.

Such a situation would create difficulties for foreign suppliers, particularly the Organization of Petroleum Exporting Countries (OPEC), who have already been forced to cut back production in order to maintain existing prices. With reduced U.S. purchases of imported oil as a result of decontrol, additional downward pressure on external oil prices would result. In order to maintain prices, OPEC would have to voluntarily accept a further cut in production and income—and at a time when their domestic development programs are in high gear.

Is the market solution viable?

The free market, or decontrol, solution is rejected by various groups of society. Proponents of continued price controls on "old" oil suggest that although the market price of petroleum products has already doubled, the reduction in the quantity of petroleum products consumed has been insignificant. In fact, they argue that whatever reductions have been observed can be attributed to the reduction in business activity, not the increase in prices. In addition, they maintain that the current high prices have not elicited increased petroleum production. Curiously, these arguments lead to the conclusion that in order to achieve both less reliance on imports and greater domestic production, price increases substantially in excess of those already observed would be necessary.

Opponents of continued price controls, on the other hand, argue that economic agents are not indifferent to the prices they pay and do indeed respond to changes in relative prices. They point out, however, that it is necessary to distinguish between a short-run and a long-run response of both quantity supplied and quantity demanded. With respect to the quantity demanded, the opponents of price controls point out that the short-run response to a hike in prices can indeed be very weak. This has to do with the fact that the nation's capital stock is energy intensive and costs of rapid adjustment to less energy intensive means of production are substantial. The energy requirement per unit of output that has been built into production processes has been based on "cheap" oil, and as a result of today's prices, much of the existing capital stock has become inefficient.

Reductions in the quantity of oil demanded depend on the substitution of relatively less energy intensive means of production. An example would be the replacement of an automobile that averages 15 miles to a gallon of gasoline with one that gets 30 miles per gallon. The fuel costs per passenger mile as a measure of the product produced by an automobile would then be reduced. While this substitution process is proceeding quite rapidly in the area of automobiles, the conversion cost to many industries is very high in the short run and therefore would be expected to take place only over time. Although this adjustment does take time, it must not be forgotten that the economic incentives to make it are great and there is no reason to believe that the adjustment will not eventually be made. The quantity demanded is indeed responsive to price if sufficient time is given for the affected economic agents to respond.

Opponents of continued price controls also point out that the response of the quantity of oil supplied to a change in price has not been substantial because a great deal of uncertainty surrounds the return on new investment projects. For example, exploration for new oil wells, more intensive utilization of existing oil wells, as well as research into new methods of production (such as the liquification of coal and offshore drilling) all require extensive capital investments. Even though today's high market prices for oil might justify such investment expenditures, uncertainty with respect to the future price of oil greatly lessens the incentive to undertake such investments.[7] This argument implies that domestic producers expect world market prices to decline from their present highs and that "cheap" imports could once again be substituted for domestic production.

Former Secretary of the Treasury George P. Schultz recognized this dilemma of uncertainty. He suggested that if self-reliance is indeed a national goal, uncertainty which faces domestic producers should be eliminated. To this end Schultz proposed a variable tariff on imports designed to maintain today's high external price. In the event that the foreign oil cartel would disintegrate and world market prices decline, the proceeds from the tariff could be distributed to consumers via the tax system.

In general, then, those opposed to decontrol are not convinced that market forces will produce greater self-sufficiency and lower petroleum product prices. Those in favor of the removal of petroleum price controls, however, contend that government restrictions only hinder domestic oil production and provide incentives to import, thereby supporting the collusive actions of OPEC. Both of these effects tend to enhance the unity of OPEC members, whose continued strength would result in higher petroleum prices for U.S. consumers. An additional objection is that reliance on controls to provide solutions to economic problems in many cases only aggravates and intensifies the initial problem.

CONCLUSION

The analysis presented in this article points out that the currently existing oil price controls program has been successful in achieving its intended purpose—cushioning domestic prices of petroleum products from the higher world oil prices. But the analysis also suggests that the controls program is in conflict with its stated purpose over the long run. In particular, controls provide both disincentives to produce oil domestically and incentives to import oil. As imported oil becomes an increasing proportion of total domestic consumption, the effective domestic price of oil will increase also. The greater U.S. reliance on foreign sources of supply, in turn, enhances the unity of the foreign oil cartel such that the United States become increasingly vulnerable to external pricing and producing decisions. A situation has been fostered which would perpetuate rising world oil prices in the future.

There is an alternative to this rather ominous scenario. Even though petroleum prices would increase as a result of decontrol, incentives for both increased domestic production and reduced imports are provided. Increased domestic production and reduced imports, in turn, would tend to strain the unity of the oil cartel, and hence, be conducive to lower world market prices for petroleum in the future.

FOOTNOTES

[1] As indicated in Table II, petroleum price data are available through July 1975, but the proportions of "new" and "old" domestic production are only available through March. For the sake of data consistency, the analysis in this paper is based on the prices and relative proportions that prevailed in March 1975.

[2] This compounded annual rate of return was calculated using the following formula: $[\$12.00/\$5.25]^{12/39}-1\times100=29$ percent

[3] This assumes that changes in taxes and depletion allowances are not expected.

[4] For ease of illustration, it is assumed that entitlements are physical documents which are issued by the FEA. In reality, however, they are simply accounting fictions to which refiners are expected to adhere.

[5] The FEA establishes the price per entitlement but their choice is not arbitrary. The market price of an entitlement would rise to the difference between the controlled and uncontrolled price of a barrel of crude, even if the FEA remained out of the transaction.

[6] The analysis with imported oil is also applicable to "new" domestic oil.

[7] There is the additional problem of uncertainty about future tax programs which could reduce sharply the rate of return on these investments, even if the current price of oil prevails.

Mr. FANNIN. Mr. President, I yield 10 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 10 minutes.

Mr. STEVENS. Mr. President, I would like to direct a couple of inquiries to the manager of the bill, knowing that my basic interest and the interest of my State are in the provision that appears on page 89 of the report, the Presidential authorization for determination.

Concerning the words "maximum weighted average first sale price" specified in subsection (a) of this section, as those words relate to the Alaska pipeline, I would inquire of the manager of the bill if he would agree that that means the wellhead price or the nearest equivalent prior to the time that the oil has entered the common carrier Alaska pipeline.

Mr. BUMPERS. The Senator is correct.

Mr. STEVENS. I thank the Senator very much for that response.

It is my understanding of the situation which exists on the North Slope that it is not quite the situation that was de-

scribed on page 190 of the conference report that deals with the first sale situation in areas or fields that have stripper well and other types of gathering procedures; that this pipeline of ours, since it has a gathering pipeline system, could well be downstream from the wellhead itself. But it is intended to be a wellhead price or its equivalent prior to entering that very expensive approximately 800 miles of pipe. I appreciate the Senator's statement in that regard.

May I inquire further? Last evening I had a comment to make about the public lands section. I understand that we will have an agreed statement pertaining to the impact of the public lands definition, the Federal lands definition, and its relationship to those lands that are currently selected by my State and tentatively approved so that there would be no possible misinterpretation of that language as it applies to my State. Most of the Prudhoe Bay lands have been patented to Alaska, but I would like to be certain that there is no intent that this bill amend our Statehood Act.

I am grateful to the committee for its inclusion specifically of the native lands, but with regard to those tentatively approved State selections I would hope that we would have printed in the RECORD the committee statement in that regard.

Would that meet the approval of the managers?

Mr. GLENN. That would, and we are prepared to present that statement. It is being written at the present time.

Mr. STEVENS. Let me state that we also have a provision on page 90, subsection (h), that pertains to judicial review. I understand we also will have a statement with regard to this section. There are two possibilities.

Suppose the President determines pursuant to subsection (h) that the developments necessary to provide a positive price incentive for it would not reduce or limit the ceiling price in the remainder of the United States at the levels which would result in less production of crude oil.

In other words, he makes a determination, in the first instance, that there would be no effect. Would that determination be subject to judicial review, on the basis of the arbitrary and capricious standards with which we are familiar?

Mr. BUMPERS. Yes, that is my understanding.

Mr. STEVENS. I appreciate that. In other words, section 8(h) and its limitations on judicial review would not be applicable to that determination, because no submission to Congress would have gone forward; is that correct?

Mr. BUMPERS. The Senator is correct.

Mr. STEVENS. I appreciate the Senator's statement.

I am also interested in the corollary of that. I assume, from the manager's answers, that if the President determined that there would be such an effect as contemplated by section 8(g)(2), and still in his discretion determines not to submit an amendment, that, too, would be subject to judicial review?

Mr. BUMPERS. The Senator is correct. At least that is my understanding. With respect to the Senator's previous question concerning the definition of "Federal lands" I want to assure the Senator that it is the conferees' intent that no provision of this act, including the definitions, shall be construed to amend or modify in any way the Alaska Statehood Act. Specifically, there is no intent to modify the Statehood Act as it applies to public lands which have been "tentatively approved" but which have not been patented.

Mr. STEVENS. I am pleased to have the manager's concurrence, because it is apparently causing some concern in my State that if the President determines that the price of Alaska oil would not have an effect of reducing or limiting ceiling prices for crude oil produced in the remainder of the United States to levels which would result in less production of such crude oil than would otherwise occur, quoting the language of section 8(g)(2)—in other words, if he made a negative determination, and we wished to contest that, the limitations on judicial review that appear in section 8(h) would not apply.

Mr. President, some Members of the Senate may not fully understand the implications of what S. 622 will mean to the exploration and development of oil in frontier areas such as Alaska.

Because all oil companies will not be in a position to know what price they might receive for crude oil they are now cutting back on their exploratory activities because they do not know if they can afford to look for oil under the provisions of S. 622.

For example, Smoco Production Co. reported that in the coming year they plan to reduce their funding for exploration by about $100 million and a significant part of this reduction will come from exploration in frontier areas such as Alaska, where exploration is terribly difficult and the risks are high.

The other large petroleum companies have also stated that they simply will not be able to explore for new oil in Alaska should S. 622 become law. But, I hasten to add that the impact of S. 622 will not just affect the large petroleum companies. All firms engaged in the search for new oil will be affected. For example, Mr. Don Simasko, president of the Simasko Production Co., Denver-based independent petroleum producer, has said that passage of S. 622 would result in a sharp reduction in his company's Alaska plans. Incidentally, Mr. Simasko said also that passage of S. 622 would also reduce efforts to bring on additional oil in Colorado and the other Rocky Mountain States.

The Forest Oil Co., another firm that has done exploratory and drilling work in Alaska, said that should S. 622 pass they will sharply reduce and perhaps entirely eliminate their Alaska operations.

The hesitancy of petroleum companies to explore for oil in Alaska in an unstable atmosphere might well be emphasized by the fact that today there are no seismic crews waiting or exploratory wells being drilled on the North Slope or in the Cook Inlet.

In fact Mr. President, there were only 9 seismic crews working and only 15 exploratory wells drilled in Alaska this year, compared with 15 active seismic crews operating and 25 exploratory wells drilled last year. This is a decline of 60 percent in seismic activity and a 40-percent decline in exploratory drilling activity in just 1 year. Just imagine what will happen when companies like AMACO and Forest Oil are forced to reduce their activity next year.

Mr. President, the State of Alaska estimates that there is 76.1 billion barrels of oil in Alaska—but if S. 622 were to become law, the economic facts of life and the restrictive provisions of this bill would prohibit us from searching for that oil—this at a time when the country is becoming increasingly dependent on Arab oil.

It would be the height of folly if we block the access to 76.1 billion barrels of oil through one piece of legislation—but that would be the sad and tragic result if this legislation were to become law.

I would say that unfortunately we find ourselves in a position where a determination is going to be made in April of 1977, rather than having been made by this conference. I argued very strenuously for this conference to make the determination as to Alaska pricing, but that has not been done, and that is the basic reason for my continuing opposition to the bill.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield 5 minutes to the Senator from Nevada (Mr. CANNON).

Mr. CANNON. Mr. President, S. 622 presents a comprehensive package of Federal action to:

First, set an oil pricing policy that will encourage domestic production in a manner consistent with economic recovery and price stability;

Second, maximize domestic production of energy supplies and provide for strategic reserves;

Third, reduce energy consumption through conservation programs; and

Fourth, authorize emergency standby measures to minimize the impact of disruptions in energy supplies.

In the short term, this legislation will reduce our vulnerability to increases in import prices, and will insure that available supplies will be distributed equitably in the event of disruptions in petroleum imports.

For long run, this legislation will decrease our dependence upon foreign imports, conserve our energy supplies, achieve the efficient utilization of scarce resources, and maximize domestic production of oil.

I. OIL PRICING PROVISIONS

The oil pricing provisions of this legislation greatly simplify the structure and administration of current price control and allocation authorities. The act establishes a weighted average price for domestic oil production, and the President is given flexibility to establish, within the average price, higher prices for high cost production. The legislation provides the

price certainty necessary to permit economic planning and investment while protecting the economy and consumers from pricing.

This act thus takes a major step toward assuring the availability of domestic supplies and ending the Nation's dependence on fuel imports. This legislation should result in final agreement with the administration on an oil pricing and conservation policy that is in the interest of both consumers and producers.

The Energy Policy Act establishes a pricing formula for domestically produced crude oil which provides for an initial oil price rollback and authorized gradual increases in the prices received by domestic producers over a 40-month period. The new oil price policy:

Establishes a domestic composite price of $7.66 per barrel. This represents a rollback of $1.09 from the current domestic average estimated by FEA at $8.75 per barrel. In combination with the removal of the $2 per barrel import tariff, this program will result in a significant reduction in current petroleum prices;

Grants the President broad flexibility to administratively set prices for various categories of oil production so long as the average domestic price does not exceed the composite price of $7.66;

Permits upward adjustment in the domestic composite price to take account for inflation, and, if the President finds it necessary, to provide an additional increase in the composite price of no more than 3 percent per year as an incentive for the development of high-cost and high-risk production or to encourage the application of enhanced recovery techniques. The sum of the incentive adjustment and adjustment for inflation may not exceed 10 percent per year unless further authority to modify the upward adjustment rate is obtained by the President.

Allows the President to submit to the Congress, at 3-month intervals following enactment, proposals to modify the 3-percent incentive adjustment and/or the 10-percent ceiling on adjustments if the President finds that such a modification is likely to result in an increase in domestic production. These proposals would take effect unless disapproved by either House of Congress under expedited review procedures;

Directs the President to submit to Congress on February 15, 1977, an analysis of energy supply, demand and import relationships that have evolved under the act;

Directs the President to submit to the Congress on April 15, 1977, a report on the adequacy of the then current weighted average price to provide positive incentives for the development of Alaska oil production without reducing ceiling prices and production incentives in the lower 48 States. The President may then propose, subject to congressional review, to exclude up to 2 million barrels per day of Alaskan production from the actual weighted average price, and to establish a separate ceiling for this production not to exceed the highest actual weighted average price permitted for any other classification of domestic oil;

Converts the oil price control authority described in the act to standby status at the end of 40 months; and

Provides that the standby authority terminates after 5 years.

COMPOSITE PRICE CEILING

The legislation establishes a domestic crude oil price of $7.66 applicable to all domestic crude oil production. This price represents a rollback of $1.09 from the current $8.75 composite price.

It is generally agreed, and the administration now concurs in this position, that price controls are necessary to protect the consumer as long as OPEC is fixing skyhigh prices. Since artificial prices of the OPEC cartel prevent the establishment of free market oil prices, to end controls abruptly would result in a certain immediate jump of oil prices to the OPEC level.

Uncontrolled prices would destroy the present economic recovery and throw the country back into renewed recession. Business costs would increase at rates that would force many businesses and factories to close, increasing the unemployment rate beyond any acceptable level. Increased consumer costs would jeopardize economic recovery, worsen inflation, and produce general, social, and economic hardship and dislocation.

PRICES ENSURE MAXIMUM PRODUCTION CONSISTENT WITH ECONOMIC RECOVERY

The $7.66 composite price is set to maximum domestic production without unnecessary inflation to the economy. Higher prices would produce higher costs for consumers and windfall profits to producers, but they would not produce more oil.

Studies show that the price for new oil envisoned by this legislation is more than adequate to maximize domestic recovery. The $7.66 average price provides the equivalent of $11.28 per barrel for new oil, and $5.25 per barrel for old oil. These prices are significantly higher than the $9.50 per barrel price necessary to maximize new domestic oil production. Recent studies by the energy task force of the Senate Budget Committee, the Federal Power Commission, the Joint Economic Committee, the Federal Energy Administration, the Independent Petroleum Association of America and the National Petroleum Council indicate that $9.50 per barrel, a price much lower than that envisioned by this legislation, is a generous price for new, primary recovery domestic oil production.

The Senate Budget Committee found that a price between $9 and $10 per barrel gave the industry a 14 percent rate of return, a rate determined more than adequate to maximize production. The initial price of $11.28 per barrel of new oil envisioned by this legislation produces an even higher rate of return.

Late in 1973, the National Petroleum Council and the Independent Petroleum Association of America projected that a price of approximately $6 per barrel would maximize domestic production through 1985. Even allowing an outrageous 50 percent rate of inflation, the price for oil envisioned by this legislation is more than sufficient.

HIGHER PRICES WILL NOT PRODUCE MORE OIL

At prices above $9.50 per barrel, there are diminishing increases in the production of new, primary oil. A Federal Energy Administration report on "Energy and Economic Impacts of Alternative Oil Pricing Policies," dated October 21, 1975, concludes that by raising ceiling prices from $10 to $12 per barrel, oil production by 1980 is increased only by 3 percent while the economy suffers a 50 percent greater increase in the rate of inflation by 1978.

PRICING FLEXIBILITY

The legislation gives the President administrative discretion, within the confines of the composite control price, to establish levels applicable to different classifications of domestic crude oil. For example, the President could permit a higher price for production based on tertiary recovery techniques, or for oil produced from the Outer Continental Shelf.

By providing selective pricing incentives, the legislation permits price increases for high cost domestic production, but prevents unnecessary price increases for lower cost production. The legislation thus allows higher prices for production categories where they are necessary, but avoids higher prices for domestic production as a whole.

The $7.66 average weighted price provides the equivalent of $11.28 per barrel for new oil, an amount $1.78 higher than the $9.50 price for new oil that would provide the domestic oil industry with an adequate rate of return to maximize production. Should the President choose to decrease the $11.28 per barrel of new oil in 1976, for example, he would have over $1.9 billion available to allocate to high cost production without exceeding the limits of the average weighted price.

ADEQUATE UPWARD ADJUSTMENTS OVER THE 40-MONTH PERIOD

After the initial rollback, oil prices start increasing at a rate not to exceed 10 percent per year. The President is authorized to increase the price:

First, to take into account inflation, as measured by the GNP deflator; and

Second, to provide incentive for the development of high-cost and high-risk properties and the application of enhanced recovery techniques. The incentive increases cannot exceed 3 percent per year.

The sum of the inflation factor adjustment and any production incentive adjustment factor applied in any given year may not increase the maximum weighted average price in excess of 10 percent per year.

A 10-percent escalator applied to the $7.66 domestic average would provide 2.4 billion additional dollars for increased production incentives in 1976; $2.6 billion more in 1977; $2.9 billion more in 1978; and $3.1 billion more in 1979.

CONSERVATION MEASURES, NOT HIGHER OIL PRICES, WILL REDUCE ENERGY CONSUMPTION

It has been argued that higher oil prices are necessary to achieve a reduc-

tion in domestic energy consumption. This position is fallacious and shortsighted. Its adoption would place inequitable burdens upon energy consumers according to their income level and essential fuel needs, and would produce disastrous economic consequences.

The oil price rollback will not produce any appreciable increase in oil consumption in the United States. When faced with higher energy costs, consumers cut down their non-energy-related expenses rather than cut back in their essential fuel consumption. Because of the low elasticity in consumer demand for fuel, it would require at least a 15- to 20-percent increase in prices to produce a significant reduction in consumption. The benefits obtained in reduced consumption by such a dramatic price increase would be far outweighed by costly and catastrophic effects on the economy. Economic recovery would be destroyed, unemployment would increase, and inflation would be worsened.

Recent events amply demonstrate the low elasticity of consumer demand for fuel. Over the last year and a half, the average price of gasoline at the pump has increased 15 cents per gallon. Yet these price changes have not produced a corresponding decrease in gasoline consumption. Over the July 4 weekend, the price of gas at the pump went up 3 cents, but there was no significant reduction in gas consumption. Likewise, a price decrease of approximately an equal amount would not produce a corresponding increase in consumption.

In rejecting high prices to reduce consumption, this act recognizes that the only effective and economically sound way to decrease energy consumption is to produce energy-efficient products and to promote energy conservation by all energy-consuming sectors of the Nation. The balanced conservation programs established by this legislation achieve the maximum feasible conservation consistent with the continued viability of essential activity. The programs are aimed at all energy-consuming sections of society, and equitably impose the burdens and confer the benefits of conservation on all groups, regardless of their wealth.

In providing for the development of more energy-efficient products the act recognizes that, for example, the way to stop needlessly guzzling gasoline is not to increase gasoline prices, but to stop building gasoline-guzzling automobiles. To this end, the legislation establishes mandatory fuel economy performance standards for certain motor vehicles.

II. MEASURES TO INCREASE DOMESTIC SUPPLY

The legislation takes direct action to increase domestic oil production and promote alternatives to petroleum and natural gas. The measures agreed to will:

Extend the authority of the Federal Energy Administrator to direct powerplants and other major fuel-burning installations, to convert to the use of domestic coal;

Authorize the FEA to guarantee loans to increase coal production by encouraging new market entry;

Increase competition in the oil industry by limiting joint venture bidding by major oil companies in the development of crude oil or natural gas on the Outer Continental Shelf;

Promote the use of recycled oil;

Authorize the President to restrict exports of energy supplies and energy-related materials under certain circumstances; and

Authorize the President to require the production of crude oil and natural gas from designated fields at the maximum efficient rate of production or the temporary emergency production rate.

These provisions reject steep price increases and tariffs on energy imports, measures which are unnecessary for full domestic production and would only inflate the economy and hamper its recovery. By means of direct measures to increase domestic production and supplies, the legislation secures an adequate supply of energy in a manner that achieves continued economic recovery, price stability and close to a full employment economy.

III. ENERGY CONSERVATION PROGRAMS

In its recent first annual review of the energy conservation programs adopted by its member countries, the International Energy Agency—IEA—concluded that the American conservation program is not comprehensive or strong enough to be effective. The IEA observed that this deficiency contrasts sharply with a number of countries which have established effective, aggressive programs.

Federal Energy Administrator, Frank Zarb, called the IEA review of the U.S. program "accurate" and "disquieting." Zarb stated in a letter to Senator WARREN MAGNUSON on October 31, 1975, that—

It is particularly distressing to me that even though there is general agreement on the need for many of these actions, we have made little progress.

This legislation fulfills this vital need and establishes aggressive, effective programs of energy conservation designed to achieve national security of energy supply and the maximum efficient utilization of our energy resources.

The energy conservation provisions include measures which could save the equivalent of up to 6 million barrels of oil per day by 1985—a savings almost equal to our present oil import level.

The legislation contains provisions that:

Establish mandatory average fuel economy performance standards for new passenger automobiles and new light duty trucks;

Require mandatory labeling of major home appliances and certain other consumer products, with the additional requirement that consumers be provided with the estimated annual operating costs data where possible;

Authorize block grants-in-aid for States to assist in the development and implementation of State-administered energy conservation programs;

Establish a program to promote increased efficiency of energy use by American industry;

Require Federal agencies to develop a 10-year plan for energy conservation;

Provide for Federal support for the implementation of advanced automobiles which are simultaneously fuel efficient, safe, damage resistant, and low polluting.

These provisions are premised on the belief that energy efficiency can and must be accomplished by orderly conservation programs rather than through steep unnecessary price increases.

ESTIMATES OF ENERGY SAVINGS

The following is a chart listing estimates of energy savings from the four measures approved by the conference committee:

[In barrels per day]

	1980	1985
Automobile fuel economy standards (if vehicle miles travelled remain constant)	780,000	2,000,000
Appliance labeling (appliances use 8 percent of U.S. energy)	120,000	500,000
State programs	(1)	(1)
Industrial energy efficiency (40 percent of U.S. energy)	1,300,000	3,000,000
Total oil equivalent of possible energy savings (excluding State programs)	2,200,000	5,500,000

[1] Calculations not possible.

IV. STANDBY ENERGY AUTHORITIES

This legislation grants standby energy authority to the President, subject to congressional approval in certain instances, to develop and implement regulations mandating the conservation of energy and the rationing of fuels in the event of a severe energy supply interruption. These provisions enable us to prepare now for any future severe energy supply interruptions.

During periods of acute energy shortages, the President is authorized to take specific actions to conserve scare fuels, and to implement rationing and contingency plans in order to reduce nonessential energy consumption and assure the continuation of vital services.

The standby authority is substantially similar to title XIII of S. 594, proposed by President Ford on January 15. The executive authority is discretionary in character; its flexibility enables the President to act expeditiously and effectively.

The conference substitute contains the following standby powers:

To prescribe energy conservation plans—including rationing plans;

To authorize actions necessary to carry out U.S. obligations under the international energy program;

To authorize persons in the oil industry to develop and carry out voluntary agreements for international oil allocation. The Attorney General could grant limited antitrust immunity with respect to such agreements;

To authorize the President to transmit information to the International Energy Agency.

The authority respecting international voluntary agreements and the international information exchanges may be exercised at any time in order to carry out the international energy program.

The energy conservation authorities may be exercised if:

First, a contingency plan for the exercise of the authorities has been approved by concurrent resolution of the House and Senate; and

Second, the President has determined

that implementation of the contingency plan is required by a severe energy supply interruption or the international energy program.

In addition, a plan which provides for rationing cannot take effect if either House of Congress disapproves the President's request to implement the contingency plan.

V. GENERAL PROVISIONS

The legislation sets forth provisions of general applicability relating to procedural requirements for agency actions, judicial review, and enforcement.

DISCLOSURE OF FINANCIAL INTERESTS

Among the more important provisions employees and officers of the Federal Energy Administration and the Department of the Interior who perform regulatory or policymaking functions under this legislation are required to disclose their financial interests in oil, natural gas, or coal properties or commercial enterprises. This provision insures that the legislation will be administered in an evenhanded, disinterested fashion, and that no one group or special interest will benefit at the expense of others forced to assume unequal burdens.

VERIFICATION EXAMINATIONS OF ENERGY INFORMATION

The legislation also authorizes the Comptroller General to conduct verification examinations to verify the accuracy of energy and financial information filed with Federal agencies.

This provision will permit independent and objective evaluation of energy data from which realistic projections can be made and on which future energy policy decisions will be based.

SUMMARY

This Nation has already experienced the grave results of one curtailment of imported energy supplies. Its serious impacts throughout the economy placed strains on all our energy production, distribution, and financial resources, as well as on the well-being of our citizens. The magnitude of our national demand for energy is such that the United States is unlikely to attain the capability for energy self-sufficiency within the next decade. Until that goal is achieved we remain vulnerable to the "oil weapon." We must acknowledge that there exists the ever-present danger that one or more oil producing countries might deny us petroleum imports in an attempt to influence our foreign or economic policy, or to extort ever higher prices for valuable energy resources.

To avoid the hardship of possible future embargoes, it is essential that national energy self-sufficiency be attained at the earliest practical date, and in a manner that will not create further economic dislocation or more unemployment. It is particularly urgent that legislation be enacted into law which would facilitate the reduction of the Nation's petroleum consumption and would enhance our capability to withstand the pressures of petroleum import curtailment.

This legislation provides the means necessary to achieve these goals of energy independence and adequate domestic supplies. The legislation charts the Nation's energy future by presenting a comprehensive, coordinated approach to the energy issues facing this Nation. It contains the means necessary to achieve, without further delay, increased domestic energy supplies. It provides for standby authority during severe supply interruptions to allocate scarce resources and minimize adverse social and economic impacts. The legislation establishes an oil-pricing policy that will increase our domestic production and reduce our dependence upon petroleum imports in a manner that will not create economic dislocation, more unemployment, unjustified prices, and windfall profits to the oil companies at the expense of the consumer.

The legislation also mandates a national conservation effort which will result in significant energy savings through the cooperative efforts of individual citizens, business and industry, State and local governments, and the Federal Government. Conservation would be accomplished by orderly and cooperative programs in which all sectors of the economy pitched in, rather than through steep price increases that would impact regressively on consumers, hamper the Nation's economic recovery and contribute to the inflationary spiral. A program of conservation by means of energy tariffs, tax and pricing policies is rejected in favor of cooperative programs for conservation in which the burdens are borne by all segments of the Nation, without regard to economic status.

I urge my colleagues to vote in favor of this important legislation.

I thank the Senator from Arkansas for yielding to me.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield myself 2 minutes.

I mentioned in my statement a few moments ago what happened to propane prices in Arkansas during the winter of 1973 and 1974, when they went from 15 to 55 cents a gallon in my State.

As Senators will recall, Congress acted legislatively to make certain that that was corrected and would never occur again.

If this bill is not passed, of course, it can happen again, because this is an extension of that pricing policy.

IMPACT OF S. 622 ON PROPANE

In all the discussions of the pros and cons of this bill—the macroeconomic impacts and the computer printouts of supply and demand—we are in danger of losing track of the impact of energy prices on people. The alternative we are faced with is rejection of a hard-won congressional energy policy and total loss of price controls and allocation authority for gasoline, heating oil, and propane. Steep price increases in these products have an enormous impact on people who, first, have no alternate choice of fuel and, second, are already overburdened by inflation.

In particular, I am concerned about propane, the principal fuel used to heat the homes of rural Americans. Most of these Americans are not wealthy. They must heat their homes. They have no choice but to use propane.

Mr. President, in my opinion there is a substantial lack of appreciation of the propane situation among those who are not familiar with the facts and problems which rural Americans face. For the record, I wish to discuss that situation and its implications for the debate on S. 622.

BACKGROUND

The domestic supply of propane in 1974 was approximately 860,000 barrels per day—about 5 percent of domestic consumption of petroleum products. Approximately 65 percent was produced at natural gas processing plants, 28 percent at oil refineries and 8 percent was imported.

Natural gas processing plants remove natural gas liquids—propane, natural gasoline, ethane and other liquified petroleum gases—LPG—from the "wet" natural gas produced in the field. This process lowers the Btu content of wellhead natural gas and removes constituents which condense easily. The result is that the natural gas delivered by pipeline to homes and industries is composed principally of "dry" natural gas: methane.

Crude oil refineries also produce liquid petroleum gases, including propane, as a byproduct of refinery operation. The average LPG yield of domestic refineries is very low—about 3 percent of crude oil runs.

Many companies which produce propane own both crude oil refineries and natural gas processing plants. About 70 percent of the supply of LPG involving propane is produced by the 15 largest integrated oil companies.

Approximately one-half of the propane consumed domestically is accounted for by the residential-commercial sector, and a quarter by the petrochemical industry. The remainder of the propane consumed is distributed over industrial, utility, agricultural, and refinery use. Three-quarters of the propane consumed domestically is consumed in the Petroleum Administration for Defense—PAD—Districts II—the Midwest and Eastern Plains States—and III—New Mexico, Texas, Arkansas, Louisiana, Mississippi, and Alabama.

EXISTING REGULATION ON PROPANE

Mandatory allocation of propane was first instituted in October 1973, under authority of the Economic Stabilization Act of 1970. The requirement of equitable prices and allocation for propane was contained in the Emergency Petroleum Allocation Act of 1973 and the Federal Energy Administration Act of 1974. During the winter of 1973–74 crude oil refiners were able to allocate rising crude oil costs disproportionately to propane because of persistent demand for the product even at prices two and three times pre-1973 levels.

Regulations were issued in the summer of 1974 requiring that crude oil costs allocated to propane by refiners could not exceed an amount proportional to the actual production of propane from that crude oil. In the fall and winter of 1974 FEA regulations were finalized extend-

ing controls to propane produced by natural gas processors.

Propane allocation priorities established in 1974 under authority of the Emergency Petroleum Allocation Act are as follows:

First. Agriculture and Department of Defense;

Second. Emergency services;

Third. Petrochemical processes where no substitute is available;

Fourth. Residential use with absolute minimum allocation of 85 percent of base period; and

Fifth. Commercial and standby industrial use.

IMPACT OF S. 622

According to the FEA, propane is the only refined petroleum product for which there is a substantial danger of a shortage in the near term. The substitutability of propane for natural gas in many applications is the principal reason for this danger.

At minimum, S. 622 extends—and protects against the sudden loss of—authority to control propane prices and to allocate supplies of propane to users—particularly rural homeowners—who cannot afford to bid for scarce supplies of propane with those consumers whose demand for propane is very insensitive to price. This authority expired at midnight December 15 but would be extended for at least 40 months if S. 622 is enacted.

The bill goes further than mere extension of the Allocation Act, however. The requirement that cost increases be allocated to propane in no more than a proportionate amount is given a statutory basis. Conference report, pp. 91–92, section 402 adding subparagraph (D) to section 4(b) (2) of the Allocation Act.

The Joint Explanatory Statement goes even further (p. 198):

> The Conference Committee fully intends, however, to preserve the existing flexibility to tilt away (in allocating cost increases) from propane and home heating oil as provided in existing regulation.

In addition S. 622 establishes the requirement that cost increases incurred after enactment and not passed through within 60 days must be forfeited and that in any event no more than 10 percent of banked costs eligible for passthrough can be passed through regardless of when they were accumulated. See Conference Report, p. 91, section 402 adding subparagraph (B) to section 4(b) (2) of the Allocation Act, and pages 197–198 of the Joint Explanatory Statement.

A Library of Congress analysis completed in September, 1975 indicated the propane prices—currently approximately 18 cents per gallon—could easily double and might well reach 45 cents per gallon if price control and allocation authority lapses and curtailed gas utilities enter the propane market in force. The analysis concludes that:

> It appears that the potential exists for severe problems of propane supplies to certain traditional customers such as agricultural users and rural residential customers. These problems will result from the end of mandatory allocation and price controls which allows access to propane by curtailed users of natural gas and utilities which either sell or consume natural gas. These large utility and industrial customers have the ability to pay much higher prices than the small traditional users and are likely to preempt much of the available propane in advance. The small customers have no alternative fuel available.

Finally, Mr. President, I would like, in response to the comments of the Senator from Idaho a moment ago, to make a couple of observations.

He raised the question whether the President would be able to maintain or even raise the price to the $11.28 upper level if no new supplies were found.

The answer is that in the past year, domestic supplies have gone down 800,000 barrels. They will in all probability continue to go down. As domestic supplies continue to dwindle, most of that will be old oil, and the President will have that much more flexibility to maintain the price of new oil.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BUMPERS. I yield myself 2 additional minutes.

These arguments I have heard today about pricing, and how present prices are a disincentive, are simply not borne out by the facts.

I would like to make these observations:

In January 1973, the price of oil in this country was $3.40. In July of this year, 1975, the price was $10.60, or over 3 times the price in 1973.

This occurred, Mr. President, at a time when the price of oil in this country was supposed to be controlled.

What has happened during that period, while the price of oil was more than tripling?

Here are the facts:

In 1972, there were 27,291 wells drilled in this country—a low water mark, admittedly.

In 1973, it dropped again, to 26,592 wells, or a decrease of 2.5 percent.

But in 1974, following the first year of the Arab oil embargo, there were 31,698 wells drilled, or an increase of 19.2 percent.

In 1975, the estimate is that there will be 34,214 wells drilled, still another increase of 7.9 percent over the wells drilled in 1974.

That shows conclusively that people are indeed looking for oil, and the reason they are looking for it is because they can do so profitably and they will continue to do so.

I have only been in the Senate since January 14, 1975, and I have heard these arguments time and time and time again, but these are the statistics on how many wells are being drilled and how many wells were drilled last year.

In addition to that, we all know that we must find alternative sources of energy. Taking the incentive argument to its logical conclusion, since oil is a finite resource, and God made only so much of it, ultimately the price would be absolutely out of sight. Presumably the last barrel of oil will sit in the Smithsonian Institution, and we will have paid several hundred million dollars for it, if we allow this argument to go to its ultimate extreme.

I maintain that, under this pricing policy and the 10-percent annual increase the President has been given sufficient latitude, and the fact that he can exempt 2 million barrels a day of Alaskan oil is more than adequate.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BUMPERS. I thank the Chair.

Mr. McCLURE. Mr. President, will the Senator yield himself 1 minute in order to reply to one question?

Mr. BUMPERS. I am a little reluctant to yield on my time because we are running short.

Mr. McCLURE. Mr. President, will the Senator yield 1 minute?

Mr. FANNIN. Yes, I am pleased to yield 1 minute to the Senator from Idaho.

Mr. McCLURE. I think the Senator misunderstood the statement I made earlier.

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. What is the time status, Mr. President?

The PRESIDING OFFICER. The Senators from Arkansas and Ohio have 14 minutes, and the Senator from Arizona has 16 minutes. The Senator from Idaho has 1 minute.

Mr. McCLURE. The statement I made earlier was as old oil production decreases and new oil production increases the leverage or the composite pricing structure means that new oil price must come down.

Let me give an example. Under the present situation it is 60 percent old oil, 40 percent new oil, roughly, a composite of $7.60, old oil price $5.25 and new oil price $11.28. If that shifts from 60–40 to 50–50, that means the old price would remain at $5.25 and the new oil price must drop to $10.08. That is simple mathematics.

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

Mr. McCLURE. Certainly.

Mr. GLENN. Mr. President, this addresses the problem that the——

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. I yield on my own time such time as I need. It will only be a couple minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. The Senator addressed this problem before.

I make this statement in response, that the natural decline rate of 7 percent, which is FEA's figure for the decline of old oil, will elevate the average price to a composite price of $7.66 by some 1.5 to 3 percent per year, assuming there is no change in the price of old or new oil. However, under the bill the $7.66 average is permitted to go up by 10 percent per year. Admittedly 1.5 to 3 percent of that 10 percent would be used by the decline rate of old oil. With 7 percent remaining, the price of old and new could each go up by 7 percent without exceeding the permissible average.

Thus it does not follow that as old oil declines at the natural rate it forces prices down. Rather it merely keeps the

prices of various tiers by going up by the full 10 percent which the average price is permitted to rise.

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

Mr. GLENN. Certainly, on the time of the Senator from Idaho.

Mr. McCLURE. Mr. President, will the Senator from Arizona yield me 1 minute to respond?

Mr. FANNIN. Yes, 1 minute.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I respond simply in this way: the simple mathematics of it is that unless there is an increase in composite price it leverages the new oil price downward, if the old oil price remains constant and the old oil production goes down.

One can say if he wishes that that will not happen because the 10-percent escalation will allow an adjustment. The 10-percent increase is made up of 7 percent of an inflation deflator which is not a price adjustment except with respect to the inflation in the economy. That has nothing to do with the comparative price of the oil except in the market place as it is reflected. That 7 percent is available, as I said before, only if——

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. McCLURE. I thank the Senator for yielding the time.

Mr. GLENN. Mr. President, on my time, I say in addition to the figures I gave here, the President, any time he sees there is a situation that will result in lesser production, can come in with an increased price subject to either House disapproval, of course, and can make any proposal. He could propose doubling the price—in a short time—if he would so desire. He could make the composite $25 a barrel. I imagine that would probably get turned down. But, nevertheless, as he sees things that will reduce production he can come in and make suggested changes to alter the prices according to the current situation on production and also taking into account the economic condition of the country at that particular time. I think that this is a very flexible bill. It gives him a tremendous influence to mold and shape this whole energy program.

Mr. McCLURE. But the fact remains if that flexibility is not utilized and agreed to by Congress there will be a leveraging down of the new oil price.

Mr. GLENN. Congress does have that safety valve, that is correct, in case they disagree completely with the President's proposals.

Mr. President, we know of no other Senators on this side of the bill who wish to have any more time with the exception of the distinguished Chairman of the Committee on Interior and Insular Affairs who wishes to have 2 or 3 minutes at the close. We are prepared, if the other side is, to yield back the remainder of our time and vote early on the bill.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield such time as the Senator from Wyoming needs.

Mr. HANSEN. Yesterday I received certain data regarding section 403(a) of the bill on the basis of which I raised certain questions. I have now obtained data prepared by the Federal Energy Administration which reassures me as to the need for this section.

According to this data, the net impact on the entitlements program in August of this year of this section, assuming that the import tariff were removed, is less than 10 cents per barrel, or less than one-quarter cent per gallon. And this impact is spread over a substantial percentage of the small refiners in this country.

On the basis of the FEA information, I am convinced that the interpretation made by my caller was in error.

I reaffirm my support for section 403 (a).

Mr. President, if we want to reverse what little progress we have made in lessening our dependence on the OPEC oil cartel, we have before us today a bill which would do exactly that.

Nothing could please those who are growing wealthy on their oil sales to the United States more than this bill, the House-amended conference report on S. 622.

Those 13 Senators of the 25 Senators on the conference committee may take some pride in the version of S. 622 now before us.

The Energy Policy and Conservation Act does roll back the price of crude oil at a time when domestic exploration and drilling is at a 10-year high. Well completions for the first 11 months of this year exceeded the 12-month total for 1974 and comparing this with the end-of-November total a year ago, this year's total is up by 4,681 wells, or 16 percent.

Mr. President, this sizable increase can be attributed to one thing—the higher price of new, released and stripper well oil which are not now subject to price controls. But they will be controlled and rolled back if S. 622 is enacted.

Domestic exploration and development had been on the decline since 1959 and as energy consumption increased, production peaked out in 1972 and has been on the decline since.

One of the best explanations of the continuing decline in domestic oil as well as gas production was given in testimony before the Senate Interior Committee from whence this bill came.

Robert R. Nathan in a summary and conclusions of a study he had made said that:

A series of computations have been made for each of the years from 1959 through 1974 to estimate the economic cost of crude petroleum in the United States. These studies show that the economic cost of crude petroleum in the United States, exclusive of Prudhoe Bay, increased from $2.86 per barrel in 1959 to $8.70 per barrel in 1973. During the same period, the typical selling price of new oil increased from $3.25 to $4 per barrel.

As a consequence of the ever increasing disparity between the actual economic cost and selling prices, petroleum exploration during the period declined sharply. Between 1959 and 1973 total drilling activity dropped 50 percent, drilling rigs in service declined by 60 percent, and over 100 producers, many of substantial size, found it more attractive to sell their properties to larger international firms than to continue exploration activities.

Nationwide costs have not been compiled for 1974, but we have estimated capital expenditures based on the number of wells drilled and have calculated the economic cost of oil found in 1974 to be $12.84 per barrel. As a result of the Arab embargo, the 1974 selling price for crude oil increased to approximately $10.00 per barrel, providing great stimulus to exploratory drilling and a marked reversal in the 15-year trend of declining activity.

Economic cost is defined as the cost of finding, developing, and producing crude petroleum plus the minimum return on the operator's capital necessary to sustain exploration. The economic costs of new oil supplies are calculated by the discounted cash flow rate of return method whereby revenues from the sale of oil and their attendant costs are projected yearly over the expected life of the reserve. Oil prices are adjusted within the economic model until the discounted cash flow rate of return to the producer (after federal income taxes) is 15 percent, the minimum required, in our opinion, to maintain exploration levels. Detailed results of the economic calculations and the methods used in their derivation are contained within the text of the report.

One important factor affecting economic oil costs is the depletion allowance which has now been repealed for the nation's major producers. Calculations made previously using the same economic model but not included in this work have shown that elimination of the depletion allowance will increase economic costs of new oil by approximately 20 to 24 percent.

A more recent analysis of domestic oil prices and the effects of S. 622 were in a report by John D. Emerson, energy economist for Chase Manhattan Bank.

I agree 100 percent with John Emerson's conclusion that the Nation would lose over 2 million barrels a day of potential production that would have to be made up by higher imports. All in all, a policy more adverse to this country's energy interests would be hard to conceive.

Just as foreign oil prices are administered by OPEC, United States prices are administered by the Federal Energy Administration—at least on the up-side. When demand is weak, market forces are still the controlling factor on the down-side.

For national security reasons, domestic oil prices were supported by the oil import control program for many years. By 1972, however, the delivered price of foreign oil had risen to the same level as domestic oil. There was, therefore, no further need for an import control program, and the controls were lifted in May 1973 leaving only a modest tariff on imports. The United States was once again directly linked to the world market. It was not surprising, accordingly, when world prices tripled in January 1974 that United States domestic prices began moving up to the import parity level.

At that time, however, the government's principal concern was with inflation, and it reacted with a partial freeze on oil prices. The problem was to prevent higher oil prices from adding to inflation while at the same time maintaining an incentive for increased drilling to realize the aims of Project independence.

These conflicting goals were handled by the creation of a two-tier price system for domestic crude oil. Oil production was designated as either "old" or "new". "Old" oil was defined as production at the 1972 level on a lease by lease basis. "New" oil is production from reserves added after 1972. As an incentive to increase domestic oil production and to prevent the premature abandonment of existing producing wells, two modifications of the price control on old oil are permitted.

Stripper well production, though technically "old" oil, may be priced as "new" oil. Additionally, for every barrel of "new" oil produced from a lease, another barrel of "old" oil may be released from price control.

Thus, the current makeup of domestic crude oil prices is approximately as follows:

Old price controlled oil, 5,290,000 barrels daily at $5.25.

Stripper well production, 1,000,000 barrels daily at $14.00.

Released oil, 590,000 barrels daily at $14.00.

New oil, 1,520,000 barrels daily at $14.00.

Total, $8,400,000 barrels daily at $8.49.

The two-tier price system, while not perfect, has the merit of providing an adequate incentive to develop new domestic production. It has the further merit of being self-liquidating since "old" oil, presently 60 percent of the total, will decline for natural reasons to about 30 percent by 1980 and 10 percent by 1985 as the reserves become exhausted. The recent debate in Congress over the timetable for decontrol represented nothing more than the acceleration of an inevitable process.

The new energy bill, currently before the President, is a very different proposition, however. It provides for prices to be controlled through the overall weighted averages of "old" oil and "new" oil. The initial level is $7.66 a barrel, which is some 80¢ a barrel below the existing average level, although only 10 cents a barrel below the average price if the $2 a barrel tariff is eliminated. The immediate effect of price rollback and tariff elimination would be to reduce the price of "new" crude (including stripper and "released" oil) to $11.75 a barrel.

It should be emphasized that the prices referred to are weighted averages. Quality and location affect prices in the United States just as they do overseas. All "old" oil does not sell for $5.25 a barrel. It ranges from $4–$6 a barrel. The same applies to new oil prices. The weightings are constantly changing among "old" oils, among "new" oils, and between the two. It would be an administrative nightmare to price all the crude oils in the United States in such a way that the average would equal the Congressionally mandated level. Individual companies could not do it and neither could the Federal Energy Administration. Two-tier pricing is one thing, but to try to work back from an average is quite different.

Quite apart from the administrative chaos involved, the whole concept of a weighted average price that increases by a maximum of 10 percent a year is contrary to the aims of Project Independence. At present, the relationships between "old" and "new" oil is about 63:37. By the end of forty months, this position will be reversed due to a natural decline in the production from old wells. Assuming for the moment that total production remains unchanged, the following calculations illustrate the effects of the new energy bill:

CURRENT POSITION UNDER NEW BILL

63 percent "old" oil at weighted average price of $5.25/bbl. equals 37 percent "new" oil at weighted average price of $11.75/bbl.

100 percent at weighted average price of $7.66/bbl.

POSITION AFTER FORTY MONTHS

100 percent at weighted average price of $10.54/bbl.

37 percent "old" oil at weighted average price of $5.25/bbl. equals 63 percent "new" oil at weighted average price of $13.65/bbl.

The average increase in the price of "new" oil during this period of time would be 4.4 percent a year—far below any reasonable estimate of inflation. If in addition to the national average price, "old" oil prices were also increased at 10 percent a year, reaching a level of $7.30/bbl. by April 1979, the price of "new" oil would be forced down to $12.45 a barrel.

With the weighted average domestic price fixed by law, and the controlled "old" oil price also fixed, it is a simple mathematical certainty that producers would have an incentive to produce as little "new" oil as possible.

If producers limited their investment so that they only produced as much "new" oil as "old" oil in April 1979, then under the formula they could sell that oil for $15.83 a barrel. The nation would lose over 2 million barrels a day of potential production that would have to be made up by higher imports. All in all, a policy more adverse to this country's energy interests would be hard to conceive.

That 2 million barrels more of OPEC oil on top of the 7 million we are already importing can do nothing but push the price of gasoline, heating oil, jet and diesel fuel and all other petroleum products higher.

It will be a high price to pay for the fleeting benefits of a 1- or 2-cent reduction in the price of such products for a few months—if at all—until they start up again.

There has been a great flood of rhetoric on the pros and cons of this legislation.

One of the best I have seen was by an M.D., Dr. Michael E. Siegel, division of nuclear medicine and radiation health of Johns Hopkins Medical Institutions.

The doctor wrote the editor of the Washington Star in response to an editorial that newspaper had carried which was sort of a lefthanded endorsement of a bill the editor termed "not even nearly the best."

You state that this flawed measure is better than none, and that is could have been much worse."

Well, I really doubt both of those statements. You say the public needs evidence that the government is capable of doing something."

We feel quite assured that the government can do something but what the people want is for the government to do the right thing, rather than that which appears superficially attractive."

You state, the doctor continued, that although the major thrust of this bill is not in the public interest, it will be difficult to explain that to the people.

May I suggest that you and the government stop underestimating the comprehensibility of the public.

Doctor Siegel concluded that the bill before Congress is absolutely counterproductive to the energy needs and goals of this country—

I beseech you to reconsider your influential stand on the issue.

For those same most excellent reasons and a good many more, I shall vote against the act and hope the President will veto the bill, should it pass.

It defeats the principal objectives of his Energy Independence Authority Act. His letters to the President of the Senate and Speaker of the House on October 10 of this year when he sent that act to Congress is support enough for his veto of this act.

Mr. President, my reasons for opposing this bill and urging that the President veto it can be summed up rather quickly.

It is going to result in less domestic production in the United States. That is because we are going to be leaving old oil in the ground abandoned because of that oil becoming uneconomic to pump.

There are oil wells in Wyoming right now that pump more than nine barrels of water for each barrel of oil produced. We do not have to change that ratio very much until it becomes uneconomical to pump that kind of oil.

We are going to discourage the development of Alaskan oil, because that oil will be expensive. Everyone knows that. The gathering system necessary to bring oil wells on line and to be able to deliver that oil to the pipelines from the North Slope down to Prudhoe Bay is an expensive operation.

So we are going to delay, not to hasten, the bringing onstream of Alaskan oil.

We are going to close down many stripper wells in this country. People may think that is not too important, but the last time I checked the figures, there were around 350,000 stripper wells in this country, and they produce an average of about three barrels of oil per day. That is not very much, but it is more than a million barrels of oil per day that would not otherwise be produced.

When we roll back the price, we hasten the time that those wells will be plugged and abandoned. That is not conservation. That is waste. It is waste in order to achieve one goal, a political goal.

It will result in increasing dependence on foreign suppliers. We will not take the leverage away from the OPEC countries, rather, we will give them more of the long end of the stick which they already now have, because we are going to have to look to them. It has been estimated that by 1980 we will be importing more than half of all the oil that the United States uses. That is because, as we roll prices back now, we tend to encourage more consumption rather than conservation. It will exacerbate the present tenuous balance of payments situation we have. As we have to pay out more money to buy more oil, we will be spending more money abroad.

We will be exporting American jobs. What we are going to do to the automobile industry is bad enough. What we do in discouraging the search for and the production of American oil, American coal, and American uranium will mean only one thing—a greater exportation of American jobs. That is true because this bill will result in a delay in the development of alternative sources of energy.

The oil shale of the West and the gasification and liquefaction of oil all become economically feasible when one fact occurs, and that is when the prices become competitive.

The PRESIDING OFFICER (Mr. BEALL). The time of the Senator has expired.

Mr. FANNIN. I yield the Senator 2 additional minutes.

Mr. HANSEN. Mr. President, by imposing the regulations that are contemplated and are called for in this bill, we are ultimately going to pass on to consumers higher prices. The bureaucracy that must be in place drawing wages and salaries to enforce these complicated regulations, instead of letting supply and demand play its role in the

marketplace, will be given more things to do to regulate the industry and to regulate the American people.

I hope Senators will reject this bill.

I yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I have been advised that FEA may reinstitute the program in effect from November 1, 1974 through February 1, 1975, under which crude oil "entitlements" would be awarded to firms which import refined petroleum products. In that connection, I have written the Administrator of the FEA concerning the need for full public hearings with respect to this matter, and ask unanimous consent that my letter to the Administrator and his reply be printed in the RECORD.

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

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

HON. FRANK G. ZARB,
Administrator, Federal Energy Administration, Washington, D.C.

DEAR FRANK: It is my understanding that the Federal Energy Administration is considering reinstatement of the program, in effect from November 1, 1974 through February 1, 1975, under which crude oil "entitlements" would be awarded to firms which import refined petroleum products, particularly residual fuel oil, into the United States. I further understand that such a step may be taken at the time the President announces removal of the $2 per barrel supplemental fee on crude oil imports.

The purpose of this letter is to request your assurance that no decision will be reached on reinstatement of a product entitlements program until full opportunity is provided to all interested parties to present both oral and written testimony in formal proceedings conducted by the FEA. As you are undoubtedly aware, a product entitlements program involves very serious policy issues which must be fully explored and considered. Among those issues are: whether such a program is needed at all under current market conditions; whether the program would make it impossible to achieve reductions in the cost of gasoline, home heating oil and other domestically refined products as mandated by the Congress; whether the grant of entitlements would discourage the construction of additional domestic refining capacity; whether such a program would frustrate efforts to remove price and allocation controls; whether the competitive problems affecting the East Coast residual fuel oil market cannot be met in a more direct, effective manner.

It is clear from this brief list that the decision to reinstate a product entitlements program involves major policy issues with serious long-term implications. It is therefore essential that full public comment and hearing procedures be followed.

I hope that we may have your prompt assurance that this is the course which FEA will pursue.

Thank you very much.

Sincerely,

J. BENNETT JOHNSTON,
U.S. Senator.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., December 16, 1975.

HON. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JOHNSTON: Thank you for your letter of December 12, concerning the possible reinstatement by FEA of an "entitlements" program for imported refined petroleum products.

As you know, if the Energy Policy and Conservation Act now under consideration in the Congress becomes law and the $2.00 per barrel supplemental import fee on crude oil is removed, certain of the conditions which existed prior to the imposition of the supplemental import fees on crude oil and which led FEA to implement an entitlements program for certain imported petroleum products, would again exist.

As you correctly point out, a decision to reimpose such a program would involve significant policy considerations, and would require that we take into account the extent to which conditions now are different than they were at the time the last program was implemented.

Therefore, I can assure you that no product entitlements program would be adopted by FEA without a prior opportunity for written comment and oral testimony. Although the requirements for prior notice and hearing under the Federal Energy Administration Act may be waived upon a finding that compliance with those requirements would cause serious harm or injury to the public health, safety, or welfare, such a finding could not be made with respect to a proposed product entitlements program. This is because the benefits of any such program must lag by two months the month in which the products have been imported due to data collection and analysis requirements.

Thus, if the crude oil import fee were removed in December 1975, the earliest date that product entitlements could be issued with respect to that month would be February 1976. This time lag allows sufficient opportunity for public comments to be received and public hearings held prior to adoption of any final policy decision or amendment to FEA's regulations.

I trust that this letter adequately responds to the concern you have expressed.

Sincerely,

FRANK G. ZARB,
Administrator.

Mr. GLENN. I yield myself such time as I may require.

Mr. President, I reply to the Senator from Wyoming by saying that the high cost of oil in Wyoming, where considerable water is pumped out of the oil can be taken care of in this bill by the President's authority to vary the pricing for high-cost production, such as those specific stripper wells to which the Senator from Wyoming refers.

The Alaska pipeline oil, to which he also referred, will not be delayed because of this bill. The pricing arrangements for the Alaska pipeline can be set up by the specific provision required in the spring of 1977.

The rollback that he referred to I prefer to look at as a return to the "free market plus OPEC" price that was existent on January 31 of this year, because that is what it was. It was the free market new oil price, including the OPEC-induced domestic rise. It was the next day that the President put on his $2 tariff; and subsequent to that, later in the year, OPEC had their second price rise.

I think that the last time we had a "free market plus OPEC" price for new oil was on January 31, and that was the time the $11.28 new oil price applied. That was one of the bases for going back to that particular figure.

We are getting close to the time to vote. We are saving about 5 minutes for the distinguished chairman. Beyond that, Mr. President, I would be glad to yield back the remainder of my time, if the other side were of a like mind.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield 7 minutes to the distinguished Senator from Texas.

Mr. TOWER. I yield 1 minute to the Senator from Oklahoma.

Mr. BARTLETT. I thank the distinguished Senator from Texas.

Mr. President, I should like to respond to the remarks made earlier by the Senator from Arkansas, who cited the situation in 1973 about propane, when the prices increased rather substantially.

The situation right now, according to figures that have been obtained by the economic advisers to the President, is that the supplies of propane are above normal and the demand for propane is low. Normally, the large demand comes from agricultural directions, and the crops are in, so nothing is anticipated there.

Second, they feel that they have sufficient supplies on hand to meet the surges in the demand that might come from the weather becoming colder if the market was freed up.

So they feel quite confident that if there are decontrols on propane, the supplies are adequate to meet the demand.

Mr. TOWER. Mr. President, once again we are afflicted with a severe myopia, a disability similar to that suffered by our colleagues down the hall, as we appear determined with this legislation to sacrifice the long-term national interest for the short-term political gain. A regretable decision indeed, even assuming the choice were a rational one with a political upside to be achieved, but in this instance, with this legislation, there is no political gain—no good sense involved—no semblance of rationality.

The conference report before us today, the loosely termed "Energy Policy and Conservation Act of 1975" (S. 622) might be more aptly tagged the "Cold Homes and Dark Factories Act," or the "Energy Dependence Act," or indeed, the "OPEC Relief Act of 1975." For, undeniably, this legislation finds us mandating a turn of 180 degrees from past efforts to secure energy independence. Contrary to independence, it will necessitate through its pricing formula a continued and increased reliance upon the OPEC cartel.

Mr. President, what we are doing with this bill is treating the American public to the classic "shell game" of old: "Now you see it, now you don't." Running rampant are political promises of a penny price reduction here, a penny there. Yet, in reality, passage will not lower prices at the gasoline pump; prices there are currently being depressed by the workings of the market mechanism of supply and demand. Still, we appear determined to scrap our efforts to achieve energy independence, to see those efforts go a 'glimmering amidst the hoopla of false promises and fugitive pennies.

Mr. President, the positive aspects of this bill—and there are a few the area of

innovative conservation methods—are completely overshadowed by the uncertainties surrounding the pricing mechanism. The legislation will not increase production, encourage conservation, or reduce imports of foreign oil. Failing to accomplish these essential goals, what will it do? The answer is not pleasant, nor acceptable.

Passage will continue controls under an ill-conceived composite pricing concept for forty additional months. Controls have not worked in the past in less complicated industries, why should they now be effective in the petroleum industry? Further, has not regulation in the interstate natural gas market illuminated the foolishness of maintaining artificial controls on a product, controls which retard development and distribution? Further still, what assurance is there that at the end of 40 months a termination of controls would be more palatable than now to those who would so hamstring the domestic petroleum industry as to render it an ineffective vehicle for meeting our energy challenge at home?

Passage will dictate the curtailment of marginal production. The roll-back in prices, and the composite formula, does not exempt such production. Fields will be abandoned, wells plugged. Stripper oil will become a commodity of the past. Enhanced recovery techniques will be priced out of reason. And, as marginal production is constrained, domestic supplies will decrease simultaneously with an increased energy consumption. The result? A greater reliance upon imports until by 1985 we could find ourselves fully dependent upon imports for up to one-half of our total energy consumption. So much for "energy independence!"

Passage will prompt the stacking of wells in the producing States. Independents, who historically have drilled 90 percent of this Nation's exploratory or wildcat wells and who represent the most competitive segment of the industry, will be unable to attract the outside capital critical to their drilling ventures. Attractive sites, already spotted, will not be tested. Confusion surrounding the multitiered pricing mechanism of this legislation will compound the uncertainty which already grips the domestic industry—an uncertainty fueled by questions concerning the future of percentage depletion, intangible drilling costs, and other incentives so fundamental to the independent's survival.

Mr. President, the Congress in its zeal to fabricate an election year sop for the "voting public" is without just cause to tinker and toy with the domestic petroleum industry. The industry should not be made the scapegoat for our failure to legislate a sensible, productive, and comprehensive energy policy.

We must not deceive the American public. The public deserves more from its elected leadership than blatant attempts to lullaby our Nation into an energy complacency based upon what at best can be termed "well intentioned, but misguided, effort."

Mr. President, in recent days I have spent considerable time with independents in my State discussing the pending legislation in some detail. My hometown, Wichita Falls, is in the middle of the oil patch and on each trip home during this year I have had opportunity to visit with longtime friends who are independent producers and who find their business endeavors frustrated by excessive Federal regulation and governental redtape. They have come face to face with the bureaucracy in recent years and it has not been a pleasant meeting. Now, as if to compound earlier problems, we come forward with this legislation and threaten the very existence of independents, not only in my State, but throughout the country.

Mr. President, I ask that my colleagues consider the retrogressive effect that enactment of this legislation will have upon our efforts to secure independence from foreign petroleum sources. I urge that we give the American public, the American consumer, a reprieve by turning down this ill-advised conference report.

The energy issue has been treated to so much cynical demagoguery in this body and the other one for so many months now that I hope we will rally to our senses and defeat this ill-conceived legislation.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I yield myself 5 minutes.

There has been a lot of discussion on the subject of the pricing. I think it is well for our colleagues to understand that this is an omnibus energy bill, that we do cover the subject of measures to increase domestic supply. We authorize loans to increase coal production by encouraging the opening of new underground coal mines. We authorize the President to require production of crude oil and natural gas at the maximum efficient rate of production.

We provide, secondly, for standby energy authority. The act provides for standby powers to deal with emergency situation shortages.

Third, Mr. President, there is provision in this bill for energy conservation programs. The act, among other things, establish a mandatory average fuel economy performance standard for new passenger automobiles and other light-duty highway vehicles. It requires energy labeling of major home appliances and certain consumer products, and authorizes energy efficiency standards for major appliances.

It provides for block grants in aid to the States to assist in the development and the implementation of State-administered energy conservation programs.

Fourth, may I say, Mr. President, we establish for the first time a system of strategic reserves. This would be a program of up to 1 billion barrels of crude oil, residual fuel oil, and refined petroleum products to insulate the domestic economy from the adverse effects of future embargoes.

Finally, we deal with the subject of oil pricing. I think, Mr. President, all of our colleagues should understand that this is the last clear chance to deal with this subject as it pertains to inflation. Let me point out that this is the third time that we have extended the price control authority, and it is the last time it is going to be up.

Congress will have to decide whether or not they want to bring the economy to a new bottom by decontrolling the present controlled oil, which will go from $5.25 a barrel in 1975 to $14.50 if the $2 tariff is kept on; otherwise, it will be $12.50. Next year, if the $2 tariff remains, it will be $15.25.

Mr. President, we are talking about a direct increase of $33 billion. This is oil jumping in price over $9 a barrel—$9 a barrel, when the price of oil, 2 years ago, was $3.76 a barrel. It does not take much imagination to see what it would do to an already faltering economy to have that kind of inflationary input and inflationary surge. Our economy can ill afford that kind of shock treatment.

Instead, we have a bill that is not as drastic as I would like to see it in light of the inflation, but it is a bill that we worked out, in large part, with Mr. Zarb. We do provide for a price rollback of somewhere between 2.5 and 3 cents a gallon. It comes at a time when it can be helpful to the economy.

On the other hand, if this bill is voted down, we are going to see this big rise in prices of heating oil, fuel oil, propane, and the farmer is going to feel it as never before in the higher cost of fertilizer.

I want to say that Congress should fully appreciate what the options are. If this bill is defeated, if the President vetoes it—and I am hopeful that he will not veto it—Congress is not about to go through a fourth extension of this act.

Mr. President, it is that clear. We have been on this since February, in stages, and we have brought together five different bills into one bill. It is an omnibus bill. We have been talking about who has an energy policy and who does not have one.

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

Mr. HANSEN. I ask unanimous consent that the distinguished chairman may have as much time as he requires.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. JACKSON. Finally, Mr. President, I want to pay tribute to the staff, especially to William Van Ness, who has been on this legislation now for over 2 years on the Senate side, and Charles Curtis, on the House side, who has been, likewise, involved during that period. I think both sides of the aisle will agree that both expert lawyers have been intellectually honest in their presentation of the legislation. They have been highly professional in the best traditions of a fine Senate and House of Representatives staff.

I say likewise of the minority. They have cooperated and helped with their staffs. I think it is appropriate, as we conclude legislation, to give proper recognition to the staff, who have been so helpful over the period of this legislation.

Mr. FANNIN. Mr. President, I yield such time as he may desire to the Senator from Ohio.

Mr. TAFT. Mr. President, I very much want to vote for an energy conservation

and energy production measure. Very much.

Therefore, my decision to vote against the energy conference report is a difficult one. I strongly believe that if the First session of the 94th Congress adjourns without an energy bill, we will have failed to serve the people. On the other hand, I do not buy the proposition that we should pass a bad bill just because it is the only one that can be approved.

Even the supporters of the conference report, when pushed on the matter, say that this bill should pass because it is the only bill that can be approved by the House. Well, I think the people who elected us demand a higher standard.

This bill is advertised as a decontrol bill. I do not believe it. Perhaps the Senator from Washington could explain it to me. After removing the tariff, and rolling prices back to $7.66, there will be a gap of nearly $3 between domestic oil and world oil. World oil will be selling for nearly 140 percent the price of domestic oil. A 40-percent gap.

Then we will begin "decontrol."

We will begin decontrol at a real rate of 3 percent a year, assuming inflation is less than 7 percent, or that the Congress will vote, actually vote, to allow the price to go up faster. Not likely. But assume the price goes up 3 percent a year, after inflation.

Now, let us be realistic. The price of OPEC oil will also go up with the cost of living. The only amount we will be gaining on the world price, under the most realistic conditions, is 3 percent per year. After 40 months, we will have closed only one-quarter of the gap between our prices and the world's prices. We will have a 30 percent gap left to go.

Does the Senator have an answer to that? Does the Senator expect OPEC to do without its cost-of-living increases? Does the Senator expect the Congress to turn around right after the election and let the President push up the price at a realistic rate? The Senator's arithmetic does not produce the results the Senator has promised.

I will tell you what will happen at the end of 40 months. There will be a gap of at least $3 between our price and the world price. The Congress will moan about the shock of sudden decontrol. And we will keep controls. We will keep controls; we will keep our dependence on OPEC oil; we will keep our population bitter, divided, and short of gasoline and heating oil. This is no good at all.

And what of the rest of the title of this bill? The part about conservation?

Oh yes, there is conservation. We save a bit by better insulation. We save a bit with better gas mileage. We save a bit by switching to coal. But we save nothing, because when we lower the price, we send the strongest possible signal to the consumer to go ahead and consume. Yes, Senator JACKSON—yes, Virginia—there is such a thing as a demand curve. Like a germ, you cannot see it with the naked eye, but it is there. Economists have measured it. It is real. And it will not be denied. "Price down" means "consumption up." Always.

The title of this bill is a fraud.

There are several useful features in this bill: Better insulation, better gas mileage, more use of coal, energy efficiency labeling. But every one of them is either underway because of natural market forces, or easily attached to some other bill. We do not need this measure as it now stands. Indeed, we cannot stand this measure as it now stands.

Has anybody here seen the massive Brookings Institution report on energy that was sent to every Senator about 2 weeks ago? Has anybody read it? Let me tell you what it says. It says that higher prices will bring more exploration. They will bring less consumption. It says that the recessionary impact of the price rises is already behind us. It says that the biggest factor in the problems we now face was the suddenness and size of the price increase, and the transfer of income that resulted. And it concludes that, since the Government is not ready with a windfall profits tax—which this bill does not contain—and because of the tendency of governments to fight inflation when prices rise, even if it is due to a move by OPEC which has to be countered by expansion to prevent recession, that the only solution is gradual decontrol, as I have said all along. This bill does not give us that. It leaves us with a $3 gap, a gap which must be sending shivers of fear up and down the halls of the Brookings Institute, and which should be sending shivers up and down the Halls of Congress.

I cannot vote to subject this country to a recession in 1979. I cannot vote to subject this country to the shortages and threats from abroad that this bill will produce. I condemn this measure as a fraud. For that is what it is. A fraud on the public, and on the next generation.

I ask unanimous consent to have the Brookings report printed in the RECORD.

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

HIGHER OIL PRICES AND THE WORLD ECONOMY

The point worth stressing in this more or less mechanical exercise is that if governments have learned the lesson of the oil shock of 1973–74, the world economy should be able to adjust more quickly and with less cost to subsequent sudden increases in the world price of oil. First priority should be given to offsetting the depressing effect on aggregate demand and thereby avoiding unnecessary reductions in output and employment. Once this is done—that is, with the normal rate of economic growth maintained—adjusting to the long-run welfare costs is more feasible politically and can be accomplished more gradually.

MINIMIZING LONG-RUN COSTS

The long-run economic costs of higher energy prices will depend directly on the expansion of alternative supplies and curtailment of demand in the importing countries and indirectly on the influence exerted by these developments on the pricing policies of OPEC. Our efforts in this book are directed principally toward an analysis of the ways in which various national economies can best adjust to a world of higher prices. It is not a book about oil policy itself, in the sense of being an analysis of alternative measures for expanding supply or reducing demand. We have much less to say, therefore, about long-run adjustment policies than about those for the short run. Several basic points that should be considered in the determination of oil policy, however, follow from our analysis.

First, to the extent that our estimates of long-run costs in relationship to GNP in the industrial countries are approximately correct, the magnitudes of the economic losses for the United States and Western Europe—and even for Japan—are comparatively small. They imply, not an absolute reduction in living standards, but a modest reduction for a while in the accustomed rate of growth of per capita consumption. While these losses are sufficiently large to warrant the adoption of policies to reduce them, they should not be viewed as in themselves threatening the prospects for achieving normal rates of growth.

Second, for the United States especially, there is a conflict between short-run demand-management objectives and long-run cost-minimization goals. The price of domestically produced fossil fuels in the United States—oil, natural gas, and coal—is being controlled substantially below the world price of oil. As a consequence, oil is being imported at world prices for uses whose values are less than the price paid for those imports. Similarly, to an extent difficult to estimate quantitatively, some domestic fossil-fuel resources which would be exploited at resource costs less than the price of imported oil are being neglected. For both of these reasons a policy of holding domestic energy prices below the cost of imported oil increases the national economic losses from higher OPEC prices. On the other hand, allowing prices of domestic sources of energy (which in the United States account for over 80 percent of total energy consumption) to jump suddenly to parity with world oil prices could introduce major new problems of demand management—a new spurt of inflation, both direct and second-round effects, and an additional drain on consumer income. A failure to cope with these problems would bring about economic losses far greater than the misallocation of resources caused by a multiple price for oil.

A reasonable solution to this problem of conflicting objectives might be to provide for a gradual rise in controlled prices toward parity with imported oil. Particular fossil-fuel deposits are exploited over a large number of years. Similarly, changes in the consumption of energy are often associated with long-term investment decisions. As a consequence it is long-term expectations about prices, rather than immediate price levels, that influence decisions concerning supply and demand. Removing uncertainties, by agreement on a policy of gradual decontrol announced in advance, would raise long-term price expectations while significantly reducing the associated short-run demand-management problems.

Mr. TAFT. Mr. President, I have read the report from the Brookings Institution indicating that higher prices will bring more exploration and, if we cut back on the prices, it will hurt us further. I ask the Senator from Washington: This bill is advertised as a decontrol bill. As I see it, after removing the tariff and rolling back prices to $7.66, there is still going to be a 40-percent gap. Then we begin the decontrol and there are the various adjustments and inflation and so forth that can occur. I think if that occurs, the price of OPEC oil is going to go up similarly. If it does and it reflects the inflationary increase, what is going to happen at the end of that decontrol period? How many dollars' difference is there going to be at that time between the domestic price and international

price, and what are we going to do about it at that time?

Mr. JACKSON. I say to the Senator that I see no justification whatsoever for the domestic price of oil, if it is decontrolled, to be fixed, then, by the OPEC price. They control 80 percent of the oil in the world, and that spread may rise. But that does not justify our——

Mr. TAFT. We will go on, then, at the end of the 4-year period and go to further domestic control and a two-price system similar to the one we have now.

Mr. JACKSON. We are going to have a two-price system because the American people, I think with justification, do not want the domestic oil prices dictated by the cartel. I must say that is the evil of this whole business, because there is no justification whatsoever for the pricing of domestically produced oil here at the OPEC rate.

Mr. TAFT. The Senator's answer is right on point, because it just shows that now, through this entire process and at the end, we are going to be at a different price and we are going to be at the mercy of OPEC countries.

Mr. JACKSON. No, I do not agree with the conclusion.

The PRESIDING OFFICER. All time has expired. Under the previous order, the vote will now occur on the motion to concur in the House amendment to the Senate amendment to the House amendments on S. 622.

Mr. BUMPERS. Mr. President, first I ask unanimous consent that the distinguished Senator from Arizona (Mr. FANNIN) be given a moment to express his appreciation to the staff of the committee.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. BUMPERS. Second, Mr. President, I ask unanimous consent that any Member who wishes to insert anything in the RECORD regarding the legislative history of this bill be permitted to do so.

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

Mr. BUMPERS. Mr. President, I would like to clarify a colloquy conducted just now between the Senator from Alaska (Mr. STEVENS) and myself. The Senator inquired whether, under section 8(g)(2), at page 89 of the conference report, the President, if he made the positive finding described in that section, would be required to make a submission to Congress of an amended regulation. The answer is that the President would, of course, have to submit any such proposed amendment to Congress in order for it to become effective. He would not be required to propose any such amendment. Under section 8(g)(2), he may do so, but he does not have to do so.

The Energy Policy and Conservation Act establishes a framework for determining domestic crude oil prices which: First, sets specific limits on the economic impact of oil prices; providing for a near term rollback to stimulate economic recovery; second, removes the influence of the Organization of Petroleum Exporting Countries, OPEC, cartel on the price of domestic oil; third, establishes price certainty for the domestic oil industry; fourth, grants the President the flexibility to set oil prices to achieve the maximum domestic production consistent with an acceptable and limited overall impact on consumers; and fifth, removes the specter of immediate and total decontrol of domestic energy prices—the single most potent threat to economic recovery and the well being of the vast majority of Americans.

STRIPPER WELLS

Currently domestic production of crude oil from wells producing less than 10 barrels per day is not subject to price controls. Stripper well oil sold for approximately $11.28 per barrel in January 1975. The latest FEA date—for September—sets stripper oil prices at approximately $12.50 per barrel. This does not reflect the full effect of the President's $2 per barrel tariff—which should increase the price of each barrel of domestic oil not subject to controls by $2 above the pre-tariff value of $11.28 per barrel; nor does it reflect the recent OPEC price increase—which should raise the price of such oil by another $0.80 to $1 per barrel. It is expected that these influences on the price of stripper well oil would conceivably have resulted, sometime next year, in a price of approximately $14 per barrel.

THE EFFECT OF S. 622

Under section 401 of the Energy Policy and Conservation Act—pages 85–86 of the conference report—the President is required to establish ceiling prices for all domestic crude oil—including stripper oil—resulting in a national weighted average price of no more than $7.66 per barrel. In establishing prices to achieve this, the President may provide for different ceiling prices for different classifications of crude oil. In establishing different price ceilings, the President must determine that they are "administratively feasible," and that they "are justified on the basis that such prices and such classifications are consistent with obtaining production of crude oil in the United States."—section 401(a)–8(b)(1).

The joint statement of managers expands on the intended impact of this language on stripper oil:

> Under the conference substitute stripper well ceiling prices come within the President's broad discretion to set ceiling prices to implement the maximum weighted average price requirement of the legislation. It is the conferees' understanding that within the limitations of the conference substitute the President will most likely establish a separate stripper well ceiling price of approximately $11.28—the equivalent of the upper tier under a continuation of the current two-tier pricing program subject to limits of the conference substitute in order to assure sustained rates of production from such properties (page 197 of the Conference Report).

Thus, under this act stripper well producers and royalty owners will lose only that part of the revenue they have been earning which results from the President's import tariff and the recent OPEC price increase. It is likely in any event that this revenue would have been lost either because of a Presidential decision to remove the tariff even without S. 622 or because the tariff is declared illegal by the Supreme Court.

FUTURE ADJUSTMENTS IN PRICES

Stripper well oil is specifically referenced in the provisions of S. 622 relating to adjustments to domestic prices. Under the act, the domestic composite price could increase, without congressional review, in time by as much as 10 percent per year for the purpose, among others, of "sustaining production from marginal wells, including production from stripper wells".

In addition, the President could propose at the end of each quarter an amendment to raise prices faster, provided this is really necessary to increase or to maintain production and provided that neither House disapproves of the President's proposal.

Mr. FANNIN. Mr. President, I thank the Senator from Arkansas. I want to join the chairman of the committee in commendations to the staff, both the majority staff and the minority staff, for the splendid service they have rendered in getting this bill together. It was just nights and days of hard work. I do feel the staff is certainly deserving of praise for the hours they have spent on this bill. But I do commend the staff for the work they have done.

ADDITIONAL STATEMENTS SUBMITTED ON S. 622

OIL PRICING POLICY IN HISTORICAL PERSPECTIVE

Mr. JACKSON. Since the mid-1950's the price of domestic crude oil at the wellhead has been very stable. Between 1955 and 1972, the wellhead price in current dollars moved very gradually from $2.77 per barrel to $3.40 per barrel. The price of imported petroleum landed in the United States during this period remained approximately $1 per barrel below domestic prices and, after 1959, a system of quotas administered by the Department of the Interior restricted the amount of crude oil permitted to enter the United States to a fixed percentage of domestic production.

The rationale for the quota system was the desire to maintain stable prices for domestic crude oil and insulate domestic producers from the severe price competition which inexpensive imports could have provided. Despite these intentions, the capability to produce oil in the United States did not expand substantially during the period the quota was in effect. Rather, crude oil imports were held down and new domestic demand was filled primarily from existing excess domestic producing capacity. Between 1957 and 1972, spare domestic crude oil producing capacity dropped from 29 percent of production to 2 percent.

By early 1973, the inability of declining domestic supply and fixed imports to meet a growing demand for petroleum products became widely recognized. In April 1973, crude oil import restrictions were removed, and crude oil import volumes increased rapidly throughout the summer. The price of both imports and domestic production moved up during this period, and the gap between import

prices and domestic prices essentially disappeared.

Domestic prices in January 1973 averaged $3.40 per barrel. By April the price had increased by 25 cents per barrel, and a second set of price increases was underway in early summer of 1973.

At that time, the framework for the present crude oil price controls including the "two-tier" system was set forth when President Richard M. Nixon in June 1973, announced the establishment of phase IV price controls under authority contained in the Economic Stabilization Act of 1970. Included in this regime was provision for a ceiling price applicable to a portion of domestically produced crude oil. The ceiling for each grade and quality category of controlled crude oil that went into effect in August 1973, was set at the May 15, 1973, posted field price plus $0.35 per barrel. "New" oil was defined at that time as production from a property in excess of volumes produced in 1972. In addition, "released" oil—a volume of production, if any, from a given property which would otherwise be subject to control and which could equal the production of "new" oil from that property—would be combined with new oil and exempted from the ceiling price requirement. At that time, the Cost of Living Council—CLC—which administered the phase IV price controls, estimated the average price of domestic production under controls at approximately $4.25 per barrel. In December 1973, in an attempt to close the widening gap between prices of oil under controls and the prices of exempt categories, the CLC authorized an increase of $1 per barrel in the price ceiling for domestic crude oil bringing the estimated price of controlled oil to approximately $5.25 per barrel—the figure which has been reported for old oil by the FEA since that time.

The price of new oil in September 1973, was approximately $5 per barrel and exceeded the cost of imports landed in that month by $0.25 to $0.35 per barrel. On October 16, 1973, six Persian Gulf members of OPEC announced increases in the posted price of crude oil—FOB the Persian Gulf—from $3.01 per barrel to $5.12 per barrel. One day later, in Kuwait, the Arab embargo was announced. The price of domestic new oil began to rise precipitously. The Trans Alaska Pipeline Act, Public Law 93–153, was signed by the President on November 16, 1973. This legislation specifically exempted from price controls production from domestic stripper wells—those producing less than 10 barrels per day. On November 27, 1973, President Nixon signed the Emergency Petroleum Allocation Act of 1973, Public Law 93–159, committing the President to promulgate a regulation providing for the equitable allocation of petroleum at equitable prices.

By the end of November 1973, 75 percent of domestic oil was selling at an average of $4.25 per barrel and 25 percent was classified as new oil, selling for $6.17 per barrel. New oil was priced at approximately a dollar per barrel above the price of imports. On December 18, 1973, the Cost of Living Council, in an attempt to minimize the disparity in refiner crude costs under the two-tier system, announced an increase in the ceiling price permitted for old domestic crude oil of $1 per barrel, from $4.25 to $5.25 per barrel.

On December 23, 1973, OPEC announced that the world price of crude oil would double at the beginning of the year. Saudi Arabia raised the posted price of its "marker" crude oil from $5.12 to $11.65 per barrel, effective January 1, 1974.

Responsibility for the administration of the petroleum price control regulation was transferred from the Cost of Living Council to the Federal Energy Office on December 26, 1973. On January 15, 1974, the FEO issued the basic price control and allocation regulation for crude oil and refined petroleum products. This price control regulation reflected regulations originally administered by the CLC and permitted domestic "new" oil prices to float to reflect the world price level established by OPEC. In February, the landed price of imported crude oil—approximately $12.50 per barrel—passed the domestic new oil price for that month of approximately $9.90 per barrel.

On March 6, 1974, President Nixon vetoed S. 2589, the Energy Emergency Act, which provided for a rollback to approximately $7 per barrel of the price of domestic "new" oil not subject to price controls under the Allocation Act regulation. At that time, "new" oil in the United States was selling for nearly $10 per barrel.

On April 30, 1974, the statutory authority for the CLC contained in the Economic Stabilization Act of 1970 expired, and the Emergency Petroleum Allocation Act became the sole source of Federal price control authority for petroleum. On June 27, 1974, the President transferred all functions of the FEO to the Federal Energy Administration, created by the Federal Energy Administration Act of 1974, Public Law 93–275, May 7, 1975. By midyear, domestic new oil prices were on a plateau at just under $10 per barrel, over $2.50 per barrel below the reported landed price of imported oil.

During the fall, the price of new oil began to rise again, reaching $11.28 per barrel in January of 1975.

The Senate passed, on November 21, 1974, and the President signed, on December 5, 1974, Public Law 93–511, extending the Emergency Petroleum Allocation Act of 1973 until August 31, 1975.

On January 15, 1975, in his state of the Union message, President Ford announced a series of energy-pricing proposals which included progressively increasing tariffs on imported petroleum—$1 each month in February, March, and April—and removal of all price controls on domestic crude oil on April 1, 1975. H.R. 1767, which explicitly denied the President the authority to impose tariffs on imported crude oil, was vetoed by President Ford on March 4, 1975. Presidential implementation of the decision to remove price controls from domestic oil was delayed, pending the results of congressional attempts to formulate a comprehensive counterproposal to the legislation proposed by the President on January 15.

During 1975, the price of both new oil and landed imports rose under stimulus of the tariff. By September, the prices of both these categories of oil were approximately $1.20 per barrel above January levels. The price of imported oil increased by less than $2 per barrel because of softness in the world oil market evidenced by a shutin of OPEC producing capacity of over 30 percent. Uncertainty concerning the future of the tariff had some effect on the slowness of the response of domestic new oil prices to the impetus of the tariff.

On June 21, 1975, H.R. 4035, which would have set a ceiling price rolling back the price of domestic new oil to the level prevailing prior to imposition of the President's import tariff, was vetoed by President Ford. On July 22, 1975, the House disapproved by a vote of 262 to 167 a plan submitted by the President under section 4(g)(2) of the Allocation Act that would have removed price controls on all domestic oil over a 30-month period. On July 30, 1975, a second Presidential decontrol proposal, which included a temporary ceiling on new oil prices and envisioned a decontrol period of 39 months, was disapproved in the House by a vote of 228 to 189.

On September 9, 1975, President Ford vetoed S. 1849, which would have extended the Emergency Petroleum Allocation Act until March 1, 1976. On September 10, the veto was sustained in the Senate by a vote of 61 to 39 and on September 26, 1975, the President signed H.R. 9524, providing for a temporary extension of the Allocation Act until November 15, 1975.

Meeting in Vienna, Austria OPEC on September 27, announced a 10-percent increase in the level of world oil prices effective October 1. The estimated effect of this increase on landed prices in the United States range from $0.80 to $1.25 per barrel. On October 7, 1975, the House-Senate conference on H.R. 7014 and S. 622 was convened.

CRUDE OIL PRICES

End of	Domestic		Imports[1]	Composite including imports[2]
	New	Average		
1973:				
1st quarter		3.40	3.30	3.35
2d quarter		3.60	3.90	3.70
3d quarter	5.12	4.27	4.72	4.41
4th quarter	9.51	6.31	6.44	6.43
1974:				
1st quarter	9.88	7.05	12.73	8.68
2d quarter	9.95	7.20	13.06	9.45
3d quarter	10.10	7.18	12.53	9.13
4th quarter	11.08	7.39	12.82	9.28
1975:				
1st quarter	11.47	8.38	13.28	9.91
2d quarter	11.73	8.38	14.15	10.33
3d quarter	12.46	8.49	14.04	10.97
4th quarter[3]	14.00	8.75	15.00	11.10
S. 622[4]	11.28	7.66	13.00	9.70
1976:				
1st quarter	11.47	7.84	13.19	9.87
2d quarter	11.67	8.03	13.38	10.06
3d quarter	11.87	8.23	13.58	10.32
4th quarter	12.07	8.43	13.78	10.52
1977:				
1st quarter	12.28	8.63	13.98	10.72
2d quarter	12.48	8.84	14.19	10.98
3d quarter	12.70	9.09	14.40	11.21
4th quarter	12.91	9.38	14.61	11.47

Footnotes at end of table.

CRUDE OIL PRICES—Continued

End of	Domestic New	Domestic Average	Imports[1]	Composite including imports[2]
1978:				
1st quarter	13.13	9.82	14.82	11.82
2d quarter	13.36	10.41	15.04	12.31
3d quarter	13.59	10.65	15.26	12.54
4th quarter	13.82	10.88	15.48	12.77
1st quarter, 1979	14.05	11.13	15.71	13.05
April 1979	14.14	11.21	15.79	13.13

[1] Actual average prices for imported crude oil landed in the U.S. are listed through September, 1975. Data after 1975 assumes removal of the tariff of $2 per barrel on imported crude oil and a rise in the landed price of 6 percent per year over the 40-month life of the program.

[2] Actual average refiner acquisition costs are listed through August, 1975. After 1975 it is assumed that imported oil comprises 38 percent of the input of crude oil to domestic refineries, and that ths percentage increases gradually to 42 percent at the end of the price control program embodied in S. 622.

[3] Prices estimated for the Conference Committee on S. 622 by the FEA. Composite price including imports assumes imported oil comprises 38 percent of the input of crude oil to domestic refineries.

[4] Pricing policy adopted by Conference Committee on S. 622. (The policy does not specify the rate of increase in new oil prices within the composite. This table assumes a 7 percent annual increase in new oil prices.)

Mr. RANDOLPH. Mr. President, included in subsection 362(d) is a provision dealing with State energy conservation plans which permits a State the discretion to include in its plan regulations governing the hours and conditions of operation of public buildings. I understand that the intent of the conferees is that when a State issues regulations, and the Administrator when he approves a plan containing such regulations, will be fully cognizant of the wide diversity of public buildings which could be subject to restrictions on hours and conditions of operation. For example regulations dealing with the hours of operation of office buildings may well meet the tests of approval of a plan under subsection 363(b). However, other industries, particularly retailing, might suffer economic hardship if their hours of operation are not regulated with recognition of the intricacies of the respective industry. The conferees intend that such restrictions as may be placed on hours of operation of retail establishments will not cause an undue burden on the economy or on local and interstate commerce through regulation pursuant to this section with respect to restrictions on hours and conditions of operations. Would the Senator agree?

Mr. JACKSON. I agree completely with the Senator. The Senator from West Virginia (Mr. RANDOLPH) has been a leader for many years in working for equitable energy conservation.

Mr. JOHNSTON. I would like to address a question to the manager of the conference report with respect to price increases for old oil. As I understand the purpose of section 8(b)(2) of the Emergency Petroleum Allocation Act of 1973, as amended by the conference report, no amendment to the regulations under section 4(a) may permit an increase in the price of any volume of old crude oil production from any properties unless the President finds that such amendment—

(A) will give positive incentives for (i) enhanced recovery techniques, or (ii) deep horizon development from such properties; or

(B) is necessary to take into account declining production from such properties; and

(C) is likely to result in a level of production from such properties beyond that which would otherwise occur if no such amendment were made.

I assume that it is not the purpose of this section to prevent an increase in the price of old oil to take into account the impact of inflation as measured by the adjusted GNP deflator and that, in fact, the President may allow an increase in the price of old oil to reflect the impact of inflation regardless of whether the section 8(b)(2) findings are made.

Mr. JACKSON. That is correct.

Mr. JOHNSTON. I also assume that, insofar as subparagraph (A)(ii) of section 8(b)(2) is concerned, there is no intent to limit increases to horizons that are below existing production, but that any horizon that is effectively separated from any other horizon previously shown to be productive will qualify.

Mr. JACKSON. That is correct.

Mr. JOHNSTON. I thank the Senator.

Mr. BEALL. Mr. President, I rise in opposition to the House amendments to S. 622.

It has been abundantly clear for the last several months that the posture of the Nation's energy policy leaves much to be desired. The 6-percent of the world's population living in the United States consumes 30 to 35 percent of the world's energy with our demand rising 5 percent annually. The inevitable result has been that we have been compelled to rely more and more upon high priced foreign energy sources to make up the difference between domestic energy production and demand. For example, in 1960 we imported 15 percent of our petroleum requirements. Today we import nearly 40 percent of the oil we consume as an ever increasing number of U.S. dollars flow overseas to foreign nations. Congress has dealt intensely with the energy issue for more than a year now, but in my opinion, we have yet to come to grips with the energy problem and to make the hard choices that are necessary to lay the groundwork for a brighter energy future for America.

Although S. 622 contains several onerous provisions, without a doubt the most counterproductive and contrary to the national interest is the oil pricing policy set forth by this legislation. S. 622 initially rolls back the composite average price for domestic crude oil from today's $8.75 per barrel to $7.66. Then it is up to the President to establish different price ceilings for the various categories of domestic oil produced—the average of which may not exceed $7.66. The $7.66 ceiling may be modified both by a GNP deflator, and up to a 3-percent production incentive as long as the sum of these two adjustments does not exceed 10 percent annually. However, every 90 days, the President may recommend to Congress that the production incentive exceed the 3-percent limitation, or that the combined adjustment limitation exceed 10 percent, or both. These recommendations may be disapproved by either House of Congress within 15 days of transmittal. After 40 months, the pricing program will convert to standby Presidential Price Control Authority which will then terminate after 5 years.

The problems generated by this ill-conceived proposal are legion.

First, to roll back domestic oil prices by $1.09 per barrel will have the inevitable result of decreasing our domestic petroleum production efforts and, therefore, increasing our already precarious degree of reliance upon high priced foreign oil sources. In fact, if we assume that predictions of price decreases of 3½ to 2½ cents per gallon at the point of final consumption are true, we can also assume that oil consumption will rise even higher than today's levels which will also contribute to our need for high cost foreign imports.

Still another monumental pitfall of the pricing policy set forth in S. 622 is that it will severely curtail the expected Alaskan oil production, which potentially represents 40 percent of our new oil recovery. To be more specific, as high cost Alaskan oil comes onsteam, the President will find it necessary to reduce prices for many other producers in the lower 48 States in order to maintain the composite average within $7.66. I had hoped that we would begin to reap some of the fruits of the Trans-Alaskan Pipeline Act when Alaskan oil is first delivered to market—now scheduled for sometime during the summer of 1977. Yet this is nearly 2 years away and during that 2 years, we will be using more and more of our lower 48 reserves, forcing these producers into deeper wells, tighter rock formations, and secondary and tertiary recovery techniques. So, as time goes on, when we should be providing more attractive price incentives for lower 48 oil recovery, we will actually be presenting those producers with price reductions which will become more severe as the need for incentive becomes more acute. This is exactly the opposite direction from where our pricing policy should be taking us.

S. 622 attempts to correct this policy of blatently backward economics by providing that on February 15, 1977, or at the close of every 90-day period thereafter, the President may recommend to Congress that up to 2 million barrels per day of Alaskan oil be excluded from the computation of the composite price as long as the price of this excluded oil does not exceed the highest actual price permitted for any other classification of domestic crude oil. The President's recommendation, however, may be disapproved by either House of Congress within 15 days. On its face, this may appear to be a reasonable approach, since in all probability, Alaskan oil will not be ready for market until 1977. Yet much remains to be done between now and the next 2 years if we expect Alaskan oil to come onstream as scheduled. For instance, in addition to the estimated $7 billion cost of constructing the Alaska pipeline, it is anticipated that an additional $7.6 billion will be needed to drill out Prudhoe Bay. Of this $14 billion total, less than one-fourth has already been invested—meaning that $6 billion must be raised over a 20-month period. However, neither investors nor producers nor anyone else will know what

the exact price or profitability of Prudhoe Bay oil will be at least until February 1977, when the President submits his first Alaskan recommendation. Consequently, it will be extremely difficult to raise the necessary $6 billion within the next 20 months without the assured knowledge that the high cost of Alaskan exploration and development can be recovered.

Moreover, since this bill raises the possibility that Congress may not allow Alaskan oil to come in at its full market value, investors may choose not to take the risk of developing higher cost fields. Indeed, an analysis of this bill by the State of Alaska indicates that, as a result, the recovery of hundreds of millions of barrels of Alaskan oil could be delayed.

What perplexes me about this issue is why we must wait until 1977 to see whether or not sales of Alaskan oil will impair the enhancement of production in the lower 48 States. It should be obvious to anyone today that the effect of Alaskan production will be to increase the amount of new oil, and accordingly make it necessary to drop the price of oil recovered in the lower 48 when the additional supplies of high cost Alaskan production is added to the composite ceiling.

Still another obstacle arises, because it is certainly reasonable to expect the President, when he designs a pricing system which will fit into the composite price limit, to establish more than the two price tiers than we have today. We can, therefore, anticipate the administrative problems associated with the current entitlements program to be compounded because instead of merely attempting to equalize refiner costs within the context of two price levels, the Federal Energy Administration will have to equalize refiner costs of a multitiered pricing system.

As I have said before, the President may choose to take inflation into account or to provide a production incentive during his initial formulation of the pricing scheme or every 3 months thereafter. However, he must first make certain conclusions which are subject to both judicial review and congressional disapproval. Since investors cannot predict the actions of Congress or how long it will be before the President's price categories have cleared the courts, it will be impossible for them to predict ahead of time what price crude oil will bring on the market. Congress will have then succeeded in surrounding this country's oil pricing policy with the same kind of uncertainties and delay that I believe have contributed to our present shortage of natural gas. I cannot conceive of a more counterproductive approach.

Furthermore, and most important, what I find most distressing about the pricing policy set forth in this legislation is that it is the offspring of political motivations and not sound economics. To be specific, the oil price rollbacks that will be brought about under this bill are expected to initially save consumers about 2½ cents per gallon—back to where prices were in January of this year—with an obvious political benefit to those facing the upcoming election. Yet these consumer savings will be short lived indeed as we can expect the $7.66 composite figure to increase within a year to a level near today's domestic composite of $8.75. In other words, gasoline and home heating oil prices go down before the election and go up afterwards.

Presumably, the ultimate goal of this legislation is oil price decontrol after 40 months. The Nation's economy has only now begun to adjust to the oil price increases we have experienced as a result of OPEC's cartel action. There is no rationale for taking such a giant step backward by reducing prices only to let them rise again to where we started from in the first place—no rationale, that is, other than politics and I will not play politics with America's energy future. If this Nation is to maintain her position of world strength and influence, we in the Congress should have the courage to rise above the easy path and make the kind of hard decisions that are necessary to meet our energy needs of tomorrow.

I have advocated an orderly phaseout of oil price controls and an excess profits tax, with the revenue thus generated being returned to consumers to help them offset higher energy costs. Conservation would then be encouraged and the Federal Government could assist the private sector to carry out their conservation effort.

However, the provisions of S. 622 now make it abundantly clear that our options for an overall energy program are not merely whether or not to decontrol oil prices. Rather, the price rollbacks contained in this bill depress the price of oil products below their true market value. Consequently, it becomes necessary to heavily inject the Federal Government into the private sector in order to mandate conservation which subjects American business to additional volumes of Federal regulations, expands the Federal bureaucracy's stranglehold on private enterprise, increases operating costs which are ultimately shouldered by consumers, and restricts freedom of consumer choice. As far as I am concerned, this represents a move in the direction of big government at a time when we should be trying to rid the marketplace of unwarranted Government interference.

I believe there is a place for the Federal Government in encouraging energy conservation. However, when we set mandatory standards without fully exploring their impact upon consumer choice, consumer prices, and which will subject private enterprise to still another Federal encroachment on their ability to conduct their own affairs. I do not believe it serves the best interest of the Nation. Both individual consumers and American businessmen are acutely aware of rising energy costs and are accordingly taking measures to conserve. I believe the Government should assist these individuals in developing an effective conservation program rather than substituting the judgment of Federal regulators for that of management with an expanded bureaucracy in a manner which may prove to create more problems than are solved.

However, the ultimate example of S. 622's expanded Government interference into private enterprise is its provision authorizing the General Accounting Office to enter the premises of any business establishment in order to inspect their records or other documents relating to energy information required to be submitted to the Federal Energy Administration, the Department of Interior, or the Federal Power Commission. Some of those affected by this provision include producers, refiners, distributors, neighborhood service stations, automobile manufacturers, and makers of household appliances. Yet, pursuant to title 15, section 771 of the United States Code, the Comptroller General already has the authority to require the production of energy information from the business community. However, the difference between GAO's existing authority and that envisioned by S. 622 is that today the Comptroller General must first obtain the approval of the committee of Congress having legislative jurisdiction over the subject matter before subpenaing energy information—and this is as it should be. The General Accounting Office is not an independent regulatory agency. It is part of the legislative branch of Government responsible solely to Congress and we in the Congress, therefore, have a responsibility to closely oversee their actions. To grant GAO unbridled subpena power over all energy information supplied to Federal agencies will impose auditing duties upon the Comptroller General which may become too monumental to carry out with the limited resources available in the GAO office. Moreover, Congress will have taken a giant step toward creating still another independent Federal agency. We will have avoided our responsibility of overseeing the actions of an arm of Congress and American businessmen will be subjected to another bureaucratic encroachment on their affairs—all to obtain information which we have access to under existing law.

In nearly every section of this bill, the theme of big government is repeated. Big government when we need it the least and when we are trying to cut down on the amount of Federal intervention into the affairs of the private community.

In conclusion, Mr. President, the oil pricing policy proposed by the conference report on S. 622 will not solve America's petroleum problems. It will discourage our efforts for expanded domestic oil recovery, it will encourage energy consumption and increase our dependence upon high-priced foreign energy sources placing our national security more firmly in the hands of the OPEC cartel. This bill injects the Federal bureaucracy more deeply into marketplace transactions with the result of limiting consumer choices and raising consumer costs. It is the product of decisions which are politically advantageous to those facing the upcoming 1976 election and circumvents the difficult choices that must be made to secure America's energy future. I cannot support such a misdirected measure and accordingly urge my colleagues to vote against the conference report on S. 622.

Thank you, Mr. President.

Mr. STENNIS. Mr. President, shortly the Senate will vote on the energy bill. The measure now before us is the culmination of months and months of hearings, discussions, and debates on what this Nation's energy policy ought to be. We have been trying since 1973 to agree on an energy policy and implement it. It has been extremely difficult to get to where we are now because the President has advocated one program and the Congress another. Even within the Congress, it has been difficult to get a consensus because our Nation is large and interests and lifestyles are different from region to region and area to area. A particular suggestion for an energy policy affects people in various States differently, and thus the American people are at odds over what should be done to get this Nation moving forward toward a sound energy program.

We now have before us a bill, Mr. President, which calls in part for conservation and price rollbacks for domestic crude oil and petroleum products. I find myself in an awkward position, Mr. President, because I believe that it is necessary to allow the price of "old" oil to rise gradually because this should provide producers with more capital to explore for more oil, cause conservation, and keep "old" wells producing badly needed oil. I also believe that "new" oil prices should be kept at their present level in order to provide the incentive to explore for and produce additional oil supplies. This is a position I have advocated for many months in caucuses, privately with my colleagues, to the people of my State, and on the Senate floor. I firmly believe that this is the correct approach. I have said all along that if we adopted this method and it did not work, we could always go to something else. None of us fully know what the correct approach should be, but we should make a start.

Notwithstanding my feelings about the pricing part of S. 622, I find myself in accord with the bill, for the most part, as it relates to conservation.

For example, the bill mandates an increase in the miles per gallon an automobile must get. It would provide money for the States to develop and administer energy conservation programs. It would also call for the development and implementation of a plan to increase energy efficiency with respect to the operation of Federal buildings, and it has other vital conservation provisions.

This is an area we have been lax on, although we have made some headway. But conservation is a highly desirable method to help end our dependence upon foreign sources for our oil needs.

Mr. President, we can conserve energy more without adversely affecting our economy. We can be strong and our economy can continue to expand. We must cut out waste and not cut back on the use of petroleum for vital needs. There is much waste involved in our consumption of petroleum and this is what I want to end.

Mr. President, I have concluded, after much deliberation, that I should vote for the conference report. This is a start, a beginning. We can now build on this program, refine it, alter it and make it better. If we do not pass it, or if the President vetoes it, we will once again be at a standstill. We will continue to pass piecemeal legislation, hitting around an energy solution, but not at it. We have got to have a starting point and this bill is it.

I am not going to give up trying to get the pricing provisions changed later on, because on this point I believe this bill takes the wrong approach. But this bill has many fine points and these, I think, for the moment outweigh the bad points. This bill is much better than nothing and that is what we will continue to have if we do not pass it.

This is the way I see this thing now, Mr. President. I hope other Senators will see it the same way.

I urge adoption of the conference report—we cannot wait any longer.

A NATIONAL ENERGY POLICY

Mr. HUMPHREY. Mr. President, this is a most satisfying occasion for the Senate and the entire Congress.

After 10 long months, we have finally pieced together a national energy policy—which, despite President Ford's vacillations, was developed with the administration and one which will take us a long way toward energy independence.

Development of this policy as set forth in the Energy Policy and Conservation Act will have a profound effect in Minnesota and nationally. It will result in an immediate 4 percent drop in oil and gasoline prices.

In Minnesota, for example, it will mean a cut of $60 million in oil costs over the next year; it will cut gasoline prices almost 2 cents per gallon; and industrial users of residual fuels will receive a $5 million cut in their oil bills.

More importantly, passage of this act enables the Federal Energy Administration to allocate Canadian oil exports to Minnesota. This authority is necessary to prevent massive economic disruption and unemployment in the Northern Tier as Canada cuts off oil sales to us. It gives us 2 years of preferential oil supplies—a time period during which new supplies can be developed from outside of Canada.

A DIFFICULT COMPROMISE

This policy is the fruit of a difficult process of compromise; a process characterized by bitter words between Congress and the President; and a process characterized repeatedly by both Presidential and congressional vetoes of energy proposals.

It was a process which evolved through months of hearings; a process which revealed that the fundamental difference on energy between Congress and the President was the issue of oil prices. On issues of oil stockpiling, improved automobile energy efficiency, energy-use labeling of appliances, incentives for greater coal utilization and a host of other components of a national energy policy, Congress and the President have long been in agreement. There were, and still are, differences in degree of emphasis in many of these areas.

For example, the Congress has imposed mandatory auto fuel efficiency standards on Detroit and foreign car producers; the President would have preferred voluntary ones. Yet, the differences are minor in comparison to the yawning gap originally separating Congress and the President on the oil price issue.

THE OIL PRICE DEBATE

As dictated by the Organization of Petroleum Exporting Nations—OPEC—the price of imported crude oil rose from $3.30 per barrel in 1973 to $12.77 per barrel this past January—a 387-percent leap.

This price jump directly and indirectly is diverting $55 billion annually in consumer spending power from the domestic economy to OPEC and our oil companies. This drain pushed us into our current recession, the worst we have experienced for over 35 years, with unemployment soaring to depression-era levels. And this drain of consumer spending power would have been even higher had Congress not frozen prices on two-thirds of our domestic oil at $5.25 per barrel in December 1973.

The oil price debate focused on congressional efforts to retain these controls against the administration's efforts to free oil prices and allow them to float up and equal the OPEC oil price level.

The stakes in this debate were enormous, with consumers and oil companies, respectively, standing to lose and gain the most. Complete decontrol of oil prices, as urged by the administration, would have transferred directly and indirectly as much as $25 billion to oil companies from consumers. It would raise gasoline prices 10 cents per gallon.

TO DECONTROL OIL PRICES OR NOT?

President Ford's position was clear: Higher oil prices would force consumers to reduce oil consumption; the enormous oil company profits would fuel a new spurt of domestic oil exploration. In short, the President contended that decontrol would reduce our oil imports and render us less vulnerable to economic disruption by an Arab oil boycott.

Congressional Democrats argued that oil price decontrol would have exactly the opposite effect. By freeing all oil prices, decontrol would result in domestic prices always equal to that price set by OPEC: when OPEC raised prices, all U.S. domestic oil would rise along, too.

With oil price decontrol, then, OPEC would dictate the price charged for our own oil—leaving us far more vulnerable to economic disruption than any Arab boycott ever could. After all, we had no trouble finding eager non-Arab nations, such as Venezuela, Indonesia, and Nigeria, willing to sell us oil in the winter of 1973–74; our problem was the inept Federal oil allocation program and not a lack of imported oil. The real danger posed in 1973 and posed still today by OPEC is the loss of consumer spending power—drained abroad by ever-raising oil prices. Put simply, any OPEC price rise will drain much more spending power from consumers with decontrol, than with continued price controls.

There are other persuasive arguments against the administration's policy of decontrol. For one, the administration's own data revealed that decontrol would

cut oil imports by less than 10 percent in 1980—a small benefit to receive for taking $25 billion every year from consumers. For another, the oil companies are hardly in need of new capital for oil exploration; many oil firms, in fact, had seen profits rise 400 or 500 percent in 1974 and 1975—with even brighter prospects ahead.

But the most telling argument against oil price decontrol was the state of the economy itself. Studies by the Joint Economic Committee, the Congressional Budget Office, and many private economic analysis concluded that oil price decontrol would push us into another recession—just as we were stumbling out of our worst recession since the 1930's. Put simply, the fragile state of our economic recovery could not absorb the massive debilitating impact of oil price decontrol.

The oil price decontrol issue was felt with such intensity by both Congress and the President that establishment of a national energy policy awaited resolution of that issue. But it was not an issue easily resolved.

The oil price decontrol debate was joined in January when President Ford urged decontrol—and imposed a $1 tariff on imported crude oil. This raised new domestic oil and all foreign oil to almost $12.50 per barrel. In February, Congress passed H.R. 1767, designed to eliminate this tariff and force oil prices down. But on March 4, the President vetoed this legislation—and later added another $1 to the tariff, pushing new domestic oil and foreign oil to $13.50 per barrel by mid-year.

This past summer, President Ford twice offered schemes to decontrol oil over 2 or 3 years—and both times Congress rejected his proposals. Congress in turn passed S. 1849 and H.R. 4035 designed to extend oil price controls to 1976 while rolling back new domestic oil prices. President Ford, in his turn, vetoed each of these bills.

Finally, in the midst of this stalemate on October 1, OPEC raised foreign crude oil prices by 10 percent, pushing prices to more than $14.50 per barrel—a total 439 percent price increase in under 2 years. In an effort to offset the economic impact of this price rise, I offered the OPEC Price Reduction Act of 1975 on September 30. This legislation, S. 2431, was designed to slash the administration's oil tariff by an amount equal to the OPEC price rise.

OIL PRICE COMPROMISE

Facing the alarming prospect of sudden oil price decontrol on November 15, Congress and President Ford were confronted with a difficult choice: They could continue the increasingly acrimonious and seemingly endless debate over decontrol; or they could compromise on the issue of oil prices and clear the way to establishment of a national energy policy.

Congress was able to forestall the administration's decontrol scheme and the President was able to forestall a continuation of price controls. Compromise was necessary and compromise we did.

The oil price issue was settled with Congress demanding and receiving an initial oil price cut of some 4 percent—a cut designed to accelerate our economic recovery and reduce unemployment. The administration received, on the other hand, agreement that oil prices will rise starting in 1977 in step with the rate of inflation—a rise designed primarily to stimulate further oil exploration. Finally, Congress agreed to review all oil price levels and controls in 1979 and decide at that time whether decontrol is then warranted.

It was a compromise designed to assist in our economic recovery while also stimulating oil production. And it was a compromise that opened the path to passage of the Energy Policy and Conservation Act—the foundation of our National Energy Policy. All should understand that Congress acted on good faith in this compromise under the assurance of Mr. Frank Zarb, the head of the FEA, that this compromise was acceptable to the Ford administration.

COMPONENTS OF OUR NATIONAL ENERGY POLICY

This act focuses on three major areas in addition to the issue of oil prices.

First, specific steps are established to increase the domestic supply of energy.

Second, a variety of programs to encourage energy conservation are set out in detail.

Third, broad discretionary authority is granted to the President to limit our energy exports and to deal with embargoes by foreign energy producers.

I will attach a detailed summary of the entire Energy Policy and Conservation Act prepared by the Senate Interior Committee at the conclusion of my remarks. In addition to these noted provisions, the Senate attached a provision establishing strategic oil reserves. This provision has already been passed by the Senate as S. 677, on July 8, and significantly increases the scope of the act. It provides for up to 1 billion barrels of crude oil to be stored domestically—thereby enabling us to effectively deal with future oil embargoes.

While these provisions are extensive, there are a number of additional provisions which should also be part of our National Energy Policy. These additional steps are designed to accelerate energy conservation, thereby making energy independence a reality. These further steps are outlined in S. 1149, the National Energy Conservation Act of 1975, which I sponsored last spring. These additional provisions include:

Tax credits for insulation of homes, offices, and factories;

Tax credits for the installation of solar energy devices and to encourage utilization of coal as a boiler fuel;

Massive, new Federal research program to increase the energy efficiency of autos, appliances, solar energy devices, and home heating and cooling systems;

Greater compliance with the national 55 miles-per-hour speed limit.

In addition, I would urge my colleagues to act speedily on S. 2439—legislation I recently offered to accelerate the recycling of urban solid waste. The Federal Energy Administration estimates that this single step will save our 500,000 barrels of imported oil a day.

A NOTE OF CAUTION

Passage of the Energy Policy and Conservation Act is a very positive development in our efforts to achieve energy independence. I urge the President to sign this important legislation to establish a national energy policy. But let me speak frankly. Our economy is not yet on a sound path to recovery. Real output grew only two-tenths of 1 percent in November. Unemployment has been virtually unchanged at 8.3 percent for 5 months. The Federal Reserve Board has been pursuing such a contradictory monetary policy that from mid-September to mid-November, the money supply actually declined.

There is little prospect that unemployment will fall while our economic growth remains anemic. And the Paris-based Organization for Economic Cooperation and Development now estimates that our economic growth will remain low well into the future. In fact, they predict that it will be so anemic that our total output during 1976 will only equal that obtained in 1973, and no higher.

We should recognize that the modest economic stimulus provided by the 4 percent oil price cut provided by the Energy Policy and Conservation Act will not significantly alter this situation. A minor 1-year cut in oil prices certainly will increase our economic growth—but not enough to do much to reduce unemployment.

In short, we cannot view the oil price reduction provided in this legislation as a substitute for continued Federal policies designed to spur economic recovery. We still must have a tax cut this January. We still must aggressively fight inflation. And we still must argue for an expansionary Federal Reserve policy.

Mr. President, I ask unanimous consent to include in my remarks at this point an outline of the Energy Policy and Conservation Act prepared on November 13 by the Senate Interior Committee.

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

ENERGY POLICY AND CONSERVATION ACT

Final agreement was reached by House and Senate conferees on November 12, 1975 on the Energy Policy and Conservation Act. This legislation establishes a comprehensive national energy policy to:

(1) Maximize domestic production of energy supplies and provide for strategic storage reserves for petroleum products;

(2) Reduce consumption through energy conservation programs;

(3) Set an oil pricing policy that will encourage domestic production in a manner consistent with economic recovery and price stability; and

(4) Authorize emergency standby measures to minimize the impact of disruptions in energy supplies.

In the short term, this legislation will reduce our vulnerability to increases in import prices, and will insure that available supplies will be distributed equitably in the event of disruptions in petroleum imports.

For the long run, this legislation will decrease our dependence upon foreign imports, enhance national security, achieve the efficient utilization of scarce resources, and guarantee the availability of domestic energy supplies at prices consumers can afford.

I. MEASURES TO INCREASE DOMESTIC SUPPLY

The legislation takes direct action to increase domestic oil production and promote the development and use of alternatives to petroleum and natural gas. The measures agreed to will:

Extend the authority of the Federal Energy Administrator to direct powerplants, and other major fuel burning installations, to convert to the use of domestic coal;

Increase competition in the oil industry by limiting joint venture bidding by major oil companies in the development of crude oil or natural gas on the Outer Continental Shelf;

Promote the use of recycled oil;

Authorize the President to restrict exports of energy supplies and energy-related materials under certain circumstances; and

Authorize the President to require the production of crude oil and natural gas from designated fields at the maximum efficient rate of production or the temporary emergency production rate;

II. ENERGY CONSERVATION PROGRAMS

The Energy Policy Act establishes aggressive and effective programs for energy conservation designed to achieve security of energy supply and the maximum efficient utilization of our energy resources.

This legislation contains provisions that:

Establish mandatory average fuel economy performance standards for new passenger automobiles and new light duty trucks;

Require energy labeling of major home appliances and certain other consumer products, and authorize energy efficiency standards for major appliances;

Authorize block grants-in-aid for states to assist in the development and implementation of state-administered energy conservation programs; and

Establish a program to encourage increased efficiency of energy use by American industry.

These provisions are premised on the belief that energy efficiency can and must be accomplished by orderly conservation programs rather than through steep price increases that would hamper the Nation's economic recovery, increase unemployment, contribute to the inflationary spiral and impact regressively on consumers.

The following are the major features of the key energy conservation measures approved by the conference committee:

Fuel economy performance standards

Mandatory fuel economy performance standards are established for passenger automobiles and other light duty highway vehicles. Standards for passenger automobiles would be applicable in model year 1978 and thereafter.

Each manufacturer or importer of passenger automobiles would be required to achieve the following fleet average fuel economies: 18 mpg in model year 1978, 19 mpg in model year 1979, 20 mpg in model year 1980 and 27.5 mpg in model year 1985 and thereafter.

Standards for model years 1981–84 would be set by the Secretary of Transportation at the maximum feasible level. The Secretary would also set standards for vehicles other than passenger automobiles at the maximum feasible level for each model year.

If a manufacturer or importer failed to meet the required average fuel economy standard, he would be liable for a civil penalty, which could be waived or modified under certain conditions.

A labeling program for new passenger automobiles and other new light duty highway vehicles would also be instituted, as would a program to test the fuel economy improvement potential of retrofit devices—devices capable of being added to existing vehicles to increase their gasoline mileage.

Appliance labeling

The Energy Policy Act would require test procedures for, and energy efficiency labeling of, major home appliances and certain other consumer products using more than 100 kilowatt-hours of energy per year. This will provide consumers with information essential to making an informed judgment in the purchase of appliances.

The label must include representative annual operating costs associated with the use of these products unless the FEA determines that labeling would not be feasible or would not be likely to assist consumers in making purchasing decisions.

If the FEA prescribes a labeling rule for a class of major household appliances and then finds (1) that labeling will not suffice to induce manufacturers to produce (or consumers to purchase) products of that class which achieve the maximum energy efficiency which is technologically feasible, and (2) that the benefits of increased energy efficiency outweigh any increased consumer costs and any decrease in utility of the product, the FEA is authorized to prescribe an energy efficiency performance standard for that class of product. The FEA would be required to exercise this authority in certain cases where industry is unable to achieve energy efficiency improvement targets which would be set by the FEA for major home appliances. These targets would be set at the maximum level which would be economically and technologically feasible, and would require at least a 20 percent overall improvement in energy efficiency for new major home appliances in 1980, in comparison to 1972 levels.

State energy conservation programs

This legislation authorizes a $150 million Federal grant-in-aid program to assist States in developing and administering State energy conservation programs. These programs will have as a target a 5% reduction in energy consumption by 1980 below levels projected for that time.

The legislation identifies conservation measures to be implemented by the States, but calls for administration of the programs on the State and local levels.

State programs would include the following energy conservation measures:

Lighting efficiency standards and restrictions on hours of public buildings;

Programs to promote carpooling, vanpooling, and public transportation systems;

Energy efficiency standards for public buildings; and

Thermal efficiency and insulation requirements for new and remodeled buildings.

Within these federal guidelines, States would establish conservation programs in a manner tailored to local economic geographic and climatological conditions. This legislation thus provides impetus, direction and financial assistance for energy conservation while protecting the States' interest in self-determination and local control.

Federal energy conservation programs

In addition, all Federal agencies would be required to develop a ten-year plan for energy conservation. This plan would deal with lighting standards, construction guidelines, restrictions on hours of operation, thermostat settings and other conditions related to the operation of Federal buildings.

Industrial energy efficiency

The goal of the industrial efficiency program is to increase the national average industrial energy efficiency by the maximum feasible amount by January 1, 1980. The Energy Policy Act recognizes that industry must share responsibility for attaining the goals of energy independence and wise utilization of scarce resources. The Project Independence Blueprint estimates that the energy equivalent of 400,000 to 600,000 barrels of crude oil per day can be saved in the industrial sector in the 1980's.

Industrial energy efficiency targets would be set for the ten most energy-intensive industries. Each target would represent the maximum possible improvement in industrial efficiency which a particular industry could achieve by January 1, 1980. The 10 most energy-intensive industries would be required to report annually on their programs in attaining energy-efficiency targets.

III. OIL PRICING

The Energy Policy Act establishes a pricing formula for domestically-produced crude oil which provides for an initial oil price rollback and authorizes gradual increases in the prices received by domestic producers over a 40-month period. The new oil price policy:

Establishes a domestic composite price of $7.66 per barrel. This represents a rollback of $1.09 from the current domestic average estimated by FEA at $8.75 per barrel. In combination with the removal of the $2 per barrel import tariff, this program will result in a significant reduction in current petroleum prices.

Grants the President broad flexibility to administratively set prices for various categories of oil production so long as the average domestic price does not exceed the composite price of $7.66 established by the Act;

Permits upward adjustment in the domestic composite price to take account of inflation, and, if the President finds it necessary, to provide an additional increase in the composite price of no more than three percent per year as an incentive for the development of high-cost and high-risk production or to encourage the application of enhanced recovery techniques. The sum of these two adjustments may not exceed 10% per year unless further authority to modify the upward adjustment rate is obtained;

Allows the President to submit to the Congress at three month intervals following enactment, proposals to modify the 3 percent incentive adjustment and the 10 percent ceiling on adjustments if the President finds that such a modification is likely to result in an increase in domestic production. These proposals would take effect unless disapproved by either House or Congress under expedited review procedures;

Directs the President to submit to Congress on February 15, 1977, an analysis of energy supply, demand and import relationships that have evolved under the Act;

Directs the President to submit to the Congress on April 15, 1977, a report on the impact of anticipated Alaskan oil production levels and prices on domestic oil prices and on incentives to increase and maintain production in the lower 48 states. The President may then propose, subject to Congressional review, the exclusion of up to two million barrels per day of Alaskan production from the composite price ceiling and the establishment of a separate ceiling for this production not to exceed $11.28 per barrel as adjusted for inflation;

Converts the oil price control authority described in the Act to standby status at the end of 40 months; and

Provides that the standby authority terminates after five years.

IV. STANDBY ENERGY AUTHORITIES

This legislation grants standby energy authority to the President, subject to Congressional approval in certain instances, to develop and implement regulations mandating the conservation of energy and the rationing of fuels in the event of a severe energy supply interruption. These provisions enable us to prepare now for any future severe energy supply interruptions.

The provisions authorize the President during periods of acute energy shortages to take specific actions to conserve scarce fuels, to alleviate fuel shortages and to increase domestic energy supplies.

The legislation provides for energy conservation, rationing and contingency plans to be developed to reduce non-essential energy consumption and assure the continuation of vital services in the face of severe energy shortages.

The conference substitute contains the following standby powers:

To prescribe energy conservation plans (including rationing plans);

To authorize actions necessary to carry out U.S. obligations under the International Energy Program;

To authorize persons in the oil industry to develop and carry out voluntary agreements for international oil allocation. The Attorney General could grant limited antitrust immunity with respect to such agreements;

To authorize the President to transmit information to the International Energy Agency.

The energy conservation authorities may be exercised if:

(1) a contingency plan for the exercise of the authorities has been approved by concurrent resolution of the House and Senate;

(2) the President has determined that implementation of the contingency plan is required by a severe energy supply interruption or the International Energy Program.

In addition, a plan which provides for rationing cannot take effect if either House of Congress disapproves the President's request to implement the contingency plan.

The authority respecting international voluntary agreements and the international information exchanges may be exercised at any time in order to carry out the International Energy Program.

V. GENERAL PROVISIONS

The legislation sets forth provisions of general applicability relating to procedural requirements for agency actions, judicial review, and enforcement.

Disclosure of financial interests

Among the more important provisions, employees and officers of the Federal Energy Administration and the Department of the Interior who perform regulatory or policy-making functions under this legislation are required to disclose their financial interests in oil, natural gas, or coal. This provision insures that the legislation will be administered in an even-handed, disinterested fashion, and that no one group or special interest will benefit at the expense of others forced to assume unequal burdens.

Verification audits of energy information

The legislation also authorizes the Comptroller General to conduct verification examinations to verify the accuracy of energy and financial information filed with Federal agencies.

This provision will permit independent and objective evaluation of energy data from which realistic projections can be made and on which future energy policy decisions will be based.

SMALL REFINERS WHO ARE SELLERS OF ENTITLEMENTS

Mr. INOUYE. Mr. President, there is a general consensus that this bill must provide some relief for the small refiners in their attempts to compete with the major oil companies. I believe that section 403 does include some relief for small refiners, but it leads to some questions as to the intent of the conference committee and the implications of the language in section 403.

Section 403 grants relief from the obligations to purchase entitlements for small refiners of less than 100,000 barrels per day capacity for the first 50,000 barrels per day of throughput. As you are presumably aware, the majority of small refiners of less than 100,000 barrels per day capacity are sellers of entitlements, not buyers.

On the basis of the August entitlements list, I am informed that 37 "small" refiners would have benefited from this exemption while many other small refiners would have their costs increased in order to pay the bills. There seems to be some lack of clarity as to both the intent of the conference committee and the identity of the beneficiaries of this exemption.

Could you clarify the legislative history on this provision in two areas:

First, was it the intent of the conference committee that all small refiners receive the benefit of this exemption? and

Second, if the answer to the first question is yes, how does section 403 provide equitable relief for those small refiners whose capacity is less than 100,000 barrels per day, and who are sellers of entitlements, not buyers?

Mr. JACKSON. One of the basic purposes of the Allocation Act—in section 4 (b) (1) (D)—was to provide for the preservation of an economically sound and competitive petroleum industry, including the priority needs to restore and foster competition in the refining sector of that industry and to preserve the competitive viability of small refiners.

The answer to your first question is yes. The general intent of the conference committee was to assist all small refiners with a capacity of 100,000 barrels per day or less. The entitlement exemption was considered as a method to assist small refiners to compete with the large oil companies without creating unfair competitive advantages among themselves. If small refiners who are entitlement sellers are disadvantaged relative to other small refiners S. 622 contains specific provisions which underline the authority already in the Allocation Act which permit the President to eliminate this disadvantage. The conferees would expect him to do so expeditiously.

Within the framework of the basic Allocation Act regulation the President, if he finds it necessary to achieve the purposes of the act, particularly the purposes of 4(b) (1) (D), has the authority to increase the entitlement allotment to small refiner sellers to eliminate competitive disadvantages. Nothing in S. 622 alters or diminishes this authority.

In addition, section 455 of the conference report adds to the Allocation Act a subsection specifically permitting the President to amend the regulation subject to congressional review, with right of disapproval, in the event that the exemption from payments for certain small refiners contained in section 403 of S. 622 results in unfair economic or competitive advantage with respect to other small refiners or otherwise has the effect of impairing the achievement of the objectives of the act including the purposes outlined in 4(b) (1) (D).

It is clear from the language of the bill that the conferees intend to provide a benefit to small refiners. It is also clear that the conferees intend that this benefit not create undue economic or competitive distortions among small refiners and that the President have the flexibility to deal with such distortions should they arise. The mechanism by which these benefits are distributed among small refiners could, if the President finds it necessary, include the use of additional entitlement allotments for small refiner sellers.

Mr. MONTOYA. Mr. President, the Senate will soon be considering S. 622, the Energy Policy and Conservation Act, as reported out of conference. The importance of this bill cannot be overemphasized. It is a vital step as we move closer to formulating a comprehensive energy policy. I would like to commend my colleagues in both the Senate and the House for their hard work in conference committee on this legislation. It is with deep regret that I must state that I cannot support the bill as it now stands, in spite of its many valuable aspects.

Energy production and pricing are both important lifelines to our sick economy. Solving energy problems will help us to solve other problems. For that reason, this issue transcends all other domestic issues at this time.

We have seen how international actions have affected our domestic energy policy through price increases and supply insecurity. The OPEC oil embargo and our increased and growing reliance on foreign oil must be considered when we work on this legislation. They cannot be ignored.

The conferees on S. 622 set important goals for the Energy Policy and Conservation Act. They sought to include maximizing domestic production. All of these goals were established to relieve us from the growing influence of foreign energy suppliers and to further bolster our own economy.

Mr. President, even though we are indesperate need of a workable energy policy, and even though this bill contains many provisions to provide that policy, I still must oppose the bill as it is being reported out of conference. I do so because of the absence of what I consider to be a workable oil pricing section that would benefit the total national energy effort. I have long supported a phased decontrol of oil prices in order to protect both the consumer and the producer. I have long supported efforts to create added incentives for increased domestic production. The pricing section in S. 622 would keep controls on the price of oil for an additional forty months, without actually attempting to phase these controls out slowly. It would, therefore, provide no incentives for increased domestic production.

I am aware that the composite price of $7.66 per barrel could be tiered in any way the administrations deems appropriate, but with this $7.66 price, all flexibility to stimulate production is gone. Let me review the provisions of this bill as I understand them:

First, with the composite per barrel price of all domestic oil being set at $7.66, one can assume that the price of old oil will remain roughly at $5.25 per barrel, Old oil, as it is currently defined, includes oil that is produced by secondary and tertiary methods. We are all aware of the various methods used in these difficult recovery processes, and the cost involved. If legislation is enacted which perpetuates the low price received

by producers who use secondary and tertiary recovery techniques, this oil which is so desperately needed will remain underground. Producers will simply not be able to recover secondary and tertiary oil and still remain in business. We must allow for price increases for this critical kind of oil in order to stimulate production and provide appropriate incentives to producers.

In correspondence from producers in my home State of New Mexico, I have been constantly reminded of the need for prices for secondary and tertiary oil which will be consistent with the costs involved in using these recovery methods. In spite of this need, the price for old oil has remained at approximately $5.25 per barrel, while the cost for recovery has increased rapidly with inflation. Proponents of the pricing section of S. 622 counter this fact with the argument that the administration could raise prices if it was necessary. But in doing so, prices of oil in other classifications would have to be lowered in order to maintain the composite price of $7.66. This "robbing Peter to pay Paul" philosophy only hinders our total energy effort. Surely the Congress of the United States is capable of providing a more realistic and honest pricing ratio. In this area we must rely on cooperation and cohesiveness in order to provide for our country's energy requirements—not only today but in the years immediately ahead.

My second reason for objecting to the oil pricing section of this bill centers on the effect it would have on the independent oil producers. Most of the oil produced in New Mexico is a result of the effort of independents. Most exploration and increases in domestic production come from the independents. We are dependent on these small companies now and we will be even more dependent on them in the future, unless we drive them out of business entirely. I believe that S. 622 would seriously discourage and depress production from these small independent firms, through price rollbacks, while at the same time it would accelerate the consumption of domestic crude oil. The end result of this would be an increase of our reliance on foreign energy suppliers.

Independent producers, last year, accounted for 90 percent of the exploratory wells drilled domestically for new oil and natural gas resources. Yet the price rollback in S. 622 would have a strong impact on new and stripper well oil, subjecting 60 percent of the production by independents to the rollback. Even worse, it appears that as much as 20 percent of the gross oil revenues of these independent producers would be lost in the first year of enactment of this bill. This loss of revenue would have a severe negative impact on the operations of those who are doing most of our domestic exploration. Once again, we can see the counterproductive effects of the oil pricing section of this bill.

Mr. President, it seeems that the Congress established good and necessary goals to achieve energy independence and then turned right around to produce legislation which would keep us from reaching those goals. In my opinion, if the pricing provisions of S. 622 are enacted, the result would be the premature abandonment of many oil wells, the abandonment of the higher-cost secondary and tertiary projects, and a general retardation of domestic exploration and development drilling. The result of that will be less domestic production and a greater reliance on foreign oil. Most importantly, our economy, which has begun a very wobbly recovery, would suffer immediate setbacks if the domestic production of energy is hampered by these pricing regulations.

Mr. President, I urge my colleagues to vote against the acceptance of this conference report. I urge the conferees to go back to the drawing board. If we are ever to formulate a comprehensive and intelligent energy policy, we must find a way to reduce our Nation's dependence on foreign oil, increase the domestic production of energy of all kinds, explore alternative sources for future development, and curtail consumption for greater conservation. S. 622, as reported out of the conference, would only increase our dependence on foreign oil and decrease our domestic production. It contains no incentives for greater production, and it rolls back domestic prices substantially more than current market conditions.

I believe that it is possible for us to produce legislation which will reflect our energy goals, both for this year and for the future. I urge every Member of the Senate to insist that we write that kind of well reasoned and pragmatic bill. We cannot afford any other kind of legislation on energy policy.

Mr. HOLLINGS. Mr. President, let me say, at the outset, that while I intend to oppose passage of S. 622, it does contain several important elements of a national energy policy, and I support those provisions. Since the Arab embargo, the administration and the Congress have been at odds over the substance of our national energy policy—and the American public has been the loser. The administration has opted for the high priced approach to solving our energy crisis, and gasoline is now approaching 70 cents. The Congress has opted to use the regulatory approach by establishing goals and standards, but congressional action has been slower than we had hoped and hence it is especially significant to see so many of our proposals packaged in this bill.

Any national energy policy must place great emphasis on conservation of our available energy resources and many of the programs authorized in S. 622 are desirable steps to conservation. Provisions similar to the automobile fuel economy bill, S. 1883, which passed the Senate earlier this year, are contained in this bill. These provisions will assure us of a 50-percent improvement in new car fuel use by 1980 saving us 800,000 barrels of oil per day in that year and 2 million barrels by 1985. Further, S. 622 contains provisions for the improved energy efficiency of major household appliances as well as labeling requirements to disclose energy consumption information. Aided with Federal grants, States are encouraged to develop their own energy conservation plans, and industry is encouraged to reduce fuel consumption through voluntary conservation programs.

To support reduced reliance on oil and natural gas, the bill would establish guaranteed loans up to $750 million to small coal operators to encourage increased production. Further, the existing authority to order powerplant conversion to coal from oil or natural gas is extended. And to help us avoid the consequences of another Arab oil embargo, an oil reserve of 90 days is established.

Under the terms of this provision, 150 million barrels would be stored in existing storage tanks, and funds are provided to build storage facilities for the remainder of the reserves, which, over the next 7 years, would approach a billion barrels. So that the Congress can begin to formulate and adjust energy policy based on reliable information, the bill contains authority for the GAO to audit the books of any oil company if requested to do so by a congressional committee.

All of these provisions are salient. Many of them have passed either or both Houses of Congress as separate legislation, and I have no doubt that these provisions could pass on their own and be signed into law.

Unfortunately, however, everything good about this bill is tied to the pricing provisions which are overwhelmingly bad. I can think of no better way to describe the pricing provisions in S. 622. Upon close examination, I think my colleagues would agree with me today that the Congress is being asked to buy a whole loaf of bread when only five or six of its slices are unspoiled. I am not going to buy it.

Let us dispose of the belief right now that the pricing provisions of this bill will increase domestic production or cut down on our imports. Pricing provisions simply will not accomplish this end, and the proof is readily available. The administration has had its way for over 2 years with high prices, and all the while our domestic production has declined. Domestic production, in fact, has declined steadily since the Arab embargo in 1973, despite an increase in price from $3 to $13 per barrel. The FEA itself admits that "the decline since July 1973 has averaged about 220,000 barrels per day each quarter. The 8,294,000 barrels per day produced in July—1975, the latest month for which data is available—was the lowest monthly average for the past 9 years." To counter this decline in production, we have had to increase our imports. Again quoting the FEA:

> To offset falling production, crude imports rose to a record high of 4,331,000 barrels per day. (Source: Monthly Energy Review, September 1975, FEA.)

There is only one way to increase domestic production, and that is through direct, positive action. This country desperately needs an Energy Production Mobilization Board to correlate the data, identify our energy needs and set a course for meeting those needs. I have been urging the creation of an Energy Policy Council for 5 years and an Energy Production Board for 2 years, but we have yet to see any action. Further, since most

of our new oil is located on Federal lands, we can increase production by requiring development of Federal leases within specific periods of time and enforcing these requirements. We can also clear the remaining hurdles to offshore production by enabling the States to plan for the onshore impacts of this production. These are all positive measures to insure increased production, included in other legislation before Congress, for the most part.

The only real purpose to be served by price controls is to reassert U.S. control over domestic oil prices at a reasonable, not monopolistic, level. The bill fails in this purpose so seriously as to undermine the potential benefits of a national policy.

The oil pricing provisions in this conference report are not a compromise. They are a sellout. In an attempt to cooperate with the administration so that the bill will be signed, we have lost sight of the whole purpose of establishing oil prices by legislation—namely, to roll back the price of oil so that this country will be setting the price for our oil rather than having it set by the OPEC cartel.

This bill establishes a ceiling price for new oil somewhere between $11.28 and $11.50, depending on whose estimates you use. At the present time, "new" domestic oil is selling at $13, and this price includes the $2 tariff. None of us believe for a minute that the tariff will not be eliminated soon, either by the courts or by the President. So by establishing an average price of $7.66 and thereby allowing new oil to rise to at least $11.28, we would establish a price for new oil in excess of what the natural course of events would establish once the tariff is removed. We would legislate the worst of all possible worlds. Congress would be in the business of price setting, itself highly undesirable, and, at the same time, the legislated price would be higher than what OPEC actions would set. If we accept the pricing actions of OPEC as being arbitrary and capricious, then, by implication, the legislated price of $11.28 is arbitrary and capricious, because it is no different than that established by OPEC.

This is a subsidy, not a rollback. Congress is building a floor for big oil, not a ceiling.

I would be the first to contend that, because of OPEC, there is no viable market in operation which can establish a price which relates to the cost of production—hence, the need for legislated oil prices. But, once we decide to step in and take over pricing, then it is incumbent upon us to establish a price that is in line with these costs of production, and which, of course, would include incentives for additional domestic exploration and production.

The bill does not do this.

Not only in the initial ceiling price established by the bill too high, but the bill also guarantees periodic increases in the price of oil for the 4 years of the program. First, in its generosity, the legislation would allow the price of oil to rise by the GNP plus 3 percent upon a "finding" that this additional 3 percent would lead to increased production. Thus, the industry would be guaranteed at least a 10 percent annual increase in the average price with a minimum of findings by the administration.

I have asked the Library of Congress to prepare a graph of oil prices and inflation over the past 20 years. Unfortunately, graphs cannot be reproduced in the RECORD, but I would show my colleagues here the clear case made by this graph that crude oil prices and inflation never tracked one another until the 1973 embargo. For the entire period 1955 to 1973, the GNP deflator steadily increased—from 90 to 160—while oil prices remained relatively stable, only increasing from $2.75 per barrel to $3.75. From 1963 to 1973, the GNP deflator increases continually outpaced oil prices.

As you can see, oil prices have never enjoyed the ability to track inflation—and that is precisely the point being made in prenegotiations by the OPEC cartel wherein they are seeking world inflation increases. This bill's guaranteed inflation increase completely undercuts our negotiating position with the OPEC cartel. How can this country contend that the oil cartel should be denied an inflation increase which we have given to ourselves?

The administration has called the $7.66 price and this escalator their "bottom line." I would remind my colleagues that when the OPEC cartel announced their September increases, based on world inflation rates, Mr. Zarb labeled the action outrageous. Yet 2 months later, he was requesting that it be written into the law.

In addition to the 10-percent annual increases I just noted, the administration may allow prices to skyrocket through the use of several other authorities in the bill. First, upon a finding that increases in excess of 3 percent are needed for increased production, the administration may further increase prices every 3 months, subject to congressional disapproval. On February 15, 1977, they may recommend permanent changes in the 10-percent ceiling and in the 3-percent production adjustment. On April 15, 1975, they may recommend exempting Alaskan oil from the composite price using the same fallacious arguments that we heard during the conference—about the alleged exorbitant costs of production in Alaska. Granted transportation costs will be high, but the prices set in this bill are wellhead prices, and Alaskan oil is the cheapest oil to produce that we will see come on line.

For example, even assuming field development costs are $7.6 billion, and that is a very high assumption, at 10 percent depreciation and a 15 percent rate of return, the cost per year is $1.96 billion. This results in a wellhead cost of $2.61 per barrel—$1.96 divided by 740 million barrels per year. As to transportation costs, if the pipeline and tankers cost $7 billion, at 5 percent depreciation and a 15 percent rate of return, the cost per year is $1.4 billion, or $1.90 per barrel. Hence, the oil would arrive at the refinery costing $4.51 and even at a refinery price of $10, this leaves $5.49 per barrel to be divided between the State's royalty and taxes—20 percent of $5.49 equal $1.10—and the companies net profit—80 percent of $5.49 equals $4.39.

I have no doubt that the present administration, given this exemption authority, will ignore the actual cost data and submit a plan to separately price Alaskan oil. This would cause the price of that oil—two million barrels per day of our production—to skyrocket. In addition, by exempting Alaskan oil from the domestic average price computation, the domestic oil remaining subject to the computation would also be allowed to increase.

The bill does retain a congressional disapproval of these increases but, as a practical matter, if the administration wishes to continue its high price policy, it will have its own "facts" justifying these various increases. As I noted earlier, production is substantially down now and is likely to continue in this mode, so that the pressures will be on and the public relations games will still be played.

Let us turn our attention, for a moment, to the immediate pact this legislation will have on the American consumer.

It is being said by many who support this bill that it will amount to a 3½ cents per gallon reduction in the current price of gasoline. I certainly hope that is the case, but I do not believe it will be. The 3½ cents figure is calculated on the basis of an estimate that imported oil is currently selling at $15, with the tariff, and new domestic oil is currently selling at $14 with the tariff. These calculations are higher than what the actual prices are. At the present time, imports are selling between $14.50 and $14.75, and new domestic oil is quoted in Oil Daily as selling at around $13. As a consequence, the estimate starts out assuming that the present costs are higher than they actually are.

In addition, the industry has accumulated banked costs amounting to approximately $1.4 billion. After the enactment of S. 622 and the setting of prices based on its formula, if the industry chooses to pass through these banked costs, and I have every reason to believe they would, this pass-through would work at odds with any reduction by the bill in the price per gallon of gasoline.

The net effect of these two adjustments to the 3½ cents calculation, first computing the present price of gasoline on the basis of actual quoted prices and then including the presumed pass-through of banked costs, means a real gasoline price reduction of no more than 1 cent per gallon. Have we worked, argued and hammered out a national policy, taking over 2 years in the process, to roll the price of gasoline back by 1 cent. What a tremendous exercise in futility. After a 30 percent or more increase in gasoline prices since the embargo, a penny rollback is not even a token. And with the bill's built-in price increases, even that penny will be taken away in the first year.

With the same kind of administration we now have, this bill could turn out to be such a boon to the industry that I can imagine them coming in here 4 years from now requesting an extension of the law. By then, we may well have substi-

tuted the U.S. Government for the OPEC cartel as the agency which underpins big oil's prices.

Of course, the authorities contained in this bill are largely discretionary with the administration. Given a good administration, a tough-minded President who is not willing to give in to the oil industry and who is willing to take a tough line on oil prices, this bill would lend itself to the establishment of a fair-minded energy pricing policy. The President could tie the annual increases to a real showing of incentive and cost, and he could establish pricing tiers on a similar basis. I sincerely hope we will elect such a tough-minded President in November 1976.

But this is December 1975, and my vote must be based on current facts, not hope. The fact is the present administration will administer this bill in every way which concerns me. This will be disastrous for the American consumer and for the American economy. The facts today are a permissive bill and a permissive President, both heading for higher and higher oil prices. I cannot, I will not, support that course.

Mr. MATHIAS. Mr. President, the energy situation is one of, if not the, most crucial problems facing our Nation. Both the problem itself and our actions in dealing with it will have far-reaching effects throughout our society. Our national security and independence, our foreign policy, our economy and national growth, our natural and cultural environments, and our efforts to develop a more peaceful, productive world will be profoundly affected—for many years to come—by the degree to which we succeed in solving the energy crisis, Our Nation and the nations of the world look to us for leadership in developing solutions to the problem. If we fail to take decisive, far-sighted action we will not only fail to solve our Nation's problems, we will intensify them in future years.

The International Energy Agency—IEA—has recently concluded its final annual review of the energy conservation programs adopted by its member nations and has made some accurate, disquieting conclusions concerning our nation's program.

> 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 current program depends almost entirely on voluntary programs, research and development and public education. ... A major deficiency of the current United States situation is that energy prices for oil and natural gas are controlled below world market levels.

It is precisely for these reasons that I profoundly disagree with the conference report on S. 622. The program which is to be offered to the American people is not creative, is not decisive, is not comprehensive—in short, it is not adequate. S. 622 is rife with vague, voluntary programs which encourage or promote conservation, but which do little to insure that conservation will become a potent force. Such actions will fail to achieve the required reductions in demand and waste.

The bill's proposals for dealing with increasing supply are equally shortsighted and politically oriented. The bill does absolutely nothing to provide incentives for the discovery and development of new sources of domestic petroleum. Uncertainties with regard to price and future Government action will certainly discourage investment. Further, the bill does nothing to make price increases and resulting increased revenues contingent upon the development of new sources of petroleum.

Overall, the conference report provides little incentive for decreasing demand or for increasing domestic production. The probable consequences of passage of S. 622 have been described in the attached reprint from the CONGRESSIONAL RECORD.

It is for these reasons that I oppose S. 622. I have developed an amendment to the Emergency Petroleum Allocation Act which is substantially different from any that have heretofore been advanced and which will provide an interim solution to the pricing problem and encourage development of new domestic production while development of a comprehensive program is underway.

I urge you to join me in opposing the conference report and in developing a comprehensive, workable program.

ENERGY AND INFLATION

Mr. STEVENSON. Mr. President, the stakes involved in the debate over the Energy Act are described in an article "Energy Shock: Oil and the Economy" by Lawrence Kumins. Without OPEC price increases since the last quarter of 1973, real GNP would be 14.2 percent higher. About 3.5 million more people would be employed, and prices generally would be about 6.7 percent lower. No such estimates can be precise, but these are conservative. Such analyses come late because the Nation was slow to accept the reality of OPEC and the real meaning of an "energy crisis." But it is still not too late to protect the economy from more unnecessary energy shocks. By enacting S. 622 the Senate will adopt conservative measures that will reduce consumption, authorize strategic oil reserves, and price oil at a level which protects the economy and provides producers with the necessary incentives and resources with which to increase oil supplies.

Mr. President, I ask unanimous consent that this important article be printed in the RECORD.

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

ENERGY SHOCK: OIL AND THE ECONOMY

(By Lawrence Kumins, Energy Economist, Congressional Research Service, Library of Congress)

The cartel pricing actions of the Organization of Petroleum Exporting Countries (OPEC)[1] on the American economy and the economies of many other countries dependent on the world oil market.*

OPEC was established after the 1959 reduction in prices paid to oil producers by the seven major international oil companies, the "seven sisters" who dominate world oil commerce. Faced with a chronic glut of oil on world markets, a phenomenon characteristic of the international crude market prior to 1973, the major oil companies, acting as one either by design or happenstance, took the classic step of a monopsonistic buyer (one strong buyer facing several uncoordinated sellers)—they unilaterally lowered crude prices approximately 10 percent to 15 percent.[2] Subsequently, in September, 1960, five major crude exporters, meeting in Baghdad, formed OPEC to organize a united front vis-á-vis the monopsonistic "seven sisters." It would be 13 years before OPEC would become a truly effective cartel, setting prices and supply levels on world markets by fiat alone.

OPEC was able to bring its potential power to bear because industrialized nations other than the United States vastly increased their oil consumption during the 1960's. Until 1968, the United States produced 80 percent of its own consumption; there after, world consumption began to increase and the cartel faced a more manageable situation. Additional world demand was created by declining United States production, which peaked in 1970, and internal American demand, which continued to grow at about seven percent per year. The failure of American domestic production to keep pace with internal demand created an increased demand on world markets; the United States demand grew from about 2.5 million barrels per day (mbd) in 1970 to 6.5 mbd just before the embargo (the current level of United States imports remains at about the 6.5 mbd pre-embargo level). This extra demand on world markets, caused by falling United States production and the steadily increasing American demand, strengthened OPEC's position. The United States was becoming more and more dependent on OPEC oil, and this became increasingly clear to the nations that halted oil shipments to the United States in late 1973.

Some OPEC watchers believe that the Arab oil embargo was motivated more by economics than by politics. In early 1973, the embargoing Organization of Arab Petroleum Exporting Countries (OAPEC)[3] was receiving an average price for crude oil of under $3.000 per barrel. When the embargo created a short-fall in world supply, the OPEC group as a whole raised prices in several steps, quadrupling per barrel revenues and greatly increasing their gross revenues, in spite of a somewhat reduced world demand because of higher prices.

With the exception of Canada, most United States oil imports come from OPEC, and American dependency has increased since the embargo. In fact, in 1975, 66 percent of our imports were from OPEC,[4] up from 56 percent during the fall of 1974. In roughly their order of importance, the following countries provided about 90 percent of

[1] OPEC member nations are Algeria, Ecuador, Gabon, Indonesia, Iran, Iraq, Kuwait, Libya, Nigeria, Qatar, Saudi Arabia, United Arab Emirates, and Venezuela.

* I wish to thank my colleague, Dr. Warren E. Farb, for his assistance in preparing this paper.

[2] *See OPEC, Background Review and Analysis*, a Library of Congress, Congressional Research Service, publication by Dario Scuka (published in multilith form).

[3] This organization's members are Algeria, Iraq, Kuwait, Libya, Qatar, Saudi Arabia and the UAE, the nations that actually halted United States-bound shipments.

[4] *See The Effects of Decontrol*, an August 18, 1975, Federal Energy Administration paper, Chart 1.

United States imports: Nigeria, Canada, Iran, Saudi Arabia, Venezuela, Indonesia, Algeria, and the UAE.

TABLE 1.—DISTRIBUTION OF ENERGY CONSUMPTION BY SOURCE AND BY SECTOR

Consuming sector	Oil percent	Natural Gas percent	Coal percent
Household and commercial	20. 2	34. 0	2. 7
Industrial	17. 4	46. 0	33. 0
Transport	51. 7	3. 5	nil
Electric generation	9. 9	16. 6	64. 3

Source: Energy Backgrounder (Washington, D.C.: American Petroleum Institute, December, 1974).

Canada, once the main American import source, is phasing out oil and natural gas exports. This is ironic because, not long ago, the United States restricted imports to provide price competition protection for domestic producers. Canada had sought (and not received) preferential treatment under the import restriction program, in order to tap vast United States fuel markets to finance the development of what was regarded, during the 1960's, as a very large potential oil reserve. This resource base, however, turned out to be smaller than anticipated, and with disappointing discoveries the Canadian government adopted a conservation policy that was based on export curtailment. Coupled with a declining United States production (about 10 percent below early 1974 levels), this has caused increased United States dependence on OPEC. Because most of the world's potential for increased supplies in the near future lies within the cartel nations, much of the future increase in United States import levels will come from OPEC until the trans-Alaska pipeline is completed.

THE IMPORTANCE OF OIL

Because oil fuels provide about 45 percent of the total energy input into the United States economy, embargo and post-embargo price increases affected nearly all end products. More than half the oil consumption is used by the transport sector; hence anything that is shipped will, as it reaches market, embody the increased cost of oil in its sale price. Table 1 indicates the distribution of oil and other fossil fuel consumption by various broad sectors of the economy.

Because oil is by far this country's most important fuel, it exercises price leadership over coal and whatever natural gas is not price controlled by the Federal Power Commission (FPC). Therefore, higher oil fuel prices mean higher coal and unregulated natural gas prices. During the year and a half after the embargo, these other fuel prices, on a heat value basis, increased in price proportionately to the average barrel of oil fuel escalation.

The post-embargo energy price experience of the United States shows that OPEC energy pricing policy invades and dominates the domestic fuel marketplace. Many observers believe that there can be no free market for energy, and that the choice lies between OPEC cartel price fixing and government price controls. Proponents of government controls cite the inflationary impact of uncontrolled oil prices.

ENERGY PRICES, INFLATION AND RECESSION

There was clearly a relationship between energy price increases and inflation, employment and real (constant 1958 dollar) GNP in the period that includes the fourth quarter of 1973 to the second quarter of 1975. Simply stated, the current deep recession's early history was interrelated with record inflation. Rapid price increases reduced purchasing power. Decreased purchasing power resulted in the purchase of fewer goods and services, measured in terms of physical units. Fewer units of output sold necessitated lower employment. This became a cycle, starting a self-reinforcing recessionary process in which gross national product (GNP) and employment contracted.

This cycle was amplified by the fact that the primary inflationary impact stemming directly from the aggregate energy price increase itself was smaller than the total amount of inflation generated. In other words, the initial price impact generated a wave of secondary inflation, frequently called the "ripple" effect. A ripple effect is felt because a price increase in a commodity that enters into the manufacturing process at an early stage becomes involved in layer on layer of markup as it passes through successive stages of manufacturing and distribution. A simple example of how this works is pricing in a department store. Typically, major retailers buy an article at some cost and double its price (what retailers call a 50 percent markup). If, for example, an item cost the retailer $1.00, it will sell for $2.00. Now if that item embodies 25 cents worth of energy at the manufacturer's level, and if energy prices double, the manufacturer will sell the item to the retailer for $1.25 under a doubled energy price regime. The retailer takes his normal 50 percent markup, and sells the item for $2.50. Because of an energy increase of 25¢, the retail price increases 50¢. This process is repeated many times throughout the economy, in manufacturing as well as in distribution and retailing, creating a secondary wave of inflation.

Wage contracts and transfer payments are also involved because they are tied into the cost of living or otherwise "indexed." These automatically increase as the relevant price index rises, amplifying secondary inflation. The markup phenomena and the indexing effect combine to make the total inflationary effect from a given energy price increase larger than the sum of the energy price increase elements themselves.

Since late 1973, oil fuel prices and coal and unregulated natural gas prices have risen. These price increases, totaling $49.3 billion, are the principal propellant behind the generalized price inflation of 1974 and the first half of 1975. Crude oil prices were originally controlled under Cost of Living Council (CLC) regulations at $4.25 per barrel. "New" oil was decontrolled in August, 1973. It began to rise and has continued to increase. Under the $2.00 tariff surcharge, in effect at the end of the second quarter of 1975, uncontrolled domestic crude sold for over $12.50 per barrel at the end of that quarter. An average of 3 million barrels per day (mbd) were involved in the period between the fourth quarter of 1973 and the second quarter of 1975. At an average annual rate, the increased total bill may be computed as: 3 mbd × 365 × (12.50—4.25), or a total of $9.0 billion per year.

Just before its merger into the Federal Energy Administration (FEA), the CLC increased "old" oil prices by $1.00 per barrel, from $4.25 to $5.25. Old oil is defined as crude produced from wells that were producing in 1972 or earlier. Production above 1972 levels from those wells is not controlled, being classed as new oil. About 5.5 mbd of old oil was involved during the period under consideration. The increase in the aggregate bill is estimated roughly at an average annual rate of $2.0 billion (5.6 mbd × 365 × $1.00).

The Emergency Petroleum Allocation Act, now expired, gave the FEA authority to regulate fuel dealers' margins. Early on, FEA raised gasoline dealers' margins from a traditional 7.25 cents per gallon to 11 cents. Subsequently, this figure eroded slightly to average an estimated 9.5 cents. About 100 billion gallons annually were affected, raising the national gasoline bill $2.3 billion annually, 100 bil. gallons×(9.5¢–7.25¢).

At the same time, foreign oil increased from a preembargo $4.00 or so per barrel, to an average price of $14.00 under the new tariffs, in the second quarter of 1975. Roughly, 6.5 mbd of crude and foreign refined products embodying this expensive crude were involved. An easy cost calculation to make here is: 6.5 mbd × 365 × ($14.00–$4.00) = $23.7 billion, again at an average annual rate.

It must be remembered that oil has a clear-cut role as the energy price leader. Rising oil prices have escalated unregulated natural gas prices. About 10 trillion cubic feet (or billion Mcf's) are involved in unregulated intrastate sales not jurisdictional to the FPC—either made directly by producers at the wellhead or by interstate pipelines to intrastate customers. Prices have increased from about 55¢ per Mcf (1,000 cubic ft.) to an estimated $1.40 current average. Absolutely no data is available at present on intrastate prices, and these figures represent crude estimates made on the basis of fragmentary press reports. Nevertheless, they are probably of the correct order of magnitude. Using them, a rough estimate of the contribution of gas to the energy price inflation would be: 10 bil. Mcf × ($1.40—$.55) = $8.5 billion at an average annual rate.

Coal is also influenced by oil's price leadership. According to Federal Power Commission Form 423 statistics, covering about 60 percent of domestic coal consumption, coal prices climbed from an average of $9.10 per ton in October, 1973, to $17.51 in April, 1975 (the latest data available). Extrapolating this is roughly 450 million tons of annual domestic consumption of boiler fuel type, oil-competitive coal, we can calculate that: 450 million tons×($17.51—$9.10) = $3.8 billion.

In a rough way, these estimates delineate the aggregate inflationary contribution of energy prices during the post-embargo period under analysis. The estimated components are summed up here:

[In billions]

Domestic uncontrolled crude	$9. 0
Old oil increase	2. 0
Gasoline dealer margins	2. 3
Imported oils	23. 7
Unregulated natural gas	8. 5
Coal	3. 8
	$49. 3

We can estimate that the dollar value of energy price increases was running at an annual rate of $49 billion at the end of the period under study. As this raw material price increase flows through the economy, the total inflationary contribution will be larger than $49 billion worth of annual inflation due to the ripple effect, and the energy shock drag on other macroeconomic variables will be proportionately larger.

MEASURING ENERGY SHOCK

Because post-embargo macroeconomic statistics are history, the key question is what would have happened to the economy with virtually no energy price increases. To simulate this, an exercise was devised using the Data Resources Inc. (DRI) econometric model. This model is a computerized system of hundreds of interrelated equations that relate many economic variables like prices, monetary and fiscal policy, imports and so forth to the important macroeconomic parameters like income, aggregate price levels and employment. The model is commercially available; it is used by nearly all government economic policy makers at the federal level and by many private firms to estimate the impact of various alternative policies on the economy. For our purpose, the question was posed: "What would the economy have looked like if there had been no OPEC price increase?" To answer it, the model was run with all historical input data as they actually were, with the exception of energy prices, which were held stable.

Energy price changes were introduced into

the DRI model via the Wholesale Price Index (WPI) component for energy. The rate of increase for this component of the WPI was held to 7.2 percent per year. The actual rate of increase was, of couse, much higher. The 7.2 percent figure was estimated to be the early 1970's trend in energy price increases prior to the embargo. The results of the simulation of how key macro-variables would have behaved without energy shock are compared with actual historical data below on a key variable basis.

Current dollar GNP, unadjusted for inflation, was the first variable examined. Table 2 compares actual GNP with forecast GNP under energy price assumptions spelled out above. Note that this estimate implies that, without OPEC cartel energy price increases, current dollar GNP would have been over $100 billion higher (7 percent above actual) than it, in reality, was. This represents lost GNP due to the impact of higher energy prices.

TABLE 2.—CURRENT DOLLAR GNP (BIL. $/YR) WITH/WITHOUT ENERGY PRICE INCREASES

Quarter	With price increase	W/O price increase	% lots
4–1973	1344	1354	.76
1–1974	1359	1370	.81
2–1974	1384	1386	.17
3–1974	1416	1421	.33
4–1974	1431	1458	1.90
1–1975	1416	1489	5.10
2–1975	1440	1541	7.04

Source: Actual data from Commerce Department. Simulated data derived from the Data Resources Inc., Lexington, Mass., model.

Real GNP, adjusted for inflation and stated in constant 1958 dollars, gives a more accurate picture of economic performance, especially during periods of inflation. Table 3 compares actual data simulated on the basis of the above energy price assumptions.

TABLE 3.—DOLLAR GNP (BIL. $/YR.) WITH/WITHOUT ENERGY PRICE INCREASE

Quarter	With price increase	W/O price increase	Percent lost due to price increase
4–1973	846	855	1.1
1–1974	831	851	2.4
2–1974	827	851	2.9
3–1974	823	858	4.2
4–1974	804	867	7.8
1–1975	780	874	12.0
2–1975	783	895	14.2

Source: Actual data from Commerce Department. Simulated data derived from the DRI model.

Table 4 contains a tabulation of estimated unemployment compared with actual unemployment. Note that by the second quarter of 1975, as the lagged effects of energy shock are worked out, unemployment would have been 3.8 percentage points lower than it actually was. This implies that about 3.5 million more people would have been employed without the energy shock of OPEC price increases.

TABLE 4.—UNEMPLOYMENT RATE WITH/WITHOUT ENERGY PRICE INCREASE

Quarter	With price increase	W/O price increase	Percent points due to price increase
4–1973	4.8	4.4	0.3
1–1974	5.2	4.6	0.6
2–1974	5.1	4.8	0.3
3–1974	5.5	5.0	0.5
4–1974	6.6	5.2	1.4
1–1975	8.4	5.2	3.1
2–1975	8.9	5.1	3.8

Source: Actual data from Commerce Department. Simulated data derived from DRI model.

Perhaps the most important variable examined here is the general price level. The broadest measure of price levels and changes is the GNP deflator, a price index which represents virtually all goods and services bought and sold. In Table 5, we have estimated what this price index would have been without energy price increases.

TABLE 5.—GNP DEFLATOR WITH/WITHOUT ENERGY PRICE INCREASES

Quarter	With price increase	W/O price increase	Percent increase due to energy prices
4–1973	158.9	158.4	0.3
1–1974	163.6	161.1	1.6
2–1974	167.3	162.9	2.7
3–1974	172.1	165.6	3.9
4–1974	178.0	168.2	5.8
1–1975	181.6	170.4	6.6
2–1975	183.9	172.3	6.7
	[1958=100]		

Source: Actual data compiled by Commerce Department. Simulations from DRI model.

Generally speaking, the nation's broadest price measure would be 6.7 percent lower had it not been for energy price increases.

While these estimates give the appearance of mathematical precision, it should be emphasized that this is indeed not the case; the simulations provide only rough estimates. Moreover, the model is in an evolutionary state and is therefore subject to frequent changes. Reproduction of these estimates may therefore be impossible. Nevertheless, the data generated here provide some estimates of the impact of the energy shock. They represent the first attempt at separating energy shock from other economic developments as a recession/inflation causal factor.

Given the estimate that the total effect of energy shock was to raise the GNP deflator 6.7 percent, the the dollar value of energy shock inflation was 6.7 percent of the current dollar GNP of $1440 billion (annual rate), or $96.5 bilion, in the second quarter of 1975. This represents the total inflationary impact after most lags are worked out. It is composed of the primary inflationary component plus ripple.

With the increase in energy prices themselves at $49 billion, we can say that the ripple factor is $96.5 bil. over $49 bil. or about 2.0. By multiplying the amount of the primary energy price increase by this 2.0 factor, the total macroeconomic impact can be estimated at the end of the approximately six quarters necessary to calculate the full impact as the economy's lags are overcome.

Over the next several years, the need for price controls on fossil fuels, the pricing of electricity, and the tax treatment of all fuel sources will be the subject of much attention. Energy price inflation has had a far-reaching impact on the nation's gross national product, on employment and on prices—an impact much stronger than might be expected from the size of the energy price escalations themselves. Future increases in the price of energy may have the same sort of impact on the economy.

Mr. HATFIELD. Mr. President, when S. 622 was last on the Senate floor it was the Standby Energy Authorities Act, and I voted against it. Today it returns from conference with the House as the Energy Policy and Conservation Act, and I hardly recognize it.

To be sure, the standby energy authorities are there, but they are accompanied by 116 other sections about equally divided between good and bad. Looking just at the authorities granted to the President to accomplish this and that, one would think we were at war. And perhaps we are, but I would argue that waging war against energy consumption is rather less desirable than taking the country through positive approaches toward better ways—less wasteful, more efficient ways—of utilizing the energy that is necessary to accomplish our diverse goals and serve our various ends.

I applaud such parts of this legislation as the coal use incentives, the oil and gas lease bidding reform, the establishment of a strategic petroleum reserve, the contingency planning for a future energy emergency, the energy labeling requirements for consumer products, and the improvement of our energy data base. I question such parts of this bill as the oil pricing mechanism, the extension of mandatory Federal allocation of petroleum, Federal allocation of materials, Federal energy efficiency requirements for consumer products, and Federal mandates for components of State energy conservation programs.

The oil pricing mechanism does not appear to phase out price controls. On the contrary, it is likely that prices under the controls of this bill will be as far below market levels 40 months from now as they are today. Congress then will be faced with the same problem that they are today—whether to allow a precipitous price rise or to phase out the controls over a period of months.

Furthermore, over the next 40 months the price mechanism of this bill will probably work as a disincentive for producing new domestic crude oil, for in order to stay within the overall price ceiling for crude, the producer will have to accept a lower and lower price for his new oil. Every barrel of relatively expensive new oil which today replaces a barrel of relatively cheap oil that can no longer be produced from a declining field will have to be sold at a lower price than new oil got yesterday in order to keep the average price of all oil within the federally established price ceiling.

The ceiling may be moved upward by as much as 7 percent per year to account for inflation, and by as much as 3 percent per year to provide an incentive for producing new oil, which actually means the "incentive" is to produce no more than 3 percent more new oil in any given year in order to keep getting the same price—and less if a producer wants to get a better price. Of course, if inflation runs higher than 7 percent in a year, the producers will lose ground unless they cut back production. I cannot see where any of this makes sense.

As there are no petroleum shortages today, and there have not been shortages since the crisis of the winter of 1973–74, it appears without reason that Congress extend the mandatory allocation program rather than move it to a standby basis. The marketplace remains frozen in the supplier-purchaser relationships that existed prior to the Arab embargo, with all of the additional individual adjustments that have been made by the Federal Energy Administration over the intervening months and years. Suppliers cannot compete for new service contracts as long as they are locked into base period relationships with their historical

customers, and customers cannot shop for the best buy when they are offered a supply from only one company It is time to untie the straightjacket and see what a dose of competition in the rearrangement of supplier-purchases relations does.

Presidential authority to allocate all materials used in energy production, Presidential authority to require that Federal efficiency standards be met by manufacturers of every energy consuming commodity in the country, and Presidential authority to tell the States when, where, how, and how much energy they must conserve are unnecessary new programs of Federal rule by regulatory fiat.

Even though I know the country cannot realistically expect a better response to the need for a comprehensive energy policy than the bill now at hand, I must cast my vote against it. Forty months from now we will be well on the way to building a strategic reserve, we will have contingency plans for handling a future crisis, we will have better energy information, and we will have energy labeling of consumer products, all for the better. But we will still be mired in pricing and allocation, and we may have shackled ourselves into living lives dictated to us by Federal energy planners in which I have little confidence.

Mr. STEVENS. Mr. President, the bill that the Senate has before it—now in revised form from when it was originally adopted by the conferees—would effectively retard and perhaps end the exploration for new petroleum sources in frontier areas.

S. 622 ignores the special problems that we face in oil development in Alaska. The failure of this bill to include an adequate price for Alaska crude oil really means that the transmission of Alaska's 10 billion barrels of crude oil may now be in jeopardy—this after billions of dollars and years have already been put into this mammoth project.

What S. 622 does is say in effect the Congress does not care how much money went into the construction of the trans-Alaska pipeline—we will ignore the realities of the world petroleum market and decide how much Alaska will receive for its oil ourselves.

But, as unfair as this bill is on the trans-Alaska pipeline now under construction, the real disaster that this bill holds for America—which only a handful of persons have come to realize—is that S. 622 will shut off the exploration and development of new oil in my State and other frontier areas. Does the Congress really want to say to heck with the billions and billions of barrels of oil that are waiting to be developed in Alaska? If S. 622 passes the answer would be an unbelievable yes.

Because Alaska is remote from the primary U.S. oil markets, and since most of Alaska's oil reserves are located in high-cost Arctic and offshore areas, the costs of developing, producing, and transporting Alaskan oil are necessarily high.

Reserves can only be developed if economics justify such development. Any reduction of crude prices due to a roll back will adversely impact the economics, thereby moving those reserves which were previously economically marginal into the uneconomic category. Such reserves will then not be developed simply because the new economics do not justify development. The larger the price rollback, the larger the volume of reserves that will stay in the ground and be replaced by foreign imports.

The basic formula for energy independence is simple—reduced demand, increase domestic supply. But S. 622 would widen the energy supply-demand gap by encouraging demand and reducing incentives for developing new supply. Rolling back the price of oil would increase demand by some 500,000 barrels per day beginning in 1976, and reduce supply by about 500,000 barrels per day in 1976 and 600,000 barrels per day in 1977. The conclusion is obvious: Imports will have to increase by 1 million barrels per day in 1976 and more than 1.1 million barrels per day in 1977 beyond the surge we already anticipate due to economic recovery.

This means that the bill plays directly into the hands of OPEC by enhancing the cartel's ability to maintain and increase prices. As I said during the conference, S. 622 could be called the Arab Relief Act of 1975. This legislation would effectively institutionalize Government controls of the oil industry, perpetuating and intensifying their counterproductive effect. If you like the FPC you will just love S. 622, because we would be putting FEA in the role of regulating petroleum. Controls could be extended for another 40 months and since the bill contains no phased decontrol provisions, possibly another 40 months beyond that or whatever future appeals to the Congress at that time. It increases uncertainty regarding crude oil prices discouraging long term investment decisions and thereby development of new domestic energy supplies. The bill, in other words, does not solve the decontrol issue but simply pushes it further into the future—at a time when we must act positively to bring on new sources of energy.

Mr. President, S. 622 is not a positive answer to solving our energy problems, rather it is a blueprint for effectively stopping the development of Alaska's bountiful energy supplies. I do not think that my colleagues really want to do that but by supporting S. 622 that will be the unfortunate and disastrous result.

Mr. THURMOND. Mr. President, I rise in opposition to the conference report on S. 622, the Energy Policy and Conservation Act of 1975. I was indeed hopeful that the energy conference committee could agree on a comprehensive decontrol plan which would be fair to all Americans. Unfortunately, the report before the Senate does not encompass such a plan.

I am deeply disturbed by the pricing provisions in this bill. The effects of this provision would be the reduction of domestic oil supplies and the encouragement of consumption. This in turn will increase our reliance on imports and thus strengthen the power of OPEC instead of reducing it. Because of this additional dependence upon OPEC cartel oil, the threat to our national security will be increased, and consumers may ultimately be required to pay higher energy prices. Additionally, this report may jeopardize the development of oil from Alaska and other frontier areas by failing to provide an acceptable price for that oil.

Mr. President, I was hopeful that the energy conference would develop a plan that would gradually end domestic price controls. Unfortunately, this legislation continues the price control system for 40 months. Postponing the decision on deregulation will only serve to increase America's dependence on OPEC oil.

I do not feel this conference report will help our Nation achieve energy independence. In fact, it will do just the opposite, and I urge the Senate to reject it.

Mr. INOUYE. Mr. President, earlier today I engaged in a colloquy with the distinguished manager of S. 622, Senator JACKSON, on the subject of section 403 of the act which grants relief from the obligations to purchase entitlements for small refiners of less than 100,000 barrels per day capacity for the first 50,000 barrels per day of throughput. As I pointed out in that colloquy, the majority of small refiners are sellers of entitlements and not buyers. One of those small refiners, Hawaiian Independent Refinery, Inc., is located in my State and is 100 percent dependent on our most expensive imported crude.

I was, therefore, particularly pleased to receive the assurance of Senator JACKSON that it was the intent of the conference committee to assist all small refiners with a capacity of 100,000 barrels per day or less. It is essential that in trying to help small refiners we provide equivalent assistance to all small refiners, and I was pleased to receive Senator JACKSON's assurance that section 4(b)(1)(D) of the basic Allocation Act provides the authority for the President to increase the entitlement allotment to small refiner sellers to eliminate any competitive advantage which would otherwise be created by the application of section 403 of S. 622.

It is obviously not the intent of the Congress to create economic disadvantage for one group of small refiners in our effort to help another group of such refiners. Neither is it our intent that such small refiners which are sellers of entitlements should have to demonstrate severe economic hardship in order to achieve equivalent benefits and secure the relief to which they are entitled under the law.

It has always been the content of the Allocation Act that the President treat all similarly sized refiners on an equitable basis. This implies that such refiners should be able to go to the marketplace with generally equal crude oil costs. If there are to be any differences in crude costs they should at least not be the result of the implementation of the Allocation Act or the provisions of this bill.

Mr. President, I wish to insert as part of the RECORD of our consideration of this historic energy bill a copy of Gov. George Ariyoshi's cable to Senator JACKSON and also a copy of my letter of November 25 to the conferees pointing out in greater detail the reason for my concern that the legislative history of this

act make clear our intent to assist all small refiners.

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

HONOLULU.

Hon. HENRY M. JACKSON,
Russell Senate Office Building,
Washington, D.C.

Reference Senate bill 622. Understand you are soon to have a colloquy with Senator Inouye on the exemption of small refineries of 100,000 bpd or less concerning the status of sellers of entitlements as well as buyers.

I also understand that you have agreed that the conference committee intended equal economic treatment for all small refiners. For that to be realized our small refiner seller in Hawaii must have the assurance of equal treatment concurrently and without administrative delay with those small refiner buyers.

For entitlements provided for under the bill to assure its competitive economic viability relief must be prompt and not delayed by time consuming administration grievance procedures predicated on demonstration of hardship. I would appreciate your modifying your colloquy to indicate that the conferees would expect the President to act expeditiously to provide equivalent relief and not wait until such small refiner sellers demonstrate hardship. This would eliminate our regions, small refiner from having to demonstrate the quite obvious critical cost of crude hardship on both that refiner, its contract customers, as well as the competitive disadvantage in the market place that would otherwise result. Your support will be greatly appreciated.

GOV. GEORGE R. ARIYOSHI,
State of Hawaii.

NOVEMBER 25, 1975.

DEAR :

On behalf of the State of Hawaii, I wish to communicate to you a deep concern that the interest of the people of my state be fully considered and protected in the Conference which is now taking place on the Energy Policy and Conservation Act. Hawaii's unique geography and complete lack of indigenous energy resources make us uniquely vulnerable and a special case which must be recognized in the Act. The proposed act contains a provision exempting all refineries of 100,000 bpd or less capacity from the requirement to purchase entitlement for the first 50,000 bpd of runs to still.

Since the inception of the old oil entitlements program, Hawaiian Independent Refinery Inc. (HIRI) and consequently its customers have been uniquely disadvantaged due to a total lack of access of old oil and consequently is a "small" entitlement seller. While several attempts have been made to administratively correct this inequity, all have failed. Hopefully, some action can be taken in conjunction with the entitlements exemptions provision currently in the bill which will assist HIRI and other small refineries who are entitlement sellers like it is in achieving equal treatment with similarly sized refineries who are entitlement buyers.

I must point out that the inclusion of this recommended language in the conference report does not add to or change what is already in the act. It would merely express the intent of Congress that all "small" refiners be treated equitably. The Authority to adjust the number of entitlements for "small" sellers exists under the present legislation but to date the Federal Energy Administration has refused to use it.

Recommended language for inclusion in conference report:

In implementing the provisions of this section, the Administrator is directed to insure that those independent refineries whose capacity is less than 100,000 bpd and who are required to sell entitlements receive relief equal in value to that provided to small independent purchasers of entitlements.

Justification:

1. It appears that a concensus exists in the Congress to include in this act some special provision to assist "small" refiners in their attempt to compete with major oil companies. However, the entitlement exemption as it is now structured would provide assistance only to some of the small refiners at the direct expense of other small refiners. Not all "small" refiners are buyers of entitlements. "Small" entitlement sellers are equally in need of this type of assistance.

If indeed the intent of the Conference Committee is to help all small refiners compete with the major oil companies, a stronger argument can be made for helping sellers than buyers. This can be demonstrated through a brief review of the history of the program.

In 1973 all refiners were in effect paying $5.25 per barrel for crude oil. When OPEC raised the prices on foreign crude oil all of the prices began to rise. The Administration, in their efforts to control the price rise while simultaneously providing an incentive for increased production, decided to designate some of the crude oil in the system as old and price controlled and the remainder of the oil as new and uncontrolled. In effect, some refiners were told they could run with feedstock that cost $5.25 while others were forced to run with feedstock that cost up to $10.00. Both had to compete in selling their products in the same markets. In order to share the benefits of the old, price controlled, crude oil, the Federal Energy Administration initiated an entitlements program whereby, rather than physically sharing all of the old oil, those refiners who have more than the national average would have to transfer some of their income to those who have less than the national average. In effect, the old oil refiners were forced to face a price increase of one-half the gap to the price that was being faced by the new oil refiners. Simultaneously, the new oil refiners, of course, had a reduction in price which represented half the distance to $5.25.

The entitlement buyers complained extensively when they were forced to face higher costs due to the entitlements program, while not recognizing that in the absence of that program their cost would have been as high as for those dependent on new or released crude oil.

In the provisions for exemption for purchase contained in the present legislation, those firms which already have a lower cost of crude oil are granted additional relief at the direct expense of those whose cost of crude oil is already higher. If the intent of the legislation is to assist small refiners in their competition with major oil companies, then it must be designed in such a manner as to provide equitable assistance to all small refiners rather than some small refiners at the expense of other small refiners.

2. A detailed analysis of what the implication of this entitlement exemption would have been, had it been in existence during the month of August, makes an interesting example. In reviewing the August entitlements list published a few weeks ago, 37 refineries with capacity of less than 100,000 barrels who are net buyers of entitlements would appear to benefit from the exemption. The list of the firms together with an indication of the number of barrels of old oil which would have been exempted in the month of August if the exemption would have been in existence at that time is listed below. The total number of barrels of old oil which would have been removed from the Entitlements Program is 13,179,928 or 8.552% of the total old oil used during August. The direct impact of this exemption on all sellers of entitlements cost of crude would have been a reduction of 8.552% in its entitlement receipts. This reduction in entitlements revenue would be reflected as a $.250 weighted average cost of crude increase for Hawaiian Independent Refinery. This implies that if the runs-to-still and value of entitlements which apply during the month of August are typical of the next twelve-month period, Hawaiian Independent Refinery, a small independent refinery, will forego $5,232,744 in an entitlement income so that the 37 firms noted below may operate at a substantially less than national average cost of crude.

Eligible firms:	*Exempted old oil*
1. Allied	60,812
2. Arizona	36,157
3. Beacon	314,203
4. C & H	1,969
5. Canal	67,434
6. Charter	1,106,563
7. Cross	7,705
8. Delta	425,004
9. Eddy	41,689
10. Edgington	391,952
11. Evangeline	28,999
12. Famariss	411,999
13. Fletcher	386,669
14. Flerit	11,447
15. Getty	297,132
16. Howell	848,452
17. Hunt	483,296
18. Lagloria	434,640
19. Little America	309,406
20. Monsanto	441,831
21. Northland	78,941
22. Oil Shale	1,084,515
23. Pasco	894,492
24. Pennzoil	600,530
25. Placid	452,406
26. Plateau	134,317
27. Powerine	603,346
28. Rock Island	449,911
29. Sigmor	6,594
30. Sound	61,625
31. Southland	313,009
32. Tesoro	1,077,378
33. Texas City	849,889
34. Union Texas	144,275
35. Warrior	63,636
36. West Coast	60,307
37. Witco	197,398

However, the $.25 per barrel cost of crude additional differential that this exemption creates for HIRI and other small independent entitlement sellers is not the main difficulty. Seven of the 37 beneficiaries on the August list are direct competitors of HIRI. These seven firms would face drastic cost reductions which would make it impossible for the "small" sellers to compete with them.

Dollar reduction in weighted average cost of crude due to exemption

Firm:	
Beacon	$2.433
Charter	0.447
Edgington	1.591
Fletcher	0.550
Pasco	0.446
Powerline	1.476
Tesoro	2.036

In summary, the provisions of this section of the bill can bring extreme hardship on some small refiners in the name of helping other small refiners. If the recommended language is included in the conference report, a means to achieve equal treatment for the disadvantaged small refiners would at least be available. If all of the small refiners who sell entitlements, receive equal benefit which the small refinery buyers of entitlements by way of additional entitlements, the major oil companies would have their weighted average cost of crude oil increased by $.15 a barrel.

It is essential that we provide the whole small refiner segment of the industry with at

least an opportunity to achieve similar benefits through administrative channels with the support of the report language.

Aloha,

DANIEL K. INOUYE,
U.S. Senator.

Mr. GRIFFIN. Mr. President, it has been nearly a year since President Ford sent Congress a comprehensive energy program. And it has been more than 2 years since the Arab oil embargo forced long lines at gas pumps and imposed many other hardships on the American people.

While Congress has sat on its hands, our dependence on imports of foreign oil continues to grow. In 1973, imports from OPEC countries accounted for 49 percent of our imports. Today, these countries supply 60 percent of our imports. And the bill for these imports has skyrocketed from $8 billion to a staggering $24 billion.

After all this delay, Congress is finally ready to present its version of a national energy program. Unfortunately, the conference report on S. 622—the proposed Energy Policy and Conservation Act—is in the words of the Washington Post a "botched job."

The best thing that can be said about the bill agreed to in conference is that it provides some measures to deal with emergencies, such as the creation of a strategic petroleum reserve to cushion the effects of another embargo.

This legislation, if enacted into law, will jack up the price of some products, will reduce incentives for oil and gas production, and will delay, rather than hasten, the day when America can hope for energy independence.

At a time when there is much talk in Congress about the need for regulatory reform, this bill goes in the wrong direction.

For example, S. 622 would mandate still more Federal standards for automobiles. Under the legislation, fuel economy standards for new cars would be imposed beginning with the 1978 model year.

To illustrate how arbitrary this proposal really is, the average fuel economy of cars sold in 1985 would have to be at least 27.5 miles per gallon. Only a handful of very small cars could meet that standard today.

As UAW President Leonard Woodcock told the Senate Finance Committee last July:

> We need additional knowledge to determine appropriate emission and fuel efficiency goals for the 1980's. . . . In that regard I question whether the establishment of a fuel efficiency standard for 1985 models is justifiable at this time.

Unfortunately, the bill reported by the House-Senate conference contains an unreasonable standard for 1985 and fails to include necessary changes in emission standards.

The conferees recognized that more stringent emission and safety standards are likely to reduce fuel economy—and empowered the Secretary of Transportation to lower fuel economy standards accordingly if a manufacturer uses a reasonable technology to meet these tougher standards. But this provision only underscores why Congress should not be legislating more conflicting standards without knowing what the consequences will be.

It is difficult for me to understand why Congress would want to impose costly new standards at a time when the auto industry and its workers are just beginning to recover from the throes of a devastating economic crisis. Furthermore, even the most reasonable standards unnecessary because the public demand for more fuel efficient cars has produced results—namely a 26 percent improvement in overall fuel economy in the past 2 years.

S. 622 also extends the reach of Federal regulation into the area of home appliances. Under the bill, FEA could set energy efficiency standards for appliances such as air conditioners, refrigerators, dishwashers, kitchen ranges, and TV sets. And these appliances would have to be labeled with respect to information about their estimated operating costs and energy efficiency.

The original Senate version of this legislation only required disclosure of comparative energy costs and efficiency. In fact, the Senate has never considered legislation authorizing appliance standards.

Such disclosure is a far preferable approach because it gives consumers an opportunity to compare the increased cost of purchasing a more efficient appliance with the long-term savings in operating costs. Because appliances that consume less energy are likely to be heavier and more costly to produce, setting inflexible standards will hit hardest at low-income consumers and the dozens of small appliance firms which have to compete with the major manufacturers.

Apparently the concern about oil prices of those who support this bill does not extend to price increases for cars and household products which are likely to result from these new regulations.

In addition, the legislation would thrust unprecedented, unwanted power upon the General Accounting Office to audit the books of any and every person who submits energy information to the Federal Energy Administration, the Federal Power Commission or the Department of the Interior.

Under existing law, such audits can be conducted with the approval of a congressional committee. This is as it should be since the GAO is an arm of Congress. Although I proposed in conference that the expanded audit powers be limited only to the oil companies, the conference bill would allow GAO to examine the books of corner gas stations, farmers and other small businesses. Even GAO itself has objected to this provision, pointing out that the new responsibilities would be "so enormous as to be impractical."

As for the oil pricing provisions, they represent a compromise which sacrifices economic commonsense for political expediency. Under the bill, oil prices would be conveniently held down below current levels until after next year's election.

This so-called compromise is really a Christmas present to the OPEC countries. Furthermore, the tangled web of price controls written into the bill includes some puzzling inconsistencies—such as a requirement that refiners pass along increased costs to retailers and consumers within 60 days. This provision will not only hike up consumer prices, but it will also make it more difficult for small, independent refiners and distributors to compete with the major oil companies.

Regrettably, this bill is not a blueprint for energy independence; it is a blueprint for excessive and self-defeating Government regulation.

Accordingly, I urge the Senate to reject this measure.

Mr. ABOUREZK. Mr. President, S. 622 represents our best effort so far to come up with an oil policy. The bill is wide-ranging. It includes provisions for conservation planning, auto efficiency standards, energy labeling for products, strategic oil reserves, and it enables the Federal Government to obtain more reliable information about the oil industry. It also contains price controls on crude oil.

It is the pricing provision that has drawn the exclusive attention of both the administration and the oil companies. S. 622 establishes a composite price of $7.66 a barrel for oil produced in this country. If the President keeps the price of old oil at $5.25, that means we would have a new oil ceiling of about $11.28 per barrel. Oil produced in the United States currently sells for an average of about $8.66 per barrel, including old oil at $5.25—60 percent of our total production—and new oil at an ever-increasing price which stands now somewhere between $13 and $14 per barrel.

The oil companies have conducted a massive propaganda campaign against the pricing provision ever since the conference agreed on this bill. With all the money at their command, they bought full-page ads in major newspapers, and haunted the offices of Senators, Representatives, and FEA, and the President.

Their message was that the price this bill sets for oil is too low—they will have no incentive to produce any oil, they said. People would begin using oil products like water, they said. We would become desperately dependent on foreign oil, they said. But the fact of the matter is that none of these things are true, and the price set by S. 622 is too high.

What S. 622 does is to maintain the status quo, minus the President's tariff and 30 cents. This may lower the price at the gas pump by about 1 cent. This is not a major rollback for anyone—not the public, not the oil companies. A price ceiling simply holds the line until we can come up with a reasonable, long-term, nonregulatory solution to the control of our limited fuel resources. It is not a happy bill for the people, but it is better than decontrol.

OLD OIL

The price level set by S. 622 is too high because it simply does not cost the oil companies that much to produce their oil. By the most generous estimates, the FPC has calculated that the average of the highest production cost for old oil, and the lowest, is $2.94 a barrel. It may even be less. But $2.94 covers production

costs—including a return on investment—and unsuccessful exploration and development costs, and Federal income taxes. The oil companies are not making 10 cents a barrel, or 50 cents a barrel. They are making much more on their old oil.

NEW OIL

The same generous FPC estimate gives costs of finding and producing new oil, including royalties, return on investment, dry holes, et cetera—the whole shooting works—at $5.49 per barrel. So the oil companies are crying that $5.80 per barrel beyond their total costs simply is not enough. Perhaps the $5.80 above costs provided in S. 622 is not enough to cover the oil companies giant executive salaries, foreign bribes, lobbying expenses, and massive advertising budgets.

INFLATION

The oil companies claim that inflation has doubled their costs. I submit this table for the RECORD showing that since 1972, some oil industry costs have risen a maximum of 28 percent per year, while the price of crude oil rose 68 percent, and it has been rising faster in the last months of 1975, which do not show on this table:

PRICE AND COST INDEXES, 1967=100

	Price		Costs					
Year	Crude oil wholesale price	Percent increase	Oil field machinery	Percent increase	Oil well casing	Percent increase	Oil field wages	Percent increase
1972	113.8		127.3		128.4		137.2	
1973	126.0	11	133.2	5	133.2	4	147.7	8
1974	211.3	68	154.8	19	170.7	23	163.0	10

Source: Independent Petroleum Association of America, "United States Petroleum Statistics, 1975."

What is more, much of the inflation that has occurred in oil costs is caused by the high price of oil itself. The Joint Economic Committee has told the Congress that the oil companies use their high revenues to drive up the cost of entering the oil business. They have the funds to outbid one another for leases, for supplies, and for labor and equipment. They do just that, and then they point to their high costs. With prices of $13 per barrel, the oil companies have no incentive to make their operations efficient, or to bargain for low prices on work they contract for, or to trim costs. Their propaganda about increased costs has been so successful that the more money they spend, the higher the price they can demand for their product.

DEMAND

The oil industry also says that demand will jump unless the price of oil continues to rise. Demand is increasing while the price increases.

We all know that much of the demand for oil is fixed. We need to heat homes and places of work, and we need to drive to work, in many cases, no matter how much it costs us. Right now, we have no alternatives. The fact is that gasoline prices are 5 cents higher this year than they were last year, yet gasoline consumption for 1975 has been above consumption for every month in 1974. Obviously, the possibility of a penny or two less a gallon will have no effect whatsoever on our gasoline use.

It is also peculiar to hear the oil companies worrying about increased consumption. This is a profit-motivated statement, since the oil companies have been going all out to increase sales in their gasoline marketing outlets. It is notorious that service station operators leasing from the major companies have been told to stay open longer hours and decrease their margins in order to get their gallonage up. We will not have a policy of conservation while the economy depends on consumption.

PRODUCTION

The Wall Street Journal, a newspaper that should understand inflation, wrote in March of last year that—

Seven dollars is a price beyond the wildest dreams of oil men at any time up until last fall. At that price . . . exploration and production go forward at the industry's full capacity. Beyond that figure, higher prices do not increase production incentives enough to justify the cost to the consumer.

There is a lot of truth to that comment. In fact, high prices, swollen revenues, and big cash flows decrease incentives to produce. A company making enough money on its existing production volume has no interest in depressing the price by bringing on additional supply.

Our recent experience bears this out. With the threefold increase in oil prices—from $4 per barrel to $13.50—production of new oil has not increased. Total domestic production declined from 9.2 million barrels a day in 1973 to 8.3 million barrels a day in 1975.

Even if oil production did begin to climb, this would not be a solution to the energy problem. We would simply face the situation of domestic depletion in 25 years. Any oil pricing policy has to be made in the context of a balanced energy program which changes our reliance from oil to alternate fuels. If we take away all of the disposable income of people and assign it to the oil industry, we are asking for real trouble.

First, we will delay the development of renewable alternatives. Second, we will put energy policy into the hands of the oil companies. Third, we will pay enormous amounts of money for very small increments of oil.

PROFITS

The oil companies also tell us that the $7.66 average price is too low because it would not give them enough money to develop alternate resources. The oil companies' 1974 profits were a third higher than those of 1973, and double the profits of 1972. The companies complain that their 1975 profits will be lower than the 1974 figure. This hardly makes them small, since 1974 was the year the oil companies realized massive profits on inventories due to OPEC's pricing policy. Moreover, most oil companies will post higher profits for their 1975 domestic operations than they did in 1974.

ECONOMIC IMPACT

High energy prices are the single major contributor to inflation. Declines in consumption which have been achieved have come about not as the result of conservation, but because the economy is in a major recession. Energy prices are inextricably tied to economic recovery. For the economy to recover and grow, we will immediately need new energy inputs—from increased foreign inputs, most likely. That is the only source of immediate additional supplies of oil. But we will never need to have that recourse if there is no economic recovery. And there will be no recovery without lower energy prices. The capital shortage that the oil companies keep pointing to will worsen unless the economy as a whole expands.

Finally, I want to point out two things. The fact that the oil companies say that production will decline if they do not get higher prices simply indicates that there is no free market in oil. America's oil supply is controlled through control of crude oil production and pipelines. If the industry were competitive, other companies would come in with better management, more innovative techniques, and begin to undersell the big, inefficient operators. As long as we have market power, there is no likelihood that prices will go down without Government intervention in some form. It is also true that if the oil companies lack the "incentive" to produce oil at $5.25 and $11.28 per barrel, then we must begin to produce our own energy from public lands. Certainly, no government would need to pay salaries at the half million dollar level that prevails among the directors of oil companies.

Second, my reasons for not signing the conference report on this bill. I did not sign because the price was too high—and it leads people to think that the cost of oil is much higher than it actually is. The abandonment of all costs as a component of a price ceiling in the case of a commodity as vital as fuel. Without cost-based pricing, we have no way of knowing when a firm is efficient, or when a fuel is economical. Second, we have institutionalized inflation in this bill. As the price of oil begins to rise in response to the 7- and 3-percent annual escalators, we will see further increases in food, in primary metals, in transportation, and in every other sector except, perhaps, wages. We will certainly see no reductions in the prices of these commodities as a result of the original rollback.

The reason I will vote for the bill is

the muscle of the oil companies in the administration—if we did not pass this price ceiling the oil men would get Jerry Ford to force an even higher price on the people of the United States.

Mr. PACKWOOD. Mr. President, the ultimate objective of our energy policy is not just to decrease our consumption because "it is a good thing to conserve," or because we will appear to have an energy policy. The ultimate objective of our energy policy must be to make us independent of imported oil. In short, we do not need an energy policy just to say "we have an energy policy"; we need an energy policy to curb our dependence on imported oil. I will vote against the conference report bill because it does not sufficiently stop the flow of Arab oil into this country; it does not sufficiently stop the outflow of American dollars and jobs, which we cannot afford, and it does not sufficiently put us on the road towards energy independence.

The legislation adopted by the Senate and House conferees contains several good attempts to encourage conservation. The bill sets up a system of standby authorities for the President in the event of another crisis or embargo; it delineates a system of strategic reserves; it establishes energy-labeling procedures for major appliances; and it mandates fuel standards for automobiles. Although all of these are good measures, and I supported each of them when they were passed in the Senate as separate bills, they in themselves are not enough. They are not enough to curb the flow of Arab oil into this country. They are not enough to keep American dollars and jobs here. They are well-intended measures, but not enough to be called "an energy policy."

The heart of the problem, and it always has been, is the growing reliance on imports. This results from the fact that our domestic production is decreasing and our domestic consumption is increasing. In order to fill this gap between production and consumption, we must rely on imports. This gap is growing. Unless we take action on both sides of the problem, production and consumption, we cannot have a long-term satisfactory solution.

This bill dabbles on the consumption side, but does nothing to encourage production. Most of the measures set out in the bill were designed to decrease consumption. However, combined with the restrictive pricing mechanism, the so-called average price—the average price of controlled oil and new oil—there is a real possibility that consumption will increase. As the price of oil is held artificially low, the American consumer will be encouraged to buy more. Less attention will be given to the development of energy alternatives. In addition, with an artificially low price, production will fall even further behind the demands of consumers. Result: More imports.

Of three major studies undertaken to show the effects of the conference report legislation, all predict that imports will increase faster with the adoption of this bill than with immediate decontrol. No studies indicate decreasing imports under this bill. Perhaps even more condemning, the Federal Energy Administration predicts that this legislation will cause an immediate increase of imports over what we would have if we kept the status quo; that means more important with the bill than with the current price controls! A study by Data Resources, Inc., a private think-tank, claims that imports can be expected to rise up to 1,300,000 barrels per day by 1977. The American Petroleum Institute sees imports up an additional 3,400,000 barrels per day by 1980 as a result of this legislation.

Mr. President, this is absolutely contrary to the direction Congress has been proclaiming for the past year. Our initial attempts at forging an energy policy were aimed at reducing the level of imports of 1 million barrels per day within 1 year. Now, if this bill is enacted, we will see the exact opposite: We will have succeeded in increasing our imports by over 1 million barrels per day within a year. This is not energy policy; this is political capriciousness.

I cannot support a bill which has all the trappings of an energy policy, but which is built around a hollow shell. Growing dependence on imports prompted the embargo crisis 2 years ago and proved the strength of the OPEC cartel. To date, Congress has done little to curb that growing dependence. I refuse to vote for a bill which is palliative and a disguise to the real problem.

Mr. MUSKIE. Mr. President, ever since the OPEC embargo plunged the world into the energy crisis 2 years ago, our Nation has been muddling along with no real, comprehensive energy policy. As a result, the very complex problems of energy price, supply and conservation, have been even further complicated by political problems such as Presidential threats to decontrol domestic prices and partisan disputes of who is to blame.

We have an opportunity today to put an end to these problems. We have an opportunity today to give our approval to a rational, comprehensive energy policy for the Nation.

This policy, embodied in S. 622, the Energy Policy and Conservation Act, is not a product of partisan politics, as one might surmise by reading the list of those who signed the conference report. It is, rather, the end result of a thoughtful and bipartisan committee effort, which was marked by an unusual amount of participation by Administration officials. These officials, in fact, assured the conference committee members that the agreed to bill would be acceptable to the administration. And while the President has not yet chosen to indicate his approval, I trust that the assurances given to the Congress by his representatives still hold.

I continue in my trust because I would like very much to see S. 622 become law. I think it makes sense.

Those of us from New England have a special interest in energy policy because of our region's heavy dependence on petroleum. We know firsthand the effects of skyrocketing oil prices and supply shortages. We know that we must have a rational energy policy and we must have it now.

This legislation makes sense for my home State of Maine, for New England, and for the Nation. It would stabilize prices by rolling them back a small amount immediately and allow them to rise slowly over the next 3½ years. It would guarantee conservation by setting strict standards. And it would give the President the authority he needs to deal with another severe shortage should one occur.

S. 622 represents an important step in moving the Nation toward a brighter energy future. I urge my colleagues to support it.

Mr. KENNEDY. Mr. President, I shall be very brief.

My purpose in these remarks is not to review the many substantive features of the Energy Policy and Conservation Act. The act represents the best consensus possible to achieve a sensible and sound long-run energy program. Other Senators, particularly those who participated in the 5-week conference, have presented these features in detail and argued persuasively why they should become law.

Anyone who has studied the energy issue knows that the United States cannot begin to manage its energy problems without providing for a national strategic petroleum reserve to protect the country from future oil embargoes, a mandatory program of fuel economy for automobiles, an energy efficiency labeling program for major appliances, authority to order the conversion of electric powerplants to coal, incentives for the development of new coal mines, federally funded State conservation programs, industrial energy efficiency targets, and Government access to industrial cost and pricing data. And, of course, S. 622 contains a hard-won compromise on the oil pricing issue, one that probably satisfies no Senator completely but one that, in my judgment, is the best we are likely to obtain in the foreseeable future.

Because the Energy Policy and Conservation Act contains these important provisions it should be approved by the Senate and signed by President Ford.

My purpose in these remarks, however, is to underline for the Senate the likely consequences of S. 622 not becoming law.

As chairman of the Energy Subcommittee of the Joint Economic Committee, I want to stress the serious economic consequences that would occur if this legislation should fail of passage or be vetoed by the President.

Next week the Joint Economic Committee's staff evaluation of the administration's current services budget will be released. Without going into detail prematurely, I can say that this report underlines the highly fragile nature of our present economic recovery.

It points out that by the middle of next year we are likely to be at a point where growth in output will be barely adequate to prevent a new rise in unemployment. Many of the factors in the current recovery, such as the sharp growth of business inventories and the recovery of residential construction, will have subsided. Similar economic analyses have been prepared by the Congressional Budget Office and the Budget Committees of the Senate and House.

In other words, our present economic condition will not permit any additional and unanticipated shocks, such as the sharp rise in fuel prices that surely would occur if all domestic price controls lapse.

Immediate decontrol of oil prices would mean a direct $20 billion loss in the gross national product. It would mean an increase in unemployment of at least 1 million workers by 1977. And it would bring about an increase in the Consumer Price Index of at least 1.5 percent.

These economic consequences will raise havoc with an economy that already is in a very fragile condition. They will make almost impossible any serious efforts to enact a full employment bill, or a system of national health insurance, or reform of our welfare system.

We will be plunged back into the recession out of which we are just beginning to emerge. Such a development would have the most serious consequences for every American citizen, but particularly for those who already have suffered most from the disastrous economic policies of recent years.

Those would be among the most immediately economic consequences of the Energy Policy and Conservation Act not becoming law.

And, of course, our energy policy would be in total disarray. The one feature that is perhaps the most significant part of the pending bill, even though not a line in the bill is devoted to this provision, is the assurance of certainty in a host of vital energy policy areas.

Once this bill becomes law, producers and consumers of energy will know what to expect and can begin to make their plans accordingly. No longer will there be incentives to do nothing, to wait for Congress and the executive branch to make up their respective minds over energy, before taking decisions that in many cases have been postponed for years.

We will have a framework of basic law that we can continue to refine and improve. But the fundamental groundrules will be in place. We can get on with the business of making this country more sufficient in energy, with due regard for our international obligations and problems. The period of indecision and inaction will be over.

One final word on the subject of energy conservation. This bill contains some highly significant provisions that, at last, will begin a serious national program of conserving our limited energy. But I think it is important that Congress realize these are just beginning steps. Much more remains to be done before we fully capitalize on the tremendous potential that is involved in energy conservation.

There is no argument with the proposition that energy conservation is the least expensive, most rapid, and most environmentally acceptable way to increase the Nation's available supply of energy. Savings in the range of 25 to 35 percent over current levels are clearly feasible.

And these savings need not involve the sacrifice of jobs or a decline of economic output. To the contrary, a properly designed energy conservation program should provide significant stimulus in both areas.

The Energy Subcommittee will be examining the energy conservation potential in detail in the next session of Congress. It is our hope to develop a number of specific recommendations that can then be considered by the appropriate legislative committees and by the full Senate.

But these efforts can only have meaning if the present bill becomes law. That will provide the foundation on which we can build a comprehenive national energy policy that truly serves the needs and interests of the American people.

The PRESIDING OFFICER. Under the previous order, the vote will now occur on agreeing to the motion to concur in the amendment of the House to the amendment of the Senate to the amendments of the House to the bill, S. 622.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

(At this point Mr. WEICKER assumed the chair.)

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH) is necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 604 Leg.]

YEAS—58

Abourezk	Hathaway	Pastore
Biden	Huddleston	Pell
Brooke	Humphrey	Percy
Bumpers	Inouye	Proxmire
Burdick	Jackson	Randolph
Byrd, Robert C.	Javits	Ribicoff
Cannon	Kennedy	Roth
Case	Leahy	Schweiker
Chiles	Magnuson	Scott, Hugh
Church	Mansfield	Sparkman
Clark	McClellan	Stafford
Cranston	McGovern	Stennis
Culver	McIntyre	Stevenson
Durkin	Metcalf	Stone
Eagleton	Mondale	Symington
Ford	Morgan	Talmadge
Glenn	Moss	Tunney
Hart, Philip A.	Muskie	Williams
Hartke	Nelson	
Haskell	Nunn	

NAYS—40

Baker	Fong	Mathias
Bartlett	Garn	McClure
Beall	Goldwater	McGee
Bellmon	Gravel	Montoya
Bentsen	Griffin	Packwood
Brock	Hansen	Pearson
Buckley	Hart, Gary	Scott,
Byrd,	Hatfield	William L.
Harry F., Jr.	Helms	Stevens
Curtis	Hollings	Taft
Dole	Hruska	Thurmond
Domenici	Johnston	Tower
Eastland	Laxalt	Weicker
Fannin	Long	Young

NOT VOTING—2

Allen	Bayh

So the motion was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. GRIFFIN. Mr. President, I send a modification of my amendment to the desk and ask for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, we cannot hear the Senator.

The PRESIDING OFFICER. The Senator from West Virginia is correct. The Senate will be in order. No further business will be transacted until the Senate is in order.

The Senator from Michigan.

Mr. GRIFFIN. Mr. President, I ask that the amendment that is pending, as modified, be stated.

Mr. McCLELLAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The amendment will be stated.

The legislative clerk read as follows:

In lieu of the language proposed to be inserted, insert the following: "$205,600,000, none of which, nor any other funds appropriated in this Act may be obligated or expended to finance the involvement of United States military or civilian forces in hostilities in or over or from off the shores of Angola, unless specifically authorized by the Congress, which funds are".

Mr. GRIFFIN. Mr. President, in drafting this amendment——

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Michigan will suspend.

The Chair wishes to advise the Senate that the Chair will not waste his breath or violate the ears of Senators until the Senate is in order.

The Senator from Michigan.

Mr. GRIFFIN. Mr. President, in drafting this amendment I have drawn heavily upon the actual language which was adopted in the so-called Cooper-Church amendment of 1973 which prohibited the use of U.S. military forces in hostilities in, over, or from off the shores of Indochina.

I offer this amendment because I share the deep concern which I know most of my colleagues have about the possibility that we might slide into another Vietnam by any involvement whatsoever in Angola. I share the concern of those who wonder about the possibility that some covert assistance by the CIA might lead to the use of advisers, and that might ultimately lead to the introduction of military forces. I share the view that we ought to slam the door and keep it closed from the outset on any possibility that any American military forces

or civilian forces could be used for military purposes in Angola.

But I think Senators should realize that the reach of the Tunney amendment goes much further than that. The question my amendment, which is really a substitute, poses is: Do we want to close the door, tie the hands, and cut off any and all flexibility of the executive branch in this situation.

In other words, should there be no way that we can provide any assistance to the majority of people in Angola who are resisting Soviet imperialism at the present time?

I am not ready, frankly, to endorse the use of funds for covert purposes in Angola, but neither am I ready to say that the executive branch should not have some flexibility.

Mr. President, before we vote on this issue there are some facts that need to be recited that were not mentioned earlier.

The Soviet Union has spent vast sums of money in support of the MPLA, sums far larger than we have talked about here.

In a clear act of international aggression, Cuba has sent thousands of well trained and equipped soldiers—Jack Anderson reports there are now 6,000 Cubans fighting in Angola—and it is clear from press accounts that these soldiers, armed with Soviet tanks and rockets, are largely responsible for the military successes of the MPLA. Other estimates differ between 4,000 and 6,000.

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

Mr. GRIFFIN. Will the Senator allow me to make a few points, and then I will be glad to yield.

Mr. PASTORE. Of course.

Mr. GRIFFIN. The majority of the people of Angola do not support the MPLA, which at best is credited with the support of 25 percent of the population. Fighting against them—and presently losing because of the massive Soviet and Cuban intervention—are a clear majority of the people under the leadership of the UNITA–FNLA coalition.

While both UNITA and the FNLA have called for an end to the fighting and for free elections to determine the will of the people—as envisioned by the "Alvor Agreement"—the Soviet-sponsored MPLA has refused to agree to elections and is trying to seize control of the entire country by military force.

The stakes in Angola are high. Writing in a recent issue of The New Republic—not exactly the organ of conservative thinking—Tad Szulc observed:

> There are numerous reasons for this Soviet interest. Quite aside from its wealth—oil, diamonds, sugar and coffee—Angola is strategically located on Africa's west coast. Control would give Moscow a military presence on the South Atlantic. The Soviets have a foothold in Cuba in the Caribbean and a foothold in Somalia right below the entrance to the Persian Gulf. Bases in Angola, if they were to be obtained, would be crucial in supporting the Soviet fleet both in the South Atlantic and the Indian Ocean, thus facilitating operations along the oil tanker routes around Cape Horn. . . .
>
> If the MPLA reconquers Lobito and south-central Angola, the Soviets may have a major say in the operations of the Benguela Railway, possibly placing Zaire and Zambia at their mercy in terms of copper exports. Finally a Soviet-controlled state in Angola would add to the pressures on the white regimes in Rhodesia and South Africa.

Angola has implications for the policy of détente with the Soviet Union as well. After the fall of South Vietnam last April, the Soviets again began to voice strong support for "wars of national liberation" and to assert the Communist victory in Vietnam was a success for the Soviet Union's Leninist foreign policy. As the Washington Post editorialized on November 26:

> Moscow perhaps sees a post-Vietnam international setting in which its own power is waxing and American power, or American resolve, is on the wane. Angola may be a test case to establish how much Soviet intervention the international traffic will bear.

I could go on and on, but I only go through this to emphasize and underscore that we have a very critical, very serious and far-reaching international issue before us. I am not convinced that it is in the national interest to deny the executive branch, with one broad stroke of the pen, the flexibility necessary to carry out U.S. foreign policy in a dynamic and changing situation, which is what the Tunney amendment seeks to do. By contrast, using the Cooper-Church language, my amendment would make it clear that none of these funds—and if I could do so under the rules of the Senate, without having it ruled out of order as legislation on an appropriation bill, I would say funds not only under this bill, but under any act—could be used to support any U.S. personnel for military action in Angola.

I think we all agree on that. I would urge the Senate not to adopt the Tunney amendment, but to take the language that I have offered as a substitute, which it seems to me would make very strong policy, but would be the kind of statement with which we could all live. It would not put any stamp of approval upon CIA covert action with regard to Angola, but it would leave the Executive branch with the kind of flexibility in the implementation of foreign policy that it needs to have.

Several Senators addressed the Chair.

Mr. GRIFFIN. I yield to the Senator from Rhode Island.

Mr. TUNNEY. Mr. President, who has the floor?

Mr. PASTORE. Mr. President, I do not believe there is any dispute at all——

The ACTING PRESIDENT pro tempore (Mr. STONE). The Senator from Michigan has not yielded the floor, has he?

Mr. PASTORE. No, he yielded to me for a question.

The ACTING PRESIDENT pro tempore. The Senator from California is advised that the Senator from Michigan still has the floor.

Mr. PASTORE. I quite agree with the Senator from Michigan that we all understand the criticality that exists in Angola, and we all realize, too, that we do not want to get into another Vietnam. We are trying to avoid that.

But my question is this: The Senator speaks of a flexibility that he would like to give the administration. What does he envision that can be dealt with with flexibility? What would he do? I mean that is the question that is before this body. How far would we go?

Mr. GRIFFIN. As I understand, based on press reports—and I will use that preface rather than try to relate what might have been conveyed in any secret sessions—this would be in terms of financial assistance which would go to, perhaps, a neighboring state, that would, perhaps, be channeled to these forces to help them resist. To help them. It could be in terms of military equipment, or——

Mr. PASTORE. I do not want to get into any classifications, but would the Senator use the CIA as a channel? I mean they are the ones that have gotten us in trouble in many parts of the world.

Mr. GRIFFIN. I do not disagree with the Senator from Rhode Island that the CIA has in the past made mistakes and gotten us into some trouble, but I think the question here is whether we can do away with the CIA, and do away with the possibility of any covert action.

Mr. PASTORE. No, I want them for counterintelligence. There is no question about that. But where does the Congress of the United States come in, as we get into these things step by step by step? I would like to have something a little more explicit, if we could.

Mr. GRIFFIN. I do not think we should go as far as the Senator from California (Mr. TUNNEY) would have us go, at least on the record at this point. I would go as far as my amendment proposes, which I think the Senator would agree would be a long, solid step. But I wonder if we have the knowledge, I wonder if we have the information, that we should have before we tie the hands of the Executive to the extent that the Senator from California is asking us to do.

Several Senators addressed the Chair.

Mr. GRIFFIN. I yield to the Senator from Louisiana.

Mr. JOHNSTON. I presume that under the Senator's amendment, the United States would continue to give aid until something happens. Generally that means until we win. I wonder, in the case of Angola, if the Senator's amendment passes, what event do we look to as the point at which we can say we have achieved our goal, that we have achieved our objective, and we can stop, now, giving aid?

Mr. GRIFFIN. I cannot answer the Senator's question, and I would not presume to. As I have indicated, I am not necessarily advocating that we do anything in this particular instance. I am only saying I do not think we should close the door and make it impossible for the executive to have some flexibility at this point.

Mr. JOHNSTON. We are talking about the spending of some $50 million American dollars and getting on some kind of, perhaps, long-range commitment. Do we have any goals in Angola?

Mr. GRIFFIN. This is a 1-year appropriation bill, so if the Senator is talking about getting another crack at it, obviously the appropriation bills come

along every year. We are not making a decision of any kind, it seems to me, of the nature that the Senator from Louisiana is concerned about.

Mr. JOHNSTON. I would hope that someone would try to define as clearly as they can for my edification, and I am seeking information, what our goals are in Angola, because I think that was one of the problems in Vietnam. I do not think this will lead to another Vietnam, but that is one of the problems if we get into one of these things without having a goal. We do not know when we have achieved our objective, and there is no end to it. Pretty soon it gets to be just a question of credibility.

Several Senators addressed the Chair.

Mr. GRIFFIN. Mr. President, I am willing to yield the floor to others.

The ACTING PRESIDENT pro tempore. Senators will suspend momentarily until we can get order.

The Senator from Michigan still has the floor.

Mr. CLARK and Mr. BIDEN addressed the Chair.

Mr. GRIFFIN. I think the Senator from Delaware was on his feet first.

Mr. BIDEN. Mr. President, I would like to ask the Senator from Michigan a question, if I may.

He has read a portion of an article from the New Republic, stating that a Russian dominance in Angola would give them a strategic foothold in the South Atlantic. The article went on to cite the wealth of the country with reguard to oil, diamonds, and the railroad that goes through Angola, and the pressure that would be brought on Rhodesia and South Africa.

I would like to ask the Senator whether or not he believes that there would be a strategic advantage gained by the Soviets, and what that advantage would be, with regard to the United States? How would that affect our interests? Secondly, what difference does it make to us? What difference should it make to us? What pressure is placed on Rhodesia and South Africa? I assume the author is talking about exacerbation of the black-white conflict that exists there. What is the United States interest in either of those situations, assuming they are true?

Mr. GRIFFIN. I was quoting from the article in the New Republic. I do not depend on everything that is said in it, and I am not here advocating that this should be our policy. I am only saying I am not ready to say it should not be. That is my point.

Mr. BIDEN. Does the Senator believe we have any strategic interests in Angola?

Mr. GRIFFIN. I think that the location of it, the geopolitics of it, indicates that we ought to be very much interested and concerned about the establishment of a Soviet satellite in Africa; yes.

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

Mr. GRIFFIN. I am glad to yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. For the probable edification of my friend from Delaware, before we took the very liberal attitude of encouraging our friends around the world to quickly dispose of their colonies, the United States could depend on, I believe, 16 or 18 ports around the world. If Angola is lost to the Soviets, we have only eight now. This in itself is a matter of great strategic importance to the United States, because as long as we depend on oil from the Middle East, and that will be for some time, the oil that is delivered to the United States by way of the Atlantic would pass Angola at the smallest part of the South Atlantic, and possible enemy controlling the two ports, one good port and one not so good, in Angola, could, if they wanted to, use Angola as a base to prevent or slow down shipments of oil to the United States.

I see this as a definite strategic advantage to any country that could wind up friendly with whatever government we may find in Angola.

That is the reason I think it is to the United States' interest to pursue this.

We are having a difficult time, for example, in this Senate and in this Congress getting a group to agree that Diego Garcia is an important place in the most strategic place in the world, in my mind, the Indian Ocean, for much the same reason that I am reciting our loss of friendly ports around the periphery of Africa.

So I am trying to add whatever I can to this discussion as what I see that particular part of South Africa as being of value and vital to our strategic interests.

On the other hand, I might be completely wrong. We might find the Soviets on our side some time. So far, we have not had that pleasure. Until we do, I think it is of the utmost importance to the United States to maintain friendly relations with countries, even though we may disagree with them on the use of ports, and so forth.

Several Senators addressed the Chair.

Mr. BIDEN. As I am sure the Senator knows, we have made little or no use of those two ports, as long as they have existed and have been available to the United States.

Mr. GOLDWATER. That is correct.

Mr. BIDEN. I am sure the Senator knows that.

Mr. GOLDWATER. Yes. We have not made particular big use of other ports, but we had them accessible. If the Soviets have control of whatever government ends up in Angola I say, with some assurance, we will not have access to those ports. One of them is not too good. The other one is so-so.

Several Senators addressed the Chair.

Mr. CLARK. Mr. President, will the Senator from Delaware yield?

Mr. BIDEN. Yes.

Mr. CLARK. I wish to ask the Senator from Michigan about his amendment.

As I understand it, the amendment would do absolutely nothing to affect our present activity or our planned activity in Angola. It would rather address itself to a very important question and indeed important enough, I think, that if it were added to the Tunney amendment, rather than substituted for it, it ought to be adopted because it does say that no American personnel, military or civilian, should be used in Angola. I think that is a good addition to the Tunney amendment.

Unfortunately, it is offered as a substitute. The question before the Senate, of course, is whether we ought to continue covert activities of the kind that we have already entered into and planned to continue. It does absolutely nothing, as I understand it, with any of the military assistance programs, any CIA activity, any credit arms sales, any commercial sales, paramilitary activities, or payments of cash. None of those, as I understand it, will be affected by this amendment.

Am I correct in that?

Mr. GRIFFIN. The Senator is correct.

Let me respond that the amendment would serve a very important purpose, however, by making sure that such involvement, as we might have in an indirect way through covert activities, would not escalate into the introduction or the use of any American military or civilian personnel in the hostilities.

Mr. CLARK. I compliment the Senator on his amendment. If it were to be withdrawn and added to the Tunney amendment, instead of a substitute for it, I would support it.

Mr. GRIFFIN. And to the extent that Senators have a concern or a fear about that kind of a slide into a Vietnam situation, it seems to me that my amendment would answer that concern.

Mr. CLARK. One further question. As I understand it, then, if we were to continue the present activity, we could put millions of dollars of military assistance in as long as it was done under the present kind of legislative or legal arrangement whereby covert activities could be continued as long as no civilian or military forces of the United States were involved.

Mr. GRIFFIN. The Senator knows as well as I that there are limits in this appropriations bill. When he talks about millions and millions he is talking about years down the road.

Mr. CLARK. Yes.

Mr. GRIFFIN. He is not talking about this appropriations bill.

Mr. CLARK. But it would apply, as I understand it, only to personnel, military and civilian, and in no way affects the present activities that are occurring?

Mr. GRIFFIN. It is almost the exact wording of the Cooper-Church amendment.

Mr. CLARK. I thank the Senator.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise to make the following points:

First, in regard to comparing the Griffin amendment with the Tunney amendment I should make clear, and I have already expressed myself to the distinguished Senator from California, if I had my way his amendment would be even tighter than it is. In other words, there is a third option here. I consider the amendment of the distinguished Senator from California and the distinguished Senator from Massachusetts to be in the middle ground. I would not ex-

empt intelligence gathering, such as is done by the Tunney amendment. After all, that is supposed to be the only duty of the Central Intelligence Agency, but they have used that as a pretense for engaging in all sorts of other activity. In my opinion, the very fact that the Tunney amendment exempts intelligence gathering leaves a door wide open that they could drive a truck through.

If I had my druthers, I would like to see it eliminated.

The fact is that allegations have been made that in the past, under the name of intelligence gathering, Mr. Mubutu was on the CIA payroll. Would President Mubutu still qualify to be on the CIA payroll?

These are questions that have been raised. These have been the abuses in the past.

Clearly they could still continue under the language of the Tunney amendment where it stages, "this act may be used for any activities involving Angola other than intelligence gathering, which funds are".

I told the Senator from California that it was my intention to eliminate "other than intelligence gathering," so it would read "nor any other funds appropriated in this act may be used for any activities involving Angola, which funds are."

Point No. 2, there is another loophole in the Tunney amendment. What happens to those funds that are channeled through Zaire into Angola? And believe me, that has been the case. What about replenishing the funds of Zaire? That never appears in this amendment. Yet, on the basis of past history, it will be necessary to do that.

The only reason I make these points is I wish our colleagues to clearly understand that some of us feel that in some ways the amendment of the distinguished Senator from California and the distinguished Senator from Massachusetts is not tight enough. Because I think it is necessary for us to go on record in a practical way, I accept this type of compromise, but that is exactly what I consider it to be, a compromise between my position and the position of the Senator from Michigan which is even more open-ended.

Several Senators addressed the Chair.

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

Mr. WEICKER. I will yield for a question, but I have a couple other points that I wish to make.

Let me yield first to the distinguished Senator from California for a question and then to the distinguished Senator from North Dakota.

Mr. TUNNEY. Mr. President, the Senator indicated there were two rather substantial loopholes in the amendment in that it would be possible, through the intelligence-gathering language of the amendment, to allow more military and paramilitary aid to be given to Angola, or in the alternative, that it would be possible to channel this aid through a third country, such as Zambia or Zaire.

I point out with regard to the second loophole suggested, the diversion to a third country, that the language of the amendment reads "nor may any other funds appropriated in this act be used for any activities involving Angola other than intelligence gathering, which funds are," and so forth.

Additionally, the way the amendment was drafted by Senator CLARK, Senator CRANSTON, Senator BROOKE, Senator KENNEDY, and myself, we had the language "in Angola" rather than "involving Angola" and we changed "in" to "involving" to close that precise loophole that the Senator suggests still exists.

I do not think it does exist, because I think the word "involving" proscribes any diversion of aid from Zambia or Zaire or any other third country to Angola.

Second, with regard to the first objection——

Mr. WEICKER. I say to the distinguished Senator from California this is the second part of his question.

Mr. TUNNEY. Yes. I shall ask the Senator at the end of my point whether or not he agrees with me.

The ACTING PRESIDENT pro tempore. Will the Senate be in order?

Mr. TUNNEY. The second point is that there is a great difference between covert actions and intelligence gathering.

There is no doubt that some of us feel that the United States should have the ability to gather intelligence in any foreign country where it is going to be advantageous to the United States' foreign policy interests. Clearly, the gathering of information as to what is going on in Angola would be advantageous to our general foreign policy interests. However, some of us feel that covert actions would be seriously detrimental to our foreign policy interests. That is the reason why we use the words "intelligence gathering."

I know that other Senators who have sponsored this amendment are going to speak to this point, but it is certainly my intention, by using this language, not to allow for the shipment of any military equipment or paramilitary equipment to Angola. The purpose is to allow simply the use of funds for the gathering of intelligence.

I ask the Senator from Connecticut, after having heard that explanation, whether he agrees.

Mr. WEICKER. I am satisfied in regard to the first point the Senator from California made in responding to my second point—specifically, the way the amendment is drafted now, it would prevent the use of that money being channeled through third parties.

On the other hand, I am not satisfied as to the language of that amendment locking the loophole since it refers to intelligence gathering, for the simple reason that that is the mandate that presently rests upon the CIA, and it is used for every activity under the Sun. I do not think they are going to pay any more attention to this law, if it becomes such, than they do to the present law.

I think the Senator from California will agree with me that the way this language is written—let me give a specific example and ask a question, without my yielding the floor—it would be possible still to go ahead and have Mr. Holden Roberto on the CIA payroll even with this language, would it not?

Mr. TUNNEY. It would be possible to put people on the payroll for the purposes of gathering information but not for the purposes of allowing an individual to fight in a guerrilla war.

Mr. WEICKER. Mr. President, I yield for a question to the distinguished Senator from North Dakota.

Mr. YOUNG. Is it not true that the CIA now has less than $10 million of unobligated funds that could be spent in Angola? If the Tunney amendment were defeated, they would have no more funds approved until Congress approved reprograming for additional funds, and that requires the approval of the chairman and the ranking member of the Appropriations Committee, the Armed Services Committee of the Senate, and the same in the House—the Appropriations and Armed Services Committees. They would get no more money until then. So, at best, it would be until January, until we meet again and hold meetings or hearings, before they would get any more money. Under our procedure, if one of those eight members of the House and Senate committees disapproved, they would get no more money at all.

The advantage of this would be that the administration would have a chance to present its side of this issue to the members of the House and the Senate committees.

I do not think we should act abruptly this way.

Mr. WEICKER. I have to respond to the distinguished Senator by saying that, unfortunately, we do not know what money the CIA does have. That is one of the bones of contention on the floor of the Senate today—not just as represented in this piece of legislation, but God knows where else it is squirreled. I do not know the answer. I do not think anybody else does, either. I do know that we have to draw the line with respect to policy. That is what is being attempted on the floor of the Senate today.

The other point that has been made is that the United States is involved with two of these factions, one in conjunction with the Chinese, another in conjunction with the South Africans.

Let me point out that the United States is involved with all three factions. As I understand it, the Gulf Oil Co. pays into the banks of Luganda some $100 million a quarter, in the way of oil royalties or what have you; and that this money is being used by the Russian-backed factions. So, in effect, American dollars, of either governmental entities or this private corporation, are backing all three factions. I think that is a good time to get out. If we are going to be among all three, we can get out and leave everybody at the same time.

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

Mr. WEICKER. I would like to finish.

The figure that has been used regarding additional funding for the CIA has been anywhere between $28 million and $35 million. The escalation has been far

greater than that. As I recall, the initial requests in this area were around $6 million. It was also my understanding that at one point, until obvious hostility appeared, the initial request was for $100 million, and that this was pared back to the $35 million which has been referred to on the floor of the Senate today.

Then, again, when it comes to exactly how much money is being spent, it is also my understanding that the CIA has acknowledged some $17 million as the cost of ordnance supplied into that country. Yet, the cost figures are rather amazing. For example, a .45-caliber pistol is listed at $5. That is a rather interesting price. So that, actually, the $17 million that already has been spent on ordnance probably is far lower than the actual figure.

Mr. President, in conclusion, I would only say that I concur completely with the amendment as proposed by the distinguished Senator from California, in that this body is finally waking up to its obligations, and to the fact that wisdom, patriotism, and loyalty do not reside just in the older heads in Washington, D.C., whatever the branch of Government. Rather, those things are in abundance on the floor of the Senate, in the House, and in the executive branch, and better decisions are made when all participate rather than a few.

If there is one thing we should have learned from Vietnam it is that our concepts of politics on any of these continents have to be tuned to facts and historical reality, rather than to a frame of reference born of the cold war after World War II.

I think this fact has become clear, for example, in relations between China and Vietnam. China is no longer enthusiastic about Vietnam and they are reverting to their traditional and historical roles of antagonism toward each other.

Believe me, no white superpower is going to establish itself on the continent of Africa. It is not going to happen. The Soviet Union is a society far more racist than ours. I do not think they stand a prayer of establishing themselves on the African continent. No white nation will do that.

Therefore, I discount that argument, as I discount the rationale in Vietnam, where our reason for entering the war was that China was going to benefit enormously, regardless of what history had taught us up to that point. Now we are asked to act regardless of what history has taught us about Africa.

I support the Tunney amendment. I think it is clear that the involvement of this country in Angola is even greater than that which has come to public attention or to the attention of the U.S. Senate. As a matter of policy, I think it is time that we drew the policy and drew it here, tonight.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. TUNNEY. Mr. President——

Mr. WEICKER. I yield to the distinguished Senator from New York for a question.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut has the floor. The Senator from California is seeking recognition, but the Senator from Connecticut has the floor.

Mr. JAVITS. Mr. President, the Senator has pointed out various loopholes in the Griffin amendment. But is it not a fact that the major loophole is the very avoidance of the very issue we are debating? We are debating now whether to give military assistance to Angola. That is the issue, because that is what money is supposed to be in this bill somewhere.

The Tunney amendment says:

> Nor any other funds appropriated in this act may be used for any activities involving Angola, other than intelligence gathering.

That would include military assistance, not personnel.

By the way, I point out that the Griffin amendment is covered fully by the War Powers Act. That is why we passed it. If we are going to put people in hostilities or imminent danger of hostilities, we have a tight arrangement to cover that.

I ask the Senator: Is it not a fact that if we adopt the Griffin amendment, we simply allow an administration to proceed as it is proceeding in the very thing that we feel we have joined in—to wit, giving military materiel assistance in or about or directly or indirectly to the Angolan struggle?

Mr. WEICKER. If we adopt the Griffin amendment, that is correct. The Senator is correct.

Mr. JAVITS. Mr. President, I should advise my colleague that I hope—even if it is adopted, and I hope it is not—to add the necessary language to close that door, because that is exactly what we are arguing about.

Mr. WEICKER. I yield the floor, Mr. President.

Mr. TUNNEY. Mr. President, I wish to make a few points as to what the Tunney-Brooke amendment does and what I think the Griffin amendment does not do. Then I shall yield the floor very quickly, because there are others who have spent a great deal of time on the subject of military assistance to Angola who are very knowledgeable—men such as Senator CLARK, Senator CRANSTON, Senator BROOKE, and others.

I wish to point out, No. 1, that it is the intention of the authors of this amendment that intelligence-gathering does not mean military aid of any kind. It does not mean the financing of military forces in Angola. It does not mean ferrying or transporting forces or equipment to Angola or to any other country so that they may be shipped to Angola.

It is very clear, at least to the drafters of this amendment, that what we mean is that the moneys under this defense appropriations bill can only be used to collect intelligence.

I know that we may have entered the world of double talk or "newspeak," as George Orwell referred to it, when the precise meaning of words does not mean to a party who does not want to agree to it what the drafters of the language intended. But we intend—and this is, hopefully, legislative history—that this money can only be used for the collection of intelligence, but certainly not for any military or paramilitary activities whatsoever.

The problem with the Griffin amendment, as the Senator has offered it, is that it is, in effect, a substitute for the language which proscribes the use of funds for military or paramilitary activities. The Griffin amendment says that we cannot send troops to Angola, but it would certainly allow us to continue to spend money to support one, two, or more factions that are fighting in Angola. That, of course, is the problem that some of us feel is going to destroy our foreign policy interests in Africa and other parts of the world.

To give an example of how tricky the problem is, I just heard from my distinguished colleague from Hawaii (Mr. INOUYE) that he was approached by the administration to permit fund transfers through Zaire, in his position as chairman of the Appropriations Subcommittee on Government Operations. He refused, and his committee is going to continue to try to plug up this hole.

That is how tricky it is. Here we are, trying to participate in foreign policy decisions through the use of the purse strings, and we have a perfect right to do that under the Constitution, and the executive attempts to nullify our actions by slipping in secret appropriation measures that nobody knows anything about. Certainly, from the language that is contained in the bills that come before us, there is no way of finding out whether the money is intended to support military or paramilitary activities in places such as Angola.

As to the merits of cutting off funds to Angola, I think it is quite clear that we have spent many tens of millions of dollars in the past year in Angola supporting UNITA and FLNA. It is also clear that UNITA is being supported by South Africa. It is clear that the FLNA has been supported in the past by Communist China.

It is also clear that the MPLA, which is being supported by the Soviet Union, and which is the third faction, has been supported by 14 black African countries, who are ardent in their opposition to South Africa.

Dr. Neto, who is the head of the MPLA faction, is a protege of the Socialist, Mario Soares, in Portugal. Mario Soares is the Socialist leader who is considered moderate, who is supported in Portugal by the United States.

Mr. McGOVERN. Will the Senator yield on that?

Mr. TUNNEY. Yes.

Mr. McGOVERN. Is it not a fact that when the Chinese discovered that the South Africans were coming in to back the same two factions that we had supported along with the Chinese, they thought that was time for them to get out, that they did not want to be identified on a black continent with a government that is thought to be a racist white government? Therefore, they made a political judgment, without regard to the financial cost, that they did not want to have anything more to do with backing these two groups that, previous to that time, we had supported with them.

Mr. TUNNEY. That is correct. That is my understanding.

Mr. McGOVERN. The Senator, I know, has studied these three factions that are struggling for control in Angola. I can say that I listened to the briefings of the CIA people and the Department of State and others for hours about these groups and what they were attempting to do. Does the Senator understand where the American interest is involved in any way with the triumph of one of these three groups? In other words, what difference does it really make to the security of the United States whether the MPLA or the FNLA or the so-called UNITA group wins? Why do we really care in terms of anything that affects the interests and well-being of the people of the United States—or, for that matter, the interest and well-being of the people of Africa?

Mr. TUNNEY. I do not see how it makes a great deal of difference other than the fact that, apparently, our Secretary of State has a particular fear of Soviet involvement anywhere. He feels that the Soviet Union has decided to challenge the United States in Angola, and therefore, he is apparently prepared to escalate our assistance to other factions, despite the fact of their being backed by the South African Government, and despite the fact that many observers feel that there is no way that the two factions that we are backing can possibly win.

It does not make any sense to me. I was talking the other day—yesterday, as a matter of fact—to three representatives of the CIA. They are knowledgeable about Africa. This is their specialty. I was asking them whether it made much difference which group, which faction, won. The answer was that they saw that it made very little difference, that there was practically no ideological difference among the three groups and that it was clear that all three groups were primarily pro-Angolan. They were only nominally pro-Soviet or pro-Marxist, or pro-American; they were basically pro-Angolan, Socialists, and highly nationalistic. It seemed clear to them that, whether the Soviet faction won or one of the other factions won, they were going to be independent. They were going to run their government in an independent fashion.

I have not been, as Senator CLARK has, to Angola. I have not met with the three leaders and Senator CLARK is going to have an opportunity to tell us in a few minutes what his experiences were there. But it is clear to me that there is no real foreign policy interest which justifies the United States pouring tens of millions of dollars, and perhaps eventually, hundreds of millions of dollars, down a rathole, causing more death and destruction in that country, siding with South Africa in a way that is going to alienate all the other black African nations.

It is clear, also, that a country like Nigeria, which is so important to the United States—it is our second largest foreign source of supply of oil, our most important source of sweet crude—low-sulfur crude—is going to be outraged and alienated if the United States, over a period of months and years, is supporting a faction that is being supported by the South Africans, inasmuch as the Nigerians have been some of the principal leaders in black Africa against the white government in South Africa.

Mr. McGOVERN. Is the Senator not saying in effect that that is why the Chinese were smart enough to pull out? They did not wait until some legislative body in Peking ordered them to get out, they saw the handwriting on the wall. When they saw the South African Government move in behind us in support of these two other factions they thought it was time to get out in terms of their own posture in Africa.

I would like to ask the Senator one other question. Has not the Soviet record of intervention in Africa generally been a self-defeating one? In other words, in one country after another where they have played this kind of a heavy-handed role they have turned out to be unwelcome. They have had, perhaps, not as painful an experience as we have had in Vietnam, but they have discovered that a white imperialist government is not popular in Africa; is that not the case?

Mr. TUNNEY. I think that is the case.

Mr. McGOVERN. It seems to me the logic of the argument we have heard here that because the Soviets have backed the MPLA faction that we have to back one of the other two, that would lead us to the conclusion that if the Soviets decide tomorrow to change their backing to one of the others, then we have got to suddenly change our ally and maybe back the ones the Soviets have been backing today.

The whole thing seems to be so preposterous that I cannot understand why this Government would even consider pouring tens of millions of dollars into one of these particular factions.

We read in the press this morning that some $60 million is being invested in activities by our Government to support the so-called FNLA and the UNITA group.

I do not think it makes 60 cents worth of difference to the interests of the United States which one of these three groups ultimately prevails. I hope the Senator's amendment will be adopted.

Mr. McCLELLAN. Mr. President, will the Senator yield for a question?

Mr. TUNNEY. I will be glad to yield to the chairman of the committee, and I will then yield to the Senator from Ohio.

Mr. McCLELLAN. I want to assure the Senator I ask this question for a sincere purpose of getting information. If we have no legitimate interests there, if it means nothing to us that Russia takes——

Mr. McCLURE. Mr. President, will the Senator use the microphone. We cannot hear him.

Mr. McCLELLAN. All right.

What I am trying to ask is if we have no interest there, if it means nothing to us who controls it or who does not, why does it mean so much to Russia? Can the Senator give me that answer?

Mr. McGOVERN. Is the Senator asking me that?

Mr. McCLELLAN. I would like to know. They seem greatly concerned and are spending a lot of money. There is something there for somebody or something or they at least—they are either stupid or they think there is.

Mr. TUNNEY. I think we have to be concerned about Soviet intervention in Angola and other parts of the world. I think it is clear that the Soviet Union is expansionist and clearly the Soviet Union wants to royal the pot wherever they can. Of course, they are going to try to do it. Certainly I am not suggesting that the United States become pacifist.

I believe in a strong, adequate defense posture, but I say one of the ways or the most important way to handle the Soviet involvement in Angola is to go to the heart of the problem—the Soviet leadership. We are just about to enter into or we have entered into a grain agreement with the Soviet Union where we are going to be sending them food that they need desperately, apparently not only to feed their own people but to live up to commitments for grain exports they have made to satellite countries, and there does not seem to me to be any reason why we cannot use this as one bargaining chip to encourage them to make détente a living, vital force rather than a sham.

The Soviet Union, as the Senator so well knows has stretched the SALT agreements to the limit. Perhaps we should suspend the SALT talks for a time as a signal to them if they are going to continue their intervention in Angola.

Additionally, there is no reason for us to transfer technology to the Soviet Union without some compromises on their part. But what we do not have to do, in my view, is to spend tens of millions of dollars and come down on the side of South Africa, perhaps endangering the moderate regimes all over the rest of Africa.

I think there are many reasons why we can be deeply concerned about the Soviet intrusion in Angola, and we can do things to meet that intrusion other than spending our treasure and causing great problems to the supporting of military and paramilitary activities in that country.

Mr. HUMPHREY. Mr. President, will the Senator yield to me?

Mr. McCLELLAN. I had not quite finished.

Mr. HUMPHREY Go ahead then, please.

Mr. McCLELLAN. I understand the Senator feels, do I understand the Senator feels, the way for us to combat Russian expansion is to simply cease to have business relations with them by not selling them grain and not having other business transactions? Is that the answer the Senator uses?

Mr. TUNNEY. Not at all. It depends on the place. If the Soviet Union were to intrude upon Western Europe I would be prepared to use military force as our NATO allies and treaty agreements provide. I would not be prepared to use tens of millions of dollars in Angola when it will only result in a further deterioration of our relations with the great majority of African states.

I do not think it is a good thing for the

taxpayers of this country to have to have once again an open-ended secret commitment made in an underdeveloped part of the world which is going to produce more inflation, more disruption and dissent, and higher taxes, and the Senator knows it as well as I. It is also going to result in a greater loss of national security as a result of the damage it is going to do to our relations with pro-American black African states.

Mr. McCLELLAN. I may say to the Senator I do not think I could be accused of squandering money of foreign governments. I voted against all the foreign aid ever since 1954.

Mr. TUNNEY. Here is another chance. [Laughter.] I urge the Senator to accept my amendment.

Mr. McCLELLAN. I know this is another chance, but I will be asked before the end of this session of Congress, and I am asked now, to vote for billions of dollars to combat Russia in other places of the world.

Now, she is expansionist, the Senator admits that. I am not saying necessarily this money should be spent, but I am trying to get this thing in its proper perspective. If this is so valuable to Russia that she is willing to spend millions of dollars, as she is, to gain control, evidently she thinks it is of some value to her in a strategic plan of world expansion.

It may be that it is of no value to her. Maybe she is stupid and it may be she is mistaken. But, obviously, she feels it is of some great strategic value to her, and I assume of military strategic value for her to aid the forces she is aiding down there.

If she succeeds, I am not so sure that all of this expectation that has been expressed here that it will do them no good, they will not be able to control anything down there, I am not sure that can very well be depended on.

I am not overenthusiastic about any of this, but I do think we are going to put ourselves in a position here where it is going to look to Russia like it is going to look to our friends as if after we have gotten this thing all out in the open all around the world, every time Russia wants to expand and we are in that area then we start retreating. If this is going to look like a retreat I think it ought to be thought about again.

Mr. HUMPHREY. Mr. President, will the Senator yield to me?

Mr. McCLELLAN. I want to thank the Senator for yielding.

Mr. TUNNEY. Yes, I want to thank my distinguished friend for his questions.

I promised to yield to the Senator from Ohio and then I will yield to the Senator from Minnesota.

Mr. TAFT. I thank the Senator for yielding.

I want to ask the Senator a question. Let me lead up to it with a preliminary remark or two. First, I feel very frustrated, as I am sure many of the Members of the Senate must feel frustrated, about how this issue has come up, about the information or lack of information with regard to it.

I have long had the view that we pretty much ought to stay out of Africa and African affairs, and I probably will vote with the Senator on his amendment when we get to it, and vote against the Senator from Michigan's amendment. But before doing that I think I ought to say I feel we are legislating a vacuum. To some extent we have had a limited presentation of what we have done. I do not think we have had any presentation of why we have done it to date. I do not think we have had any statement of what the objectives are. I do not think we have had any indication of what we plan to do from either the Executive or, for that matter, from the committees of of Congress.

This I find to be a very frustrating exercise.

There has been some discussion of the strategy involved and the strategic necessity of this area.

I am very concerned with this. I am currently in hearings on antisubmarine warfare looking at the entire South Atlantic problem. But so far as a review by the committees of the Congress, what really is the strategic impact of this, we have had none.

Here we deal with the CIA which is supposed to be in the jurisdiction of the Armed Services Committee. There was an inquiry yesterday as to what information they had with regard to the entire matter. They said they had absolutely no information with regard to it.

We have not had a hearing here on the whole issue.

Finally, we had the subcommittee meet and discuss it yesterday at great length, I know. But it always seemed to me when we passed a war powers resolution, one of the concomitant principles which I thought was involved, that I backed at that time, was that we were annually going to have a review in the appropriate committees of the various areas of activity in the world where we should have some concern.

We have not had that. We have not had a single hearing of the Armed Services Committee on this issue.

I just have to say, under those circumstances it seems to me the burden of proof is certainly upon those who advocate that we should be taking some particular action.

They may be absolutely right. The Senator from Michigan in his resolution may be absolutely right.

We have had discussions, at times, I know, in the Foreign Relations and Armed Services Committees to do this kind of thing at the beginning of a session. I had hoped we would start next year. I do not see much prospect, but I think we ought to start.

The other thing is that I think we have to take another look at what we have discussed before here on the floor, and that is the whole area of how we do report on covert activities, of how we finance them in the CIA.

I do not think there is any way today where we can trigger the kind of discussion and debate we want to have before we are called upon to make this kind of decision out of the present mechanism we have as far as the control of the CIA.

Does the Senator think both points are to what we should be looking at in the entire Senate?

Mr. TUNNEY. I cannot agree more. I think it was an excellent statement of what the basic questions are in this body. I feel as much in the dark as the Senator from Ohio. I want to thank him for his very good statement.

Mr. TAFT. I thank the Senator for yielding.

Mr. HUMPHREY. Will the Senator yield to me?

Mr. TUNNEY. I promised to yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, let me just, first of all, say that the African Affairs Subcommittee chaired by Senator Clark held hearings on the relationship of the United States to African countries, and that, in part, involved Angola.

The chairman of that subcommittee has taken his responsibilities very seriously and, with appropriate staff, made an extended tour in Africa, including Angola.

We have had 280 pages of testimony in the Committee on Foreign Relations in Africa, and primarily Angola.

So it is not as if we are totally unaware of what is going on there. To the contrary.

The point is that the administration never came forth on its own. The policy on Angola was being formed and fashioned in secret. It became what they call a covert operation which blossomed into a full-page headline in the leading newspapers of the United States, which in turn compelled Members of this body to say, "What is going on here?"

In the beginning of this year, in January 1975, we were involved in Angola to the sum of $10,000. We are now up to considering $60 million.

The issue here is not whether we ought to be helping Angola. The issue is who makes policy about help in Angola.

First of all, let us keep in mind that Angola is represented today by warring factions of three separate tribes.

By the way, I doubt that anybody in this body knows much about those separate tribes, their customs. their background, their hangups, their prejudices, and all that kind of thing.

We have decided to be on the side of two of the groups because of our involvement with Zaire and Zambia. We were helping because of their interests, primarily.

The Soviets got involved here, not in massive amounts in the beginning. They got in just like we did, a little at a time. As we stepped up the ante, they stepped it up. But the difference is they do not have any public opinion, they do not have a parliament that is really an open parliament, and their government can go willy-nilly, push vast sums of money into Angola or elsewhere.

But I am here to say, Mr. President, that every instance in Africa where the Soviet Union has expended billions of dollars, as it has in North Africa, hundreds of millions as it did in Egypt, in every country the spirit of nationalism triumphed over the intrusions of communism, and that ought to be remembered in this debate.

So we are talking about whether we are going to put a stop order on the activities of the executive branch of the Govern-

ment through the CIA to establish policy by preempting the field before we get a chance in this Congress to know what is going on.

Now, we let this happen in Vietnam, I know. I was in this body when we had all too little information. Then I became Vice President and was surrounded by information.

Thank God we have now the opportunity to debate this in the open where at least we can have some conflict of opinion and some difference of opinion to air what could be one of the fundamental issues facing this Congress.

Angola today is a former Portuguese colony, really not governed, it is in a civil war and will be in one for a long time, the United States and the Soviet Union notwithstanding. For us to become openly involved when knowing so little is the blind leading the blind, the fools following the fools. It is just ridiculous.

Mr. President, let me say what the Defense Department can do here.

The Defense Department has a huge budget and it is possible within that budget to reprogram funds to the amount of $750 million with their programs.

That amount can be used for activities that this Congress would have no control over at all unless we insist that there be a justification for what is asked and what is done.

I call to our attention that we are not just talking about $28 million or $30 million. We are talking about a potential of three-quarters of a billion dollars of reprogramed funds. That is why this amendment of the Senator from California should not even deal with the money part of it, in terms of figures. It should really start out that none of which of the funds—none of which—none of which, nor any other funds appropriated in this act, may be used, et cetera, et cetera.

Mr. President, the Congress needs to review this entire matter of our relationship not only in Angola but in all of Africa.

How much money do we think we were making available for the whole continent before the Russians got involved in Angola? One hundred and fifty million dollars. For economic aid, for technical assistance, for medical help, anyone can name it, $150 million.

Now they have got 200 or more Russian advisers. They sent in some Russian rockets and, by the way, many of those forces do not know how to use them. They scare each other to death, according to the testimony we have had. They have got 3,000 or 4,000 Cubans there that really want to go home and, according to the testimony we have had, they are in serious morale problems.

Then all at once, in 1 month, we are going to put $60 million in to chase the Communists away when there is a whole treasure house in Africa, people crying out for their independence, people that are nationalistic more than anything else, and for years we ignored them, for years.

I was chairman of the Subcommittee on African Affairs until last year. I tried to do a little something about it with our Government to see if we could not get some basic interests in economic development, on reading, writing, arithmetic, on health and food.

Thank God DICK CLARK came here and took over that subcommittee.

I am privileged to chair the Committee on Foreign Assistance.

We have learned more the last year about what this Government is and is not doing in Africa than in the last 5 years. Why? Because when I asked for the money for this Subcommittee on Foreign Assistance, I said that we would exercise legislative oversight, and we have. The oversight tells us that the proposal that is being made by the administration is out of sight, unnecessary, and I think will lead us into incredible amounts of trouble.

Ten thousand dollars, my colleagues, a few months ago; $60 million now.

Who wants the Soviets in there? God only knows I do not. I believe the President of the United States ought to get that man Moynihan up at the U.N. who knows how to make better speeches than mine, every bit as loud and every bit as flamboyant, to go before the Security Council and lay it on the line and say "Out! Out!"

We ought to be using our good offices with members of the Organization of African Unity, telling them that we are prepared to go out tomorrow morning, to get all American assistance out, and ask them to try to settle this dispute.

As has been mentioned here, as my esteemed colleague from Illinois (Mr. STEVENSON) has noted, we do have other things we can use.

The Soviet Union says they want détente. They say they want trade; they want cultural exchange; they want high technology.

I would like to work with them. I am not a cold warrior in the sense of looking for a battle every day with the Soviet Union. The peace of the world depends on how we work things out. But we need to tell the Soviet Union that it is not a one-way street. We need to simply say to them, "Look, we are prepared to take step No. 1 of honor and decency to leave the people of Angola work out their destiny." Lord only knows, they will be fighting there for months. If any Senator here thinks he can make peace over there in a day or 2, he is a miracle man. He is the man we need. That would be the greatest Christmas present since the first Christmas.

Mr. President, the United States of American better start taking care of things it knows how to take care of. We know so little about Africa, the 800 and some tribes that make up Africa. Where are the experts here in the Senate on the 800 and some cultural organizations or tribes in Africa? I have traveled in those countries. I say it is like a different world. They are magnificent people. They want to be left alone.

The Soviets are in there, and they are going to mess it up? I will tell the Senate something; if I could figure it out myself, I would like to trap them in there. It is like quicksand. They would not know what hit them. They would have these rockets, guns, and halftracks and they will be fighting there for God only knows how long. But when it is all done, there will be a Nationalist Angola Govvernment which most likely we will not like, most likely unreliable from our point of view because we like our old friends we can have coffee and tea with, an occasional martini or a bottle of beer. They do not always like it that way.

I suggest we take the amendment. I suggest further that we keep in mind what the Senate Foreign Relations Committee is asking us to do. We have laid out a procedure that if the President feels that Angola is a matter of high foreign policy, if he feels it is a matter of national security, then I want the President or his agents, the Secretary of State or the Secretary of Defense, to come before the appropriate committee of Congress, lay out what the request is, and, Mr. President, if there is a reason we ought to be there, I think the majority of the 100 U.S. Senators will concur.

Mr. ROBERT C. BYRD. Will the President yield?

Mr. HUMPHREY. Yes.

Mr. ROBERT C. BYRD. Does the Senator agree that it is about time we used a little bit of market basket diplomacy? The Soviet Union is having its problems with its wheat harvest. Why should we not let the Soviets know that if they are not going to live up to their signature on the Helsinki agreements, not only détente is going to be jeopardized but some of the future grain purchases are going to be jeopardized. Why not use that as a lever?

Mr. HUMPHREY. The Senator from Illinois has proposed such a resolution. I have been privileged to join with him. I ask Senators to take a look at it. We need to do basic legislation in this area, but in the meantime we have an immediate proposition before us. We have a conference report on the defense budget. I want to say again, Mr. President, that in that defense budget there is the possibility of the transfer of funds of three quarters of a billion dollars. That is just in the hands of people who can play games with the money. I submit that that amount of money ought to be under the control of my distinguished friend, the chairman of the Budget Committee. He ought to have something to say about it. And the chairman of the Appropriations Committee, the chairman of the Armed Services Committee and the members—not just the chairman. The chairmen have a responsibility, but members also have a responsibility.

I think the time is at hand to blow the whistle on this kind of transferability of such fantastic sums of money.

We are rewriting the Military Sales Act. We are rewriting the Military Assistance Act. I have been working at it for days. We are going to put a stop to this business of peddling arms all over the world. We are going to put a stop to this business of the executive branch deciding willy-nilly what it wants to do and after the fact we are dragged in and told "Here it is."

I want to say it is time to do it because great changes are underway in this country. This is but the beginning.

I commend the Senators from California and their cosponsors. It is not all we ought to have. It does not go to what

I think is an equal balance, but we have no choice. We cannot basically amend a conference report. All we can do, because of the technical situation, is to do what the Senator from California is asking.

I ask my colleagues to listen well. I am not known as a softy on these matters. I do not exclude the possibility of covert operations. I know that a president has to have authority. I do not want to cripple him. But what is needed in this country right now is a closer coordination and cooperation between the executive branch and the Congress. We must not permit, once again, the United States of America to go unknowingly, blindly, into a part of the world where we are so ill-informed. God only knows we are a world power with a half world knowledge, and that is how we got into Indochina. We are going to be involved in the same rotten mess in Africa unless we blow the whistle, and I am going to blow the whistle with my vote, loud and clear.

Mr. MANSFIELD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. MANSFIELD. Mr. President, first I commend the Senator from Minnesota for making a speech which has gone right to the heart of the matter and which I think lays down a firm foundation as to what the foreign policy of this country should be in relation to the Angolan situation, which, as he pointed out, has developed with such suddenness from $10,000 donated on the part of this country, or allocated, in January to a figure approaching $35 million at the present time, and to which will be added something on the order of $28 million very shortly.

I do want the Senator to know how much I appreciate his comments. I, for one in this Chamber, have been fully aware for a good many years of the Senator's attitude toward the situation in Vietnam when he was Vice President of the United States.

I want to say that it was just about as close to mine as it could be, despite the reports which emanated from the White House and despite the difficulties which the then Vice President had to undergo.

I am sure that everybody is still fully aware of my feeling on Vietnam because it left scars on me and on us which will never, never go away but which must never, never be repeated again.

UNANIMOUS-CONSENT REQUEST SETTING A TIME CERTAIN FOR THE VOTE ON THE GRIFFIN AMENDMENT AS MODIFIED

Mr. MANSFIELD. Mr. President, I would like to propound a unanimous-consent request, and I specially ask that the distinguished Senator from Idaho (Mr. McCLURE), with whom I have had some discussions, will listen. I do so after discussing the matter with the distinguished acting Republican leader, the Senator from Michigan (Mr. GRIFFIN), the chairman of the Appropriations Committee (Mr. McCLELLAN), who has been so patient and so gracious in his handling of this bill, and the distinguished Senators from California (Mr. CRANSTON and Mr. TUNNEY).

I ask unanimous consent, Mr. President, that the vote on the pending amendment occur at the hour of 6:30.

Several Senators addressed the Chair.

Mr. McCLURE. Mr. President, I object.

Mr. MANSFIELD. Is the Senator inflexible?

Mr. McCLURE. Well, Mr. President, if I may explain the reason, I will reserve the right to object and then restate the objection.

We were in executive session, in closed session, this morning for 3 hours. About 15 minutes of the 3 hours were devoted to discussion of Angola, and about 2 hours and 45 minutes were spent discussing other matters.

We have now been on the pending matter since a little after 4:30, and I have been seeking recognition intermittently during that period of time, and have been on my feet now for the last 43 minutes awaiting recognition.

This has not been a debate, it has been a monologue. If there are members of the various committees that have evidence that could have been submitted in the closed session this morning, it was not. There was evidence on one side of the issue, but not on the others.

I would hope that the majority leader would understand the reason why I feel constrained to object to the unanimous-consent agreement before we have even had an opportunity to initiate the debate from another point of view.

So, Mr. President, I do object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. MANSFIELD. Mr. President, will the Senator still withhold it, briefly? I can understand the Senator's feelings, because we discussed this matter in some detail before I made the request, and I had a pretty good idea what the reaction would be.

But I would point out that the Senate, for the past several weeks, has been meeting on an average of 10 to 12 hours a day, and that the chairman of this committee has been under tremendous pressure and has borne up under it quite nobly. He indicated earlier today, indirectly, in his statement, that he did not intend to go beyond the hour of 6:15 or 6:30, and I can well understand how he feels.

I do think that we ought to face up to the realities of the situation, and in my opinion no matter what any Senator says, no minds will be changed, and the longer we delay the more difficult it is going to be. Tempers will become frayed, the results will be delayed, and the objective which we all seek will not be attainable within a reasonable period of time.

Frankly, I do not intend to keep the Senate in late tonight, because I, too, am as tired as any other Member—not as tired as the distinguished Senator from Arkansas, who has borne this burden so well.

If no agreement is reached in some form or another, it will be my intention to move that the Senate stand in recess until the hour of 9 o'clock tomorrow morning. That hour has already been agreed to. I shall make that motion no later than 7 o'clock this evening if I am able to get the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes, indeed.

ORDER FOR RECOGNITION OF SENATORS TAFT, PERCY, ROBERT C. BYRD, DOMENICI, AND LONG TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized under the standing order tomorrow, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Messrs. TAFT, PERCY, ROBERT C. BYRD, DOMENICI, and LONG.

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

ORDER OF BUSINESS

Mr. LONG. Mr. President, will the majority leader yield to me at this point?

Mr. MANSFIELD. Yes, indeed.

Mr. LONG. It occurs to me that there are some matters that ought to be taken care of, such as the amendment to the medicare law which the administration favored, and with regard to which I know of no opposition whatever, the extension of the renegotiation bill, the social security bill, and a number of other measures that I believe could be passed by unanimous consent if we could find time to consider them. I wonder if we might be able to consider some of those things sometime this evening or tomorrow.

Mr. MANSFIELD. Not this evening, may I say to my beloved friend, because we are going against time, as far as time is concerned. But hopefully tomorrow.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. CLARK. Mr. President, will the distinguished majority leader yield for the purpose of a motion?

Mr. MANSFIELD. Yes, indeed.

Mr. CLARK. I move to table the Griffin amendment, and ask for the yeas and nays.

Mr. GRIFFIN. Will the Senator withhold that? I am perfectly willing to vote, but there are Senators who wish to speak.

Mr. CLARK. Senators wish to speak on the issue of Angola, and this motion in no way affects the question of Angola.

Mr. MANSFIELD. Mr. President, I wish the Senator would not make that motion at this time. I can understand, but it places me in a very embarrassing position, and I wish there would be some other way at this time, at this moment, so that while I have the floor I will not be in a position of taking advantage of any other Senator, although the Sena-

tor from Iowa is perfectly within his rights.

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

Mr. MANSFIELD. I yield.

Mr. PASTORE. Could we not possibly reach an agreement on a time limitation on the various amendments that are pending, so that we would not be forced into motions to lay on the table?

Mr. McCLURE. Mr. President, will the Senator yield to me for a moment, without losing his right to the floor?

Mr. MANSFIELD. Yes.

Mr. McCLURE. As I said a while ago, I have been on my feet since 28 past 5 seeking recognition, and I have not had the opportunity to ask one question. I would hope the Senator would withhold that motion.

Mr. CLARK. Does the Senator intend to speak on Angola or the pending amendment?

Mr. McCLURE. I think the two are inextricably intertwined. I do not think the Senator from Michigan's amendment is unrelated to that issue.

Mr. CLARK. Can the Senator make some estimate of how long he wishes to speak?

Mr. McCLURE. Mr. President, I can respond in this fashion: I had hoped, in the closed session this morning, that we might have made available to Members of the Senate some information given to some Members of the Senate under conditions in which it was not presented to the rest of us. That opportunity was not afforded to us this morning. The Senator from Wyoming suggested that the matter be debated in open session and a determination made whether or not the Senator from Arkansas should be relieved of any inhibition and granted the authority to present the information to the Senate in closed session.

It would be my hope that tomorrow morning we could debate that motion and vote upon it, and then go into closed session for whatever that might produce in the way of information, and then go back into open session and resolve the issue.

Mr. MANSFIELD. Mr. President, I do not see any reason for going into any further closed sessions. It is largely a waste of time, interesting though the proceedings may be. We usually do not end up knowing much more than at the time we went in.

But I must dispute the Senator's contention that no hard information came out of the closed meeting this morning, because I think it was made quite clear, on the basis of statements made by both the chairman of the Subcommittee on Foreign Aid Appropriations of the Foreign Relations Committee (Mr. HUMPHREY), and indirectly, at least, by the chairman of the Appropriations Committee, the Senator from Arkansas (Mr. McCLELLAN), that there was such a thing as—what is the word? Refundable? Returnable?

Mr. HUMPHREY. Reprograming.

Mr. MANSFIELD. Reprograming, that is the word. Reprograming, which indicates that funds can be used for that purpose. Evidence was forthcoming that funds had been used for that purpose, and I think that those of us who had doubts this morning had those doubts resolved insofar as this particular piece of legislation was concerned.

Mr. GRIFFIN. Mr. President, will the majority leader yield?

Mr. MANSFIELD. Yes, indeed.

Mr. GRIFFIN. I share the interest and desire of the majority leader and the Senator from Iowa to get to a vote on my amendment. I wonder if there is a possibility, could we agree to vote on my amendment, not the Tunney amendment, at 10:30 tomorrow morning? That would give us time, if we could get back to the debate, 45 minutes now and an hour tomorrow.

Mr. McCLURE. Mr. President, will the majority leader yield?

Mr. MANSFIELD. Yes, indeed.

Mr. McCLURE. I thank the majority leader for yielding.

I can only reiterate what I said before. I have not been privy to the discussions that may have involved other members of perhaps the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations. Whatever that information may be was not discussed in any great detail.

I agree with the Senator from Montana.

Mr. MANSFIELD. Not in any great detail.

Mr. McCLURE. The Senator from Montana is exactly correct.

Growing out of a very brief discussion on Angola this morning, we did discover that some funds had been made available and expended, and we have some idea of the amounts of money there might be if this appropriation goes forward, but we have not really gotten into the issues of discussing whether or not we ought to do it.

Mr. MANSFIELD. Mr. President, if the Senator will yield there, the Senator is correct in what he said. It is a matter of interpretation.

But the distinguished acting Republican leader and Senator from Michigan (Mr. GRIFFIN) did make a suggestion which would allow all Members to talk as much as they wished tonight, and that we vote on the Griffin amendment and on the Tunney amendment. I request at the hour of 10:30 a.m. tomorrow morning.

Mr. JAVITS addressed the Chair.

Mr. MANSFIELD. We come in at 9 a.m.

Mr. JAVITS. Mr. President, reserving the right to object, what has been overlooked is that I announced that I had an amendment which I would make to the Griffin amendment if it carried or to the Tunney amendment if the Griffin amendment did not carry, and I wish to facilitate it, but I need to make that reservation. I suggest a half hour on that amendment, whichever way it goes, whether it is added to Griffin or whether it is added to Tunney.

Mr. MANSFIELD. That would be perfectly allowable as far as the Senator from Montana is concerned if it meets the approval of the Senator from Idaho.

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

Mr. MANSFIELD. Yes.

Mr. McCLURE. I think the leadership knows that I tried to cooperate in every way possible to expedite not only the flow of this legislation but other legislation. I lean over backwards in an attempt to do so.

Mr. MANSFIELD. That is correct.

Mr. McCLURE. But I most honestly must insist upon whatever right I have as a Member to move to go into closed session.

Mr. MANSFIELD. The Senator has that privilege. All he needs is a second to that, and that would be forthcoming.

Frankly, I am getting a little bit tired, speaking personally, of closed sessions, because I do not think much good comes out of them, but I certainly would not—I could not—oppose such a proposal. The Senator is perfectly within his right, if he wants to make such a motion. But would it be possible in the meantime to reach an agreement to vote on the two pending amendments and the Javits amendments, say, beginning at the hour of 11 a.m. tomorrow morning?

Mr. McCLURE. It would be possible for us to resolve the procedural question that was raised earlier today by the Senator from Arkansas first thing tomorrow and then move into whatever closed session there would be, and then have a time limit for the consideration of these amendments following the closed session.

Mr. MANSFIELD. If that is the best we could get, of course, the leadership has no choice, but I remind our colleague from Idaho that National Airlines and United Airlines are on strike, and that comprises about 23 percent of the transportation business of this Nation. Neither one of them goes to Montana so neither one of them causes me any difficulty. But many Members have their tickets and if they lose out I do not know when they are going to get their tickets renewed.

I think of our colleagues in this body. My mind is made up. I know how I am going to vote, and I think the Senator knows that.

I wish to give some consideration to the distinguished Senator from Arkansas as well. I hope that out of this could come some reasonable arrangement so that this matter could be brought to a head.

I say that, if we cannot come to an agreement on this conference report by Friday at the latest, what we will have to do is to leave it in limbo and go on with the continuing resolution which I think is operative—that is a nice word—until February 15.

Mr. McCLURE. I say to the Senator I did not raise this issue; the Senator from California did. I hope it can be resolved, but I would think, as one Member of the Senate, that even the Senator from California would agree that it is a matter of some import, and we ought to have the opportunity to understand it before we are called upon to vote on it.

Mr. MANSFIELD. I thought I was offering some opportunity when I suggested the hour of 11 a.m. We are coming in at 9 a.m. We have been in now about 10 hours.

Mr. McCLURE. I think we have four

special orders tomorrow morning; is that correct?

Mr. MANSFIELD. That is right.

Mr. ROBERT C. BYRD. We have six.

Mr. MANSFIELD. We have six. We can come in at 8 a.m. How about a vote at 12 noon and come in at 8 a.m.?

Mr. McCLURE. Would it be possible to include in the unanimous-consent agreement that we have the debate and vote on the matter that was presented by the Senator's motion in closed session this morning, relating to the question that the Senator from Arkansas had raised, and then prior to going into closed session that, if indeed there is no very great amount of information to be revealed in closed session, that should not take long.

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

Mr. MANSFIELD. I say my motion is not pending. It was withdrawn before the closed meeting ended because of the revelations emanating therefrom which took care of it.

Several Senators addressed the Chair.

Mr. MANSFIELD. I yield to the distinguished chairman of the committee.

Mr. McCLELLAN. Mr. President, I wish to make this observation. Practically all of the information that pertains to the CIA and its operations has been revealed to the Committee on Foreign Relations or a subcommittee thereof. They have discussed it all day. Still I am not going to make any statement about it without being released from the obligations I feel I have, but I do not know whether the Senator wishes to pursue that any further. I am satisfied with the situation as it is. I do not know whether the Senator wishes to pursue it, but I am not going to make any statement about it other than repeat maybe what has been said in the Chamber by others.

All I wished to do was to be certain as to whether the Senate changed its position. It has a position on this and it is of record, and as a servant of this body, I was undertaking to follow what I conceive to be the Senate's will as last expressed.

Mr. HANSEN. Mr. President, will the Senator yield on that point?

Mr. MANSFIELD. The Senator is acting perfectly within his rights.

In response to the distinguished Senator from Idaho, I repeat again that the motion I offered is moot, and I do not intend to offer it again at this time.

I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I only wish to say that I have the very strong conviction that if the Senator from Arkansas is to be called upon, as I suspect some Members may seek to try to do, knowing him as I do, but certainly not trying to speak for him, it is my feeling that we ought to have passed in open session, as was suggested by the Senator from Wyoming earlier in the day, a motion relieving him from any inhibition or curtailment that he feels may have been imposed upon him either by law or by custom or tradition.

Mr. MANSFIELD. Mr. President, will the Senator yield there?

Mr. HANSEN. I am happy to.

Mr. MANSFIELD. May I say I strongly believe that——

Mr. HANSEN. I should add relating to Angola alone. That was spelled out in the motion.

Mr. MANSFIELD. It is my very strong opinion, and I would bet my life on it, that there is no Senator on this side of the aisle nor any Senator on that side of the aisle who is going to do to the Senator from Arkansas what the distinguished Senator from Wyoming has suggested because I think the point was made there. His position is clear. He has, in effect, reiterated it once again. I see nothing to be gained but a great deal to be lost by resuming that kind of pressure tactic.

Mr. CLARK. Mr. President, I have pending a motion to table the Griffin amendment. I do wish to press that if there is a time agreement, but I do not wish to——

The ACTING PRESIDENT pro tempore. Does the Senator yield for that?

Mr. MANSFIELD. I did not yield for that purpose. I did yield to the distinguished Senator, but I did have the floor.

The ACTING PRESIDENT pro tempore. The Senator did not yield for that purpose.

Mr. MANSFIELD. I again raise the possibility. Is it possible at some time tomorrow to vote at a time certain on the Javits, Tunney, and Griffin amendments?

Mr. President, I suggest the absence of a quorum, without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, it is my understanding that we have five special orders tomorrow. Whether or not they will all be taken and, if so, the full time will be used, remains to be seen.

The Senate will convene at 9 a.m. tomorrow. At the conclusion of the special orders, the Senate will again go into closed session—I hope for not too long a period of time.

At the conclusion of that closed session, the Senate will then return to open session.

I ask unanimous consent that at that time there be a 40-minute time limitation on the Griffin amendment, the time to be equally divided between the Senator from Michigan, the sponsor of the amendment, and the Senator from California (Mr. TUNNEY) or whomever he may designate; that following that, there be a 40-minute time limitation on the Javits amendment, if it is called up, the time to be equally divided between the Senator from New York (Mr. JAVITS) and the Senator from Arkansas (Mr. McCLELLAN).

It is anticipated that with a little flexibility, give and take, once those two amendments are out of the way, if they are both offered, it will then be possible to arrive at a reasonable agreement covering the Tunney amendment which, in the meantime, will be modified, I understand, with the $33 million deleted.

The ACTING PRESIDENT pro tempore. Does the request include a request for a closed session?

Mr. MANSFIELD. Yes. On behalf of the distinguished Senator from Idaho (Mr. McCLURE) I will include that in the request.

Mr. JAVITS. Mr. President, will the Senator yield for a clarification?

Mr. MANSFIELD. I yield.

Mr. JAVITS. If the money is eliminated, it will be unnecessary to consider my amendment. My amendment would eliminate the money.

Mr. TUNNEY. Mr. President, it is my understanding that the parliamentary situation is such that that money will have to be deleted by an amendment such as the Senator from New York is going to offer.

Mr. JAVITS. That is correct. I am just informing the majority leader.

Mr. MANSFIELD. That will save 40 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I hope that all Members who are interested will stay tonight and make as many of their speeches as they can.

I say to the distinguished Senator from Arkansas, "Go home, get a good night's rest, and come back tomorrow."

THE TAX BILL

Mr. MANSFIELD. One more thing; I talked to the President this afternoon after the conference report on the tax bill was agreed to, and I asked him if he intended to veto the tax bill. He said, "Yes." I requested that he veto it this afternoon, so that we could consider it as expeditiously as possible, providing, of course, that the House overrode the veto. He said that he did not think he could make it, because he had to wait for the papers, but that if he did not make it this afternoon, he was going to veto it before 10 o'clock tomorrow morning and have the veto up on the Hill.

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

Mr. MANSFIELD. I yield.

Mr. PERCY. The President has vetoed the bill.

Mr. MANSFIELD. In talking to the Speaker, he indicated to me about a half-hour ago—I did not know that the veto was on the Hill—that he would take it up tomorow morning, around 10 o'clock, as I recall.

The Senate should be on notice that if the House overrides the President's veto, the Senate, despite these agreements

reached, will undertake to do the same at an appropriate time in the course of the proceedings.

ORDER OF BUSINESS

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. I yield.

Mr. CURTIS. What will be the remaining business tonight?

Mr. MANSFIELD. Talk.

Mr. CURTIS. On what—which bill?

Mr. MANSFIELD. The defense appropriation conference report or anything else.

Mr. CURTIS. Will any tax bill be called up tonight?

Mr. MANSFIELD. If the Senator will allow me, I would like to yield to the Senator from North Dakota, the dean of the Republicans, and I hope that the chairman of the committee can be contacted in the meantime, because he was discussing something about that.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. YOUNG. Mr. President, I would like to be recognized for a 3-minute speech.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

The Senate will be in order. Senators who wish to converse will kindly withdraw. Senators will clear the aisles and withdraw to the cloakrooms if they wish to converse. Senators are very close to the cloakroom physically, anyway, and if Senators who are conversing will withdraw the rest of the way to the cloakroom, that will put the Senate in order. Staff members will kindly take their seats.

Will the Senators really close to the cloakroom kindly move 3 feet farther into the cloakroom?

Will the Senators standing in the rear kindly withdraw to the cloakroom or resume their seats?

Mr. YOUNG. Mr. President, the amendment proposed by the distinguished Senator from California (Mr. TUNNEY) and others, would prohibit the use of any money appropriated under this defense appropriations bill to finance CIA operations in Angola.

Our activities in Angola have been very minimal compared with those of Russia. Unlike the Russians, we have no military personnel there. The funds made available to the CIA have only been to provide for weapons and other associated assistance, short of any personnel, to help prevent a takeover of Angola by a minority faction of that country under the control of the Soviets.

This amendment would end all U.S. assistance to Angola except for some minor intelligence-gathering operations. While the United States would be abruptly withdrawing our assistance from Angola under this amendment, Russia would continue their extensive military operations and undoubtedly would take over still another country in Africa within a matter of a very short while.

The proponents of this amendment, particularly the distinguished Senator from California (Mr. TUNNEY) propose that we withhold sales of grain and other farm commodities to Russia, thereby trying to force them to cease their operations in Angola.

Mr. President, I think the United States would make a serious mistake if we used our food as a weapon of foreign policy. We have had too much of that already. May I remind the Senate that most of the wars fought throughout history have been over food shortages or living space. Sooner or later, using food as a weapon of determining foreign policy would bring us to grief.

A past embargo of soybeans has brought deep resentment from some of our best allies. The more recent embargo on grain to Russia and East European countries has prevented us from replacing dollars we now have to spend to import oil and other purchases. The embargo has had, and is still having, a disastrous effect on our farmers. They were urged to go all out to produce the biggest crop ever to meet our own and foreign needs.

Mr. President, if the Tunney amendment is passed, we would undoubtedly have to immediately withdraw all assistance to Angola. It would be far better to follow the regular reprograming procedures for further financial assistance to Angola. Under these procedures it is very unlikely that any further assistance will be provided unless there is very strong support for it. Under reprograming procedures the chairmen and ranking minority members of the Senate Appropriations and Armed Services Committees and their House counterparts would have to give unanimous approval. This means that if even one of these eight committee members dissented, no reprograming would be possible.

Mr. President, I was disturbed by a statement by a Senator made earlier that $750 million could be made available for Angola. That is an unreasonable statement. So far, they have only obligated $24 million. They are asking for $28 million more under a reprograming procedure.

Under the established reprograming procedures, approval of four Members of the Senate and four Members of the House is required. Any one Member can veto a reprograming request. It is unbelievable that these eight Members of the House and Senate would approve $750 million or even $100 million for Angola. So such charges as that, I think, are unreasonable and paint an untrue picture of CIA operations.

It would be far better if the Foreign Relations Committee and other committees which have jurisdiction would have further consultations with the executive branch, and especially the President, the State Department and the CIA, as to the advisability of abruptly ending assistance now.

ADDITIONAL STATEMENTS SUBMITTED ON DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

Mr. MUSKIE. Mr. President, the conference report accompanying the Department of Defense appropriation bill for fiscal year 1976 deserves the support of the Senate, and I am glad to compliment the effort made by our conference colleagues on H.R. 9861. At a time of a mounting Federal deficit and debt, the conferees have kept the spending level of this largest appropriations bill below the levels previously passed by the Senate and within the national defense totals assumed for this legislation in the second budget resolution.

The fiscal year 1976 DOD appropriations bill, as agreed to in conference, amounts to $90.5 billion in budget authority and $64.3 billion in outlays, both being under target in budget authority and in outlays. As chairman of the Committee on the Budget, I welcome these results.

I particularly wish to congratulate the distinguished chairman of the Committee on Appropriations, Mr. MCCLELLAN, for his leadership on this measure. At a time of pressing and often conflicting national interests, he has worked to balance fiscal responsibility and national security.

For the past several months, the Senate Budget Committee has carefully considered the national defense function of the Federal budget. Our work has been diligent and serious. Our intentions have been to carry out the mandate of the Congressional Budget Act.

I believe our work has been effective. Perhaps nowhere is this better demonstrated than in the final outcome of the defense appropriation bill for fiscal 1976. The President and his advisers vigorously sought an appropriation too much for defense needs. The Budget Committees in both Houses sought a level which would eliminate unnecessary spending yet maintain essential military programs. In the best tradition of democratic deliberation and debate, the two Appropriations Committees agreed.

In short, Mr. President, I salute Senator MCCLELLAN and the other Senate conferees for their attention to detail and their prudence. I shall vote for this conference report.

Mr. MORGAN. Mr. President, the debate now raging may well determine the future course of the foreign policy of this country for years to come. Shall we turn inward as we did in the thirties? The answer is not clear.

I was interested in an editorial appearing in the Charlotte Observer in North Carolina on December 14, 1975. It is especially noteworthy since the editorial policy of this paper has been strongly against American involvement in the affairs of other countries. I ask unanimous consent that it be printed in the RECORD for the consideration of my colleagues as they search for a decision on this vital issue.

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

A RED COLONY?—ANGOLA CANNOT BE IGNORED

The Cuban-Soviet invasion of Angola marks a new turn in Communist efforts to replace European powers in colonizing Africa. It also shows just how weak detente is. Can Washington do nothing about this?

The most powerful forces that the United States could reasonably bring to bear are diplomatic and economic. Yet there is no clear evidence that we are applying strong pressure to the Soviet Union, where our leverage should be substantial. Washington may be reluctant to do that because of its hopes for progress in the U.S.-Soviet arms limitation talks. If the Soviets feel free to move as flagrantly as they have in Angola, however, they obviously regard detente as a trifle that should not get in the way of their military expansion.

What they evidently want is a Soviet naval base in Angola, on the eastern coast of southern Africa. They also want an Angolan regime they can use to cause trouble for white-controlled South Africa and Rhodesia, as well as black-controlled African governments they dislike. Toward these ends, they have suddenly made a bold move whose seriousness is only now being recognized.

The Portuguese left Angola, their last African colony, on Nov. 11. Fighting among various Angolan independence organizations began immediately. The Soviets and Cubans are helping the Popular Movement for the Liberation of Angola (MPLA), which now has control of the capital, Luanda.

American involvement appears to be limited to indirect and minimal assistance to the combined forces of two other Angolan groups. South Africa, China and Zaire (the former Belgian Congo) also support those groups.

It is clear that the principal intruders have been the Cubans and the Russians. The Cuban force, which has been described by Havana and Moscow as volunteers, instead seems to be a regular army of some 5,000 men. It has been supported by Soviet flights of giant Antonov transport planes, comparable to the American C–5A.

It is, in short, a major invasion force. It has struck so rapidly and with such strength that it threatens to succeed in taking over the country.

Secretary of State Henry Kissinger has warned that the United States cannot "remain indifferent to the foreign intervention in Angola's civil war." Indeed, we cannot. American troops are not the answer. But the situation in Angola should be given top priority in Washington.

We should move to assist the moderate forces fighting in Angola; bring the strongest kind of diplomatic pressure to bear upon Moscow; and make Cuba pay a high price economically for its intervention. We have it within our legitimate power to do all of that.

If the Soviets gain a naval base and a friendly regime in Angola, they will have added appreciably to the advance they have made on the other side of Africa with a naval and missiles base in Somalia. This would give them strategic strength along the sea lanes around Africa. The United States cannot watch that take place and believe that detente has any meaning.

Mr. NELSON. It is outrageous that this administration should secretly thrust this Nation into the midst of a civil war in Angola. What kind of arrogance possesses that tiny handful of men in the executive branch who presume the right to involve us in war without consent of the Congress or the people of this Nation and without bothering even to tell us. That abuse of power must be unequivocally repudiated.

Sixty million dollars has already been spent on this mistaken enterprise without a word of debate in the Congress or public dialog of any kind.

These kinds of expenditures and involvements are major issues of public policy and must be settled in a public forum.

This intervention was undertaken contrary to expert advice and opinion in both the State Department and the intelligence community.

THE RESTORATION OF FUNDING FOR PASTORAL COUNSELING, FAMILY AND CHILD COUNSELING, AND MARRIAGE COUNSELING AND RECOGNITION OF CLINICAL PSYCHOLOGISTS UNDER CHAMPUS IN DOD APPROPRIATIONS BILL

Mr. INOUYE. Mr. President, I am very pleased that the final version of the Department of Defense appropriations bill, H.R. 9861, which has been approved by the House-Senate conferees, reaffirms the coverage for the services of pastoral counselors, family and child counselors, and marital counselors and provides for the status of clinical psychologists as independent providers under the CHAMPUS—Civilian Health and Medical Program of the Uniformed Services—program.

The House-passed version of this bill would have prohibited any funding for these vital services and would have subordinated the services of clinical psychologists by making mental health treatment subject to physician supervision. Senator YOUNG and I sponsored an amendment in the Senate Appropriations Committee to restore these counseling services under CHAMPUS. I promoted an amendment which would provide for the independent services of psychologists. Both our amendments were accepted by the committee and affirmed by the full Senate.

The House-Senate conferees basically accepted the Senate version on this point, adding a proviso that these counseling services cannot be paid for under CHAMPUS if available at military medical facilities. This proviso is consistent with the intent and purpose of the CHAMPUS program—which was created to provide medical and health care to military retirees where such care was not readily available at military medical facilities.

The importance of the conferees' decisions is twofold: First, the reaffirmation of the need for the services of pastoral counselors, family and child counselors, and marital counselors under CHAMPUS; and second, recognition by both the House and the Senate of the status of trained psychologists in the field of mental health care.

As I have stated previously, the strength of our armed services rests on its morale. In restoring and affirming these professional services under the CHAMPUS program, the conferees have recognized the unique stress on marriage and family life imposed by military service—and the vital necessity of offering quality care under CHAMPUS to treat these serious problems.

Mr. TUNNEY. Mr. President, before I turn the floor over to several of my distinguished colleagues, there are a few brief comments I would like to make about my reasons for holding up the vote on the defense appropriations bill until the Senate could consider this problem of Angola in secret session.

First, I would like to say that a week ago I found myself confronted with what seemed to be an ever-widening American commitment in Angola, a commitment which previously I knew little or nothing about. I was seriously disturbed to discover that my country, in the wake of Vietnam, could carry on a covert action thousands of miles from our shores at a cost of $50 million without the question ever having been considered by the full Congress. My consternation only grew when I was informed by a staff member of the Central Intelligence agency that while I could be informed by them of what the Russians were doing in Angola, I could not be briefed on what we were doing. I know a great many Members of this body shared my own dismay.

I think that if there is one thing we have learned from our experience in Vietnam it is that this country cannot afford to leave foreign policy decisionmaking to a few grand-global strategists on the 40 committee and policy planning staff of the Department of State. The Congress, if it is to fulfill its responsibilities, must be informed about foreign commitments and about the financing of covert actions. I believe the American people have made their feelings about intervention abundantly clear. We would be remiss if, in the wake of our devastating experience in Asia, we failed to demand a clear and precise accounting of the interests, objectives, and policies which this country is pursuing today in Africa.

Beyond my deep concern over the procedure by which our Angolan policy seemed to evolve, I am terribly troubled by some of the misconceptions upon which our decisions are based. For example, Secretary Kissinger and his policy staff appear to be suffering from a kind of reverse myopia. They see everything as part of a grand global game for influence carried on by the Soviet Union and the United States in which every new Soviet adventure contains in it the seeds of an eventual Communist checkmate of the free world. There is no attempt to place these conflict in the context of the lives and the cultures of the people most directly involved—be they nationalist Vietnamese or tribal Angolans.

Mr. President, this war is no opening gambit in some colossal scheme of Soviet hegemony. Let us see it for what it is—a conflict between three warring factions whose tribal origins and animosities go back decades if not centuries with little or no ideological commitment—or even recognition—on any side.

Take, for instance, the MPLA—the Soviet-backed Popular Movement. They are led by a man whose closest friend and political mentor is Mario Soares—the American-backed Portuguese Socialist leader. According to the Africa experts with whom I have spoken—including several members of the Central Intelligence Agency Africa staff—MPLA opposition to the other groups is more based upon ethnic considerations than

political philosophy, and their courtship with the Soviet Union appears to be largely a matter of convenience rather than conviction.

The ethnic connections of the other two factions are just as interesting. The front for the National Liberation backed, by both the United States and Zaire, is made up largely of members of the Bakongo tribe whose natural rivals make up the majority of the MPLA. The National Front is led, oddly enough, by a man the CIA gave up on years ago as being hopelessly incompetent and who is the brother-in-law of Joseph Mobutu, the President of Zaire who hopes to extend his own influence by proxy into Angola. The Union for the Total Independence of Angola—UNITA—is led by Jonas Savimbi—a man with an Ovambo tribal connection who was formerly foreign minister of the FNLA—but split off accusing that group of "flagrant tribalism." UNITA is backed by South Africa largely because South Africa is afraid that if the MPLA wins it will allow anti-South African guerrilla groups to use the area now controlled by UNITA for a guerrilla war against South Africa.

This brings me to another crucial misconception. That is, that any victory by the non-Soviet-backed forces could ever hope to erase the tremendous negative impact that will be produced in other black African states by the impression that we are backing the South Africans on this question. The Africans may fear great power interference, but they unquestionably fear South African intervention more.

We must never let this vital point slip from our minds. By appearing to intervene on the side of groups backed by the South Africans we are giving black Africa what amounts to a slap in the face. We are saying to them that "we are not concerned about your fate or your fears. If we have to sign a pact with the devil to stop the Soviets in Angola we are willing to do it." I ask my colleagues, what will it profit us if we do manage to stop the Russians in Angola and further alienate the rest of Africa in the process?

Perhaps if the Washington policy geniuses would stop for a second to get the reaction of the grassroots experts they could separate the wheat of tribal factionalism from the chaff of rigid cold-war categorization. We have academic experts on Africa talking about this lack of ideological commitment on the part of any of the factions. We have an Assistant Secretary of State Nathaniel Davis resigning, because of the damage he thinks our intervention in Angola will do to our relations with Africa as a whole. This is the man who as Ambassador to Chile ran an entire operation to destabilize a government—yet he remains unconvinced. Finally, we have experts in the Central Intelligence Agency telling me they do not understand the reason for our policy of supplying the FNLA and UNITA, and admitting that in their opinion "the differences in government should the MPLA win would be minimal." According to them, the pro-Soviet policy in an MPLA government would be muted the way it was in Mozambique as control of the country was really secured. Do we want to alienate all of Africa—and particularly a country as close and important as Nigeria—for "minimal differences in government?" I think not.

I want to emphasize here that we all share the concern over the willingness of the Soviet Union and Cuba to intervene in Angola. But let us put that intervention in perspective. Let us make it very clear to the Soviets and the Cubans that we view their meddling as inconsistent with détente. Let us tell them clearly that if they want American technology and investment, if they want American grain, then they had better seriously reconsider the advisability of their current strategy in Africa.

Then, let us immediately sit down with our friends in Africa—which we should have done long ago anyway—with Nigeria, and Zaire, and Ethiopia and others and try to work something out within the framework of the Organization of African Unity to get all foreign powers out of Angola. I was told yesterday by someone in the administration that an American Secretary of State had never been to Africa. Maybe now is the time.

Finally, I would like to point out that while we do not know definitely that there are funds for Angola earmarked in this bill—and while we hope that this secret session will resolve some of these questions—it is important now to put the Senate clearly on record as opposing a precipitate involvement in Angola without close and careful congressional consideration. While funds may not be earmarked specifically here, it seems clear that there is enough authority contained in the bill to provide funds either from existing contingency accounts or under general transfer authority. I would only refer my colleagues to section 733 of the bill which grants to the Secretary of Defense the authority to transfer up to $750 million between categories in the bill for "higher priority items"—provided those items have not been proscribed by Congress.

I want to make it very clear that as long as our information is limited, as long as we are not absolutely sure that none of the money in this bill will filter down to Angola or for the use of Angola, it is vitally important that we close the gap of doubt.

In conclusion, I think this vote on my amendment which will come up following the vote on the conference report itself will be a testimony to either the determination of the Senate to assert its rightful role in insuring the careful consideration of our foreign involvements, or our own failure to learn from our past mistakes in a way the American people have clearly demanded.

I hope the current debate can help us meet those obligations. I hope, too, that it can be done in a way that will not preclude a full and frank public discussion of the issues.

SENATE RESOLUTION 333—SUBMISSION OF A RESOLUTION RELATING TO ANGOLA

Mr. STEVENSON. Mr. President, I send a resolution to the desk on behalf of myself, Senator HUMPHREY, Senator ROBERT C. BYRD of West Virginia, and also, Senator MUSKIE.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution.

The second assistant legislative clerk proceeded to read the resolution.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

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

The resolution is as follows:

S. RES. 333

Whereas outside powers are intervening in the conflict between rival factions in newly independent Angola;

Whereas such foreign intervention causes a higher level of violence, a tragic loss of life, and more prolonged conflict;

Whereas the peoples of Angola should be permitted to resolve their conflicts without outside interference; and

Whereas it is morally wrong and politically imprudent for the United States to ignore such intervention and the pursuit of strategic interests by foreign countries in Angola: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President of the United States should call upon all nations to withhold support from any of the factions in Angola engaged in military conflict;

(2) the President of the United States should instruct the United States Permanent Representative to the United Nations Security Council to introduce a resolution condemning all intervention in the civil conflict in Angola;

(3) the President should urge the Organization of African Unity to make a renewed effort to assist the opposing factions in Angola to compose their differences and establish stable democratically based government in Angola, and should pledge the support of the United States in this effort;

(4) the President, pursuant to his authority under the Export Administration Act of 1969, should curtail exports to countries which persist in intervening in the conflict of Angola;

(5) the President should seek the cooperation of other nations in imposing economic sanctions against those countries which persist in intervening in the conflict in Angola; and

(6) the President should suspend further assistance to any faction in Angola pending efforts to seek an end to all foreign intervention in Angola.

The ACTING PRESIDENT pro tempore. The Senate will be in order. The Senator will not proceed until the Senate is in order.

Mr. McCLURE. Will the Senator from Illinois yield for a question?

Mr. STEVENSON. Yes, I will yield for that purpose.

Mr. McCLURE. Is it the purpose of the Senator from Illinois to ask for immediate consideration of this resolution and its adoption?

Mr. STEVENSON. Yes, it is the intention of the Senator to do that.

Mr. President, Vietnam, the CIA, the Union of South Africa, national experiences in recent years, the association with unlikely bedfellows—all make objectivity about Angola difficult. We do not have all of the facts, and we certainly do not have sufficient time with which to adequately debate U.S. interests in Angola. This debate has generated far more heat than light.

In these circumstances, prudence dictates a discrete way out of this imbroglio and, if it is possible, some action by the Senate to serve the interests of

the American people and those of this newly independent nation in Africa.

Such facts as we do have indicate the Soviet Union is testing détente, probing the disarray and weakness in the West to pursue obscure strategic objectives. The Soviet Union is pressing us to the limit—and we have defined no limit. Indeed, the Soviet Union, détente, the relationship between the superpowers have been scarcely discussed.

Soviet activities in sub-Sahara Africa have not met with unmixed success—but they now reach into Zambia, Tanzania, Nigeria, Somalia, Ethiopia, Benin, Central African Republic, Upper Volta, Burundi, Mali, and Guinea and elsewhere. Now the Soviet Union is playing for high stakes with a major effort to install a regime of its own making in Angola. One question is whether by continued acquiescence, or an apparent indifference, the United States invites further Soviet transgressions against U.S. strategic interests in the world and against the rights of other people to conduct their own affairs. The largest question is the Soviet Union—not Angola.

Mr. President, I would be the last to minimize U.S. interest in the Third World or the historical imperatives of nationalism and self-determination which the United States sought to arrest in Southeast Asia—and which the Soviet Union is seeking to arrest in Africa. The warring tribal factions in Angola all claim the mantle of national liberation, and who can say their claims are not equal? One is backed, massively, by the Soviet Union and Cuba. That faction will succeed by force unless other factions are given some arms and money. Recognizing those facts and the implications for developed and undeveloped nations alike, the FNLA and UNITA are supported by the United States, the Union of South Africa, Zaire, and to some extent, the People's Republic of China and North Korea. In such circumstances, it should not be said of the United States that by aiding one faction in Angola, it maintains a hostile, neocolonialist presence. These nations aiding the FNLA and UNITA have a shared concern about the methods and motives of the Soviet Union in Angola and the world.

The United States, at least, is committed to the principle of self-determination. Ironically, the cessation of U.S. aid for a nationalist alliance in Angola could invite the apartheid Union of South Africa deeper into Angola. Certinly an unconditional act of withdrawal by the United States would cause greater doubts in Peking and in the capitals of our allies about U.S. resolve in the face of aggression and steadfastness in support of friends. With limited U.S. aid, not to include U.S. personnel, the Union of South Africa would probably leave Angola. While the reaction to U.S. aid would not be uniformly unfavorable in the third world, it would be, as it already is, mixed and in some places, as in Zaire, highly favorable.

Mr. President, I share all of the reservations which have been eloquently expressed today about the dangers of U.S. assistance for any party to this civil conflict. I am also deeply concerned about the consequence of a U.S. failure to heed Soviet intervention in Angola and the pleas of the Soviet Union's victims. And that brings me to the proposal by the Senator from California which, in my judgment, offers the Senate a no-win proposition. If approved, it will be perceived as sanctioning by acquiescence Soviet intervention in Angola. If it is not approved, it will be perceived as sanctioning U.S. intervention. Some Members, myself included, do not want the Senate to take either course.

So, Mr. President, I probably will vote against the Tunney amendment. I do not want to vote for an amendment which terminates all support for the anti-Soviet side in Angola without any alternative response to this Soviet challenge. Have we been so traumatized by the tragic American adventure in Vietnam that henceforth we are to accept Soviet military arrogance wherever it shows its head?

Mr. President, this debate has skirted the central fact and the central issue: Soviet arms on a massive scale and a Cuban expeditionary force have landed on the shores of a newly independent African state in naked pursuit of strategic advantage.

What does détente mean, anyway? Certainly not the same to us as to the Soviet Union. If détente is to mean anything for the United States. It must be a two-way street. If the Soviet Union is to enjoy the benefits to trade in commodities which are valuable to the improvement of its standard of living, and other advantages of détente, then it must also meet certain standards of civilized international behavior.

The implausibility of continued U.S. aid to the Soviet Union in the form of technology, capital and wheat, irrespective of its conduct in the world, is brought inescapably to the attention of the Senate. The United States has just committed supplies of grain to the Soviet Union for 6 years—not withstanding its transgressions in Angola or anywhere else. The agreement cannot mean what it says on its face. All such agreements are subject to abrogation or modification by one party if conditions are changed materially by another. The Soviet Union is relieving the United States of any obligations under that agreement—and I say "any" because it is of arguable legality anyway.

The resolution which we offer urges upon the President a course of action which emphatically rejects the Soviet exploitation of détente at the expense of U.S. interests and the rights of people in other nations—without exposing the United States unnecessarily to the risks of a long and ultimately unsuccessful involvement in Angola.

It makes it clear, and in the most emphatic terms, that the United States does not approve Soviet intervention in Angola. It proposes steps to create a climate in which the warring factions in that country can compose their differences without external interference. It charts a course that could accomplish U.S. objectives in Angola. And if the Tunney amendment is disapproved, it will make it plain that diplomatic steps, including sanctions, should be taken before the United States starts once again down the slippery slope of military involvement in a distant part of the world.

So, Mr. President, I introduce this resolution with the distinguished Senators from Minnesota, West Virginia, and Maine, which calls upon the President to undertake a multilateral effort to induce all outside powers to withdraw support from the warring factions in Angola and, at the same time, to exercise his authority to control exports to countries which persist in providing such support.

More specifically, Mr. President, this resolution calls upon the President to call, in turn, upon all nations to withhold support from any of the factions in Angola engaged in military conflicts. It calls upon the President of the United States to instruct the U.S. Permanent Representative at the United Nations Security Council to introduce a resolution condemning all intervention in the civil conflict in Angola. It calls on the President to urge the Organization of African Unity to make a renewed effort to assist the opposing factions in Angola to compose their differences and establish stable, democratically based government in Angola, and pledge the support of the United States in that effort.

This resolution calls upon the President, also——

The ACTING PRESIDENT pro tempore. The Senator will suspend. Will the Senators and the staff in the rear of the Chamber retire to the rear to carry on their conferences—or better still, to the cloakrooms? That would assist the Senator greatly. The Chair appreciates that.

The Senator from Illinois is recognized.

Mr. STEVENSON. Mr. President, the resolution calls upon the President, pursuant to his authority under the Export Administration Act of 1969, to curtail exports to countries which persist in intervening in the conflict in Angola.

It also suggests, as the sense of the Senate, that the President should seek the cooperation of other nations in imposing economic sanctions against those countries which persist in intervening in the conflict in Angola, and suggests, further, that the President should suspend further assistance to any faction in Angola pending efforts to seek an end to all foreign intervention in that country.

NO AID TO ANGOLA

Mr. MUSKIE. Mr. President, I stand in support of the Stevenson resolution expressing the sense of the Senate to suspend U.S. support to the warring factions in Angola and by economic leverage to persuade the Soviet Union to adhere to this same principle.

Mr. STEVENSON. Mr. President, Fighting among indigenous factions in Angola has intensified in recent days and both the Soviet Union and the United States are involved. Such a situation deeply concerns me.

This state of affairs is troubling for several reasons, mainly what it tells us about the intentions of the Soviet Union. Today, Moscow is pursuing an interventionist policy in Angola, increasing the anguish of that southern African state and escalating tensions between the nuclear superpowers at that very time when Washington and Moscow are supposedly trying to work out between them the confrontation strains of the past.

The lessening of tensions or détente

between the United States and the Soviet Union, if it is going to work at all and reach a level of success, must be a two-way street. Yet, the kind of aggression and expansionism on the part of the Soviet Union in Angola suggests less than a complete commitment by the Kremlin to pursue détente seriously.

Indeed, Soviet military intervention in the internal affairs of Angola is a serious erosion of Russian credibility in the United States-Soviet quest for better relations. Such hostile behavior not only erodes the spirit of détente, but also the practical possibilities of working out a mutually beneficial relationship.

Détente was never an easy policy to pursue; it is a challenge by both sides in statesmanship. But due to the Soviet escalation of the Angolan civil war, the U.S. Senate and the country as a whole should now take a new look at the current course of accommodation and cooperation on the part of the United States.

Critical and crucial stakes are involved here. Why are the Russians risking these stakes? In a year the Soviet Union is facing serious shortages in her harvest, the country requires massive importation of American grain. This will probably be true for the next several years. As the international energy crisis continues, the Soviet Union could potentially export great quantities of oil and gas, especially to western Europe and North America. These markets could now become less open to Russian commodity exports as well as manufactured goods. Western technology is greatly desired by the Soviets in order to advance its 5-year economic plans, but American experts and sophisticated electronic products, for instance, will continue to stay outside of the Soviet Union if détente does not progress. If the Russians are prepared to make a mockery of the détente relationship, then, as the Stevenson resolution proposes, let them lose some of the material advantages of détente. For instance, the President, pursuant to his authority under the 1969 Export Administration Act, could curtail exports to countries like the Soviet Union, which persist in intervening in the Angolan conflict.

Then, too, the heart of détente is the SALT II negotiations with its potential agreements on the further control of nuclear weapons. This is an essential element to the whole relationship and, as I understand it, to the future standing of the present political leadership in Moscow. The question of stabilizing European affairs, such as MBFR negotiations, and implementing the spirit of the Helsinki agreement are involved, as are potential Soviet-American projects in Third World economic development activities, in the joint exploration and exploitation of the oceans and space for the well-being of all mankind, and in common ventures to bring peace to the Middle East.

It is incredible the Soviets would risk losing these potential avenues of international cooperation and benefit unless they were never willing to fulfill the responsibilities required by détente in the first place. Perhaps they were only interested in playing an unrestrained, mischievous role in faraway areas of the world.

Moscow's relations with the new nations of black Africa are not very close; only in Somalia is Soviet influence great. It has never had outright control in any African country. Perhaps the prospect of such domination motivates the men of Moscow to bolster the Popular Movement for the Liberation of Angola—MPLA, one of the three contending Angolan parties. Russian manpower, materiel, and money are now abundant in the savage fighting. There are an estimated 5,000 Cuban specialists and combat troops supporting the MPLA's operations. Soviet military advisers are on the ground, intelligence reports are unsure if they are actually involved in combat operations.

What is the U.S. interest in Angola? There is no overriding U.S. interest in this new nation which only received its independence from Portugal last month. Our security and economy will not be affected by whatever political philosophy is at the foundation of its government. It is my hope that the United States and Angola can construct a relationship that benefits both peoples. However, beyond American involvement in Angola's economic and developmental affairs, openly agreed to, we have no other interest. We should never have gotten involved to the extent we have. We know that a minimum of $50 million is being spent by the United States covertly to support the anti-MPLA factions with rifles, machine guns, vehicles, ammunition, and logistics. The Ford administration wants more money. Will they soon want military advisers?

I oppose any further escalation of U.S. military invlovement, covert or overt. America's tragic intervention in the Vietnam civil war should be a clear enough warning to our policymakers.

The current tribal conflict in Angola dates back more than several decades. Ethnic, racial, class, regional, and ideological differences divide the three nationalist movements. In addition, an intense distrust and personal animosity exist among the movements' leaders. The MPLA, the Nationalist Front for the Liberation of Angola—FNLA, and the Nationalist Union for the Total Independence of Angola—UNITA—draw most of their supporters from one of three major ethno-linguistic regions. During the many years of armed struggle against Portuguese colonialism, Angolan natianalists were unable or unwilling to form a common front.

This historical conflict and the present triangular tribal warfare should be left to the peoples of Angola to work out. Foreign governments and foreign mercenaries can only increase the bloodshed and keep the people apart. Certainly all great powers, especially white ones, should lay off. As long as the Soviet Union and the United States, in conjunction with dozens of secondary powers like Communist Cuba, the repugnant white racist regime of South Africa, Zaire, Zambia, and others, pursue policies of unilateral intervention instead of multilateral reconciliation, any hope for peace in Angola remains dim. All diplomatic efforts need to be centered on the Organization of African Unity which has the best chance to negotiate a settlement. The Council of Ministers of the OAU will meet very soon in Addis Ababa to consider the Angolan crisis. Both the United States and the Soviet Union should be placing maximum efforts behind the activities of the OAU and its African leaders in the political pursuit toward peace so badly needed now in Angola.

I hope this message is heard loud and clear in Moscow: There is a self-defeating quality to any power-grab in places like Vietnam, Cambodia, and Angola. The wisest policy for the United States is to stay out of the Angolan conflict. I oppose any aid to Angola. The perils outweigh the rewards.

The wisest policy for the Soviet Union vis-a-vis the United States is to get out of Angola, too, if the bigger stakes—mutual cooperation between our two countries—are of any value to them. Otherwise, the Russian bear may have gained a South Atlantic outpost they cannot hold for long but lost a relationship with America, the benefits from which they may never regain.

Mr. President, not only has the debate skirted that central fact but Soviet intervention in Angola and that central question of the meaning of détente. But the amendments proposed by the Senator from California (Mr. TUNNEY) and the Senator from Michigan (Mr. GRIFFIN) are unresponsive to those central issues.

In the case of the amendment offered by the Senator from California——

The ACTING PRESIDENT pro tempore. The Chair reluctantly requests the Senator from Illinois to suspend momentarily.

Will the Senators conferring kindly withdraw to the cloakrooms.

The Senator from Illinois.

Mr. STEVENSON. If the amendment offered by the Senator from California is adopted, it will end U.S. intervention in Angola. If the amendment of the Senator from Michigan, Mr. President, is not adopted, it will be interpreted, however wrongly, as a sanction by the United States of Soviet intervention in Angola. Neither is responsive to either of these issues. Both, in my judgment, should be withdrawn.

I might add, Mr. President, this is no way to conduct the foreign policy of the United States. The Senator from Ohio was absolutely right. We do not have all the facts, and even if we had the facts, we would not have the time to debate them and to make a sensible decision about our interests in Angola and how best to pursue them.

What is more, Mr. President, the Senate is in some danger of acting with emotion rather than reason, reacting to Vietnam rather than Angola.

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

Mr. STEVENSON. Yes; I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I want to commend the Senator from Illinois for this resolution. I think it is the first thing that has made any sense in a long day.

While it may shock the Senator from Illinois to find the Senator from Arizona agreeing with him, I do. I think this resolution comes at a proper time. I am particularly interested in paragraph 4 when he urged the President to use his authority under the Export Administration Act of 1969 to curtail exports to countries which persist in intervening in Angola.

I might say we have never, as a Nation, used the instruments of national policy that we have available to us, instruments that are short of the instrument of war itself, and the one instrument we have had in which we dominated the world was the economic instrument, but we have never in my memory used that instrument, particularly during the times when we were the world's No. 1 economic power which, if we are any longer, it is only by a slim margin.

I am thinking particularly of the need of the Soviet Union for wheat, a desperate need for wheat, and we have that wheat. We seem to break our backs trying to get that wheat to the Soviets without any concession on her part as to what she might do to help us.

I think in a case such as the Senator from Illinois has discussed in his resolution that the President could use this authority given to him, and I think all Americans would back him in using this power, to extract from the Soviets or extract from any country that is causing conflict in Angola or other parts of the world an agreement that they would desist and stop this help.

I just want to again commend the Senator from Illinois, and if he does not think it would be detrimental to his interests at home or here, I ask unanimous consent, if he agrees, to have my name included, along with Senator HUMPHREY and Senator STEVENSON, as a cosponsor, and I will ask the forgiveness of my saints in heaven. [Laughter.]

Mr. STEVENSON. Mr. President, I hope that does not require the forgiveness of the saints in heaven. I am delighted and pleased by the Senator's comments, and I hope it does not shock him to find me agreeing with him and, what is more, agreeing to the extent that I probably will vote against the amendment offered by the Senator from California and for the reasons suggested by the Senator from Arizona, namely, that the United States should not deprive itself of any weapons with which to pursue any legitimate foreign policy objectives.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Arizona is included as a cosponsor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator include my name also?

Mr. STEVENSON. If the Senator will withhold for one moment, I respond further to the remarks of the Senator from Arizona about questioning the suggestion that food is and should be used as a weapon. I would put the proposition slightly differently and suggest that the United States loses its authority, loses its credibility in the world, when, on the one hand, it seeks to oppose Soviet intervention in Angola with aid to tribal factions in that country and, on the other hand, aids the intervenor with not only food but also with capital and with technology and noncommercial measures which we could go into but will not.

The United States has just entered into a 6-year agreement for the supply of food to the Soviet Union and, on the face of that agreement, the commitment of the United States is unconditional.

The commitment is good notwithstanding the behavior and conduct of the Soviet Union in Angola or any other part of the world or on any issue whether it is emigration, mutual and balanced force reduction in Europe, or SALT or you name it.

One of the concerns of the Senator from Illinois is that détente is a legitimate objective of the United States, if by détente we mean relaxation of tensions. But the pursuit of détente by such methods, a 6-year commitment, unconditional agreement, transfers of technology, in a year and a half a billion in subsidized credits to the Soviet Union, will produce the reverse of détente. It produces tension, confrontation, and is doing so today in Angola.

So it is not simply a matter of using food as a weapon. My own opinion is that it is very largely a question of stopping the pursuit of a legitimate objective by counterproductive methods; and, in the case of food or any other form of assistance for the Soviet Union conditioning that assistance upon a continuing and a periodic evaluation of that country's conduct in the world, and that conduct in that part of the world, Angola, is not, in the judgment of the Senator from Illinois, justified at the present time with a commitment of food or of other exports to the Soviet Union for the benefit of that country.

So I thank the Senator for his comments.

I ask unanimous consent, Mr. President, to add the present occupant of the Chair, the Senator from Florida, as a cosponsor of this resolution.

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

Mr. GOLDWATER. Mr. President, will the Senator yield for just a moment?

Mr. STEVENSON. Yes.

Mr. GOLDWATER. I am in agreement, further agreement, with the Senator from Illinois, especially in his understanding of the word "détente."

I have begged the Secretary of State on three different occasions to go on television in this country to explain to the American people what he looks on détente as being because I do not believe the average American understands what the Secretary is trying to do with that term.

I would like to think that his understanding is the same as that of the Senator from Illinois. Détente is merely "you have something I want and I have something you want. Can't we get together and have an understanding," and from time to time we will get over it. Maybe I am a bit harsh in including food in economic warfare, but it is a very effective weapon. War is far worse and, with the proper use of the weapons we have had available, political, economic, and so forth, I believe war can be avoided. I believe war can be avoided, along with power for as long as we care to do it.

I am glad again the Senator has introduced this resolution. I am glad he made the comments he has made, and I think it will provide very interesting reading to those who follow the RECORD.

Mr. STEVENSON. I thank the Senator.

We have our disagreements about the sources of power, but not about the necessities for power. I certainly agree with his comments.

Mr. President, I ask unanimous consent for the immediate consideration of this resolution.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, did the Senator add my name as I asked him to?

Mr. STEVENSON. I did and I am grateful to the Senator.

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

The ACTING PRESIDENT pro tempore. On the immediate consideration of the resolution——

Mr. MANSFIELD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent——

The ACTING PRESIDENT pro tempore. There is a pending unanimous-consent request by the Senator from Illinois.

Mr. MANSFIELD. Fine.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PACKWOOD. What is that request?

The ACTING PRESIDENT pro tempore. To the immediate consideration of the Senator's resolution.

Mr. PACKWOOD. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

It will go over under the rule.

The Senator from Montana.

Mr. MANSFIELD. Mr. President, I am sorry there was objection to an amendment of this nature which has such disparate and different sponsors as the Senator from Illinois and the Senator from Arizona, as well as others, but I would suggest that in view of the objection raised that the distinguished Senator ask unanimous consent that it be placed on the calendar.

Mr. STEVENSON. Mr. President, I so request.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GOLDWATER. Reserving the right to object—I might implore our friend, if he would reconsider, we do not have much time left to get such a resolution up before this——

Mr. PACKWOOD. I understand that. I regard it as very significant.

I will say to the Senator from Illinois, it was so significant that I do not want to take it up tonight and have it passed just by voice vote.

I think I am with him, but to do something of this magnitude at this hour of the night, we talk about persistent intervening, I do not know if that means South Africa or a variety of countries. I

am just not prepared on this short notice to take up a matter of this magnitude.

The ACTING PRESIDENT pro tempore. Is there objection to placing it on the calendar?

Without objection, it is so ordered.

ORDER FOR NOMINATIONS TO BE RETAINED IN THE SENATE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all nominations sent down by the President prior to the ending of the first session of the 94th Congress be retained in the Senate and not sent back to the White House because of the 30-day interregnum which may exist between the first and second session, with the exception of the nominations which are or will be before the Committee on Labor and Public Welfare.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GOLDWATER. Again reserving the right to object—and I will not object—the Armed Services Committee is meeting tomorrow morning at 9:30 to consider a number of nominations that are very important. I wonder if the majority leader would abide by his request that these will be held over until after the first of the year?

Mr. MANSFIELD. All those which the President sent down before the Congress adjourns sine die, the end of the 1st session of the 94th Congress, will remain down here with the exception of the nominations now in or may be in the Committee on Labor and Public Welfare.

In other words, an agreement to this unanimous-consent suggestion prevents the usual return of nominations during which a 30-day lapse occurs.

Mr. GOLDWATER. But if the Armed Services Committee tomorrow voted out the appointments we had to consider, would there be a chance of having them considered before the end of this session?

Mr. MANSFIELD. If there is no objection, if there are no holds, but if there are any holds they will have to wait until the beginning of the session, but they will be available rather than being sent down again.

Mr. GOLDWATER. I thank the Senator.

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

Mr. MANSFIELD. I yield to the Senator.

Mr. ROBERT C. BYRD. May we have order, Mr. President?

The ACTING PRESIDENT pro tempore. The Chair asks the Senator from Montana, is it the purpose of the unanimous-consent request of the Senator that nominations be kept alive irrespective of the sine die adjournment?

Mr. MANSFIELD. That was the purpose, rather than be sent back to the White House, to be sent down again and the process started out.

The ACTING PRESIDENT pro tempore. The Chair thanks the Senator.

Mr. MANSFIELD. Will the distinguished leader yield to me?

Mr. ROBERT C. BYRD. Mr. President, I will yield to the Senator.

SENATOR STONE COMPLETES 200TH HOUR AS PRESIDING OFFICER OF THE SENATE

Mr. MANSFIELD. Mr. President, the distinguished Senator from Florida now presiding over this body has just completed his 200th hour as the Presiding Officer of the Senate during this session.

We are making all kinds of records this year. I am not sure all of them are good, though this record is a good one, because I believe that the record will indicate, as I tried to state on yesterday, that we have been in session more hours than in any other session up to date, that we have eclipsed the old record for rollcall votes, as the distinguished assistant Democratic leader brought out a couple of days ago.

But I am not too proud about the long hours spent in this Chamber. I think there are too many, too long.

I am not too happy about the voting record. I think we could do with less voting and save more time.

But I am extremely happy about the record just established by the distinguished Senator from Florida who, incidentally, during the course of the closed meeting of the Senate this morning for a period of 3 hours conducted himself with aplomb, dignity, integrity, and a knowledge and understanding which I think surprised his colleagues, though it did not surprise me.

So all honor to the Senator from Florida who has proved himself to be an outstanding Senator, who believes in sunshine, who avoids closed meetings—except the one today, we got him there—and who has performed quite nobly.

Mr. McCLURE. Will the majority leader yield to me?

Mr. MANSFIELD. Yes, indeed.

Mr. McCLURE. I would like to join in the remarks that have just been made in commendation to the Senator who now occupies the Chair.

It is not only the number of hours he spent in the Chair, but the manner in which he has conducted himself and the business of the Senate while he has been there.

I think it would be fair to say that on behalf of all the Members of the Senate, and certainly the Members of the minority, that the Senator from Florida has certainly grown in the esteem and the affection of every Member of the Senate and every one of us would like to join in the commendation that have been expressed by the majority leader.

Mr. JAVITS. Will the Senator yield to me?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Just to associate myself with those remarks and to add, he is a great beginner.

Mr. ROBERT C. BYRD. Mr. President, I share the views that have been expressed so ably by the distinguished majority leader, the distinguished Senator from Idaho, and the distinguished Senator from New York about the Senator from Florida who now presides over the Senate.

He is a man whose heart is as stout as the Irish oak and as pure as the lakes of Killarney.

The ACTING PRESIDENT pro tempore. The Chair wishes to thank each of the Senators for their very kind remarks. The Chair is deeply gratified.

HOUSE JOINT RESOLUTION 749—PROVIDING FOR THE BEGINNING OF THE SECOND SESSION OF 94TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 749.

The ACTING PRESIDENT pro tempore. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 749) to provide for the beginning of the second session of the 94th Congress and for other purposes.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask for the immediate consideration of the amendment at the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 3, change the period to a comma and insert the following: "and (c) notwithstanding the provisions of clause (3) of section 5(b) of such Act (15 U.S.C. 1024(b)), the Joint Economic Committee shall file its report on the President's 1976 Economic Report with the Senate and the House of Representatives not later than March 19, 1976.

SEC. 3. That prior to the convening of the second regular session of the Ninety-fourth Congress on January 19, 1976, as provided in section one of this resolution, Congress shall reassemble at 12 o'clock meridian on the second day after its Members are notified in accordance with section four of this resolution.

SEC. 4. The Speaker of the House of Representatives and the President pro tempore of the Senate shall notify the Members of the House and the Senate, respectively, to reassemble whenever in their opinion the public interest shall warrant it or whenever the majority leader of the House and the majority leader of the Senate, acting jointly, or the minority leader of the House and the minority leader of the Senate, acting jointly, file a written request with the Clerk of the House and the Secretary of the Senate that the Congress reassemble for the consideration of legislation."

Mr. ROBERT C. BYRD. Mr. President, I move the adoption of the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read the third time.

The joint resolution was read the third time.

The ACTING PRESIDENT pro tempore. The joint resolution having been read a third time, the question is, Shall it pass?

The joint resolution (H.J. Res. 749), as amended, was passed.

ORDER TO POSTPONE INDEFINITELY SENATE JOINT RESOLUTION 153 AND SENATE CONCURRENT RESOLUTION 74

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the resolution, Senate Joint Resolution 153, be postponed indefinitely, and that the same request is made for Senate Concurrent Resolution 74.

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

AMENDMENT OF THE NATIONAL READING IMPROVEMENT PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 8304, and that the bill be considered as having been read twice.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8304) to amend the National Reading Improvement Program to provide more flexibility in the types of projects which can be funded, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was considered to have been read the second time by title.

Mr. ROBERT C. BYRD. Mr. President, I call up an amendment which is at the desk and ask for its immediate consideration.

The ACTING PERSIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 1, line 4, insert "(a)" after "Section 1.".

On page 1, lines 9 and 10, insert after the word "paragraph" the following: "during the fiscal year 1976 and the period beginning July 1, 1976 through September 30, 1976,".

On page 2, line 12, strike out "any" and insert in lieu thereof "the".

On page 2, line 13, after "year" insert the following: "1976, and, for the period from July 1, 1976 through September 30, 1976,".

On page 2, between lines 13 and 14, insert the following:

(b) (1) Part C of such Act is amended by adding after section 723 the following new section:

"STATE LEADERSHIP AND TRAINING PROJECTS

"SEC. 724. The Commissioner is authorized to enter into agreements pursuant to this section with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to conduct projects which have been demonstrated in that State or other States to be effective in overcoming reading deficiencies. The activities authorized by this section shall be limited to—

"(1) assessments of need, including personnel needs, relating to reading problems in the State,

"(2) inservice training for local reading program administrators and instructional personnel, and

"(3) provision of technical assistance and dissemination of information to local educational agencies and other appropriate nonprofit agencies.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on October 1, 1976.

(3) Section 705 (a) (3) of the Education Amendments of 1974 as added by subsection (a) of this section is repealed effective September 30, 1976.

(c) Section 732 of such Act is amended by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated to carry out the provisions of section 724, relating to State leadership and training projects, $6,400,000 each for the fiscal year ending September 30, 1977, and for the succeeding fiscal year."

On page 3, line 20 and 21, strike out "3 per centum" and insert in lieu thereof "1 per centum".

On page 4, between lines 7 and 8, insert the following:

NATIONAL IMPACT READING PROGRAMS

On page 4, line 8, insert "(a)" after "Sec. 6.".

On page 4, line 9, strike out "section 723" and insert in lieu thereof "section 724".

On page 4, line 11, strike out "Sec. 724." and insert in lieu thereof "Sec. 725.".

On page 4, line 20, strike out the word "any" and insert in lieu thereof "the".

On page 4, line 21, after "year" insert the following: "1976, and for the period from July 1, 1976 through September 30, 1976,".

On page 4, between lines 21 and 22, insert the following:

(b) (1) Section 725 of the Education Amendments of 1974 as added by subsection (a) of this section is amended by striking out "(a)" after the section designation and by striking out subsection (b) of such section.

(2) The amendment made by paragraph (1) of this subsection shall take effect on September 30, 1976.

(c) Section 732 of such Act is amended by adding at the end thereof the following new subsection:

"(f) There are authorized to be appropriated to carry out the provisions of section 725, relating to national impact reading programs, $800,000 each for the fiscal year ending September 30, 1977 and for the succeeding fiscal year."

On page 5, line 19, strike out "SEC. 725." and insert in lieu thereof "SEC. 726.".

On page 8, line 6, strike out "(e)" and insert in lieu thereof "(g)".

On page 8, line 7, strike out "section 725" and insert in lieu thereof "section 726".

On page 8, line 14, strike out "section 725" and insert in lieu thereof "section 726".

On page 8, lines 15 and 16, strike out "section 725" and insert in lieu thereof "section 726".

On page 8, after line 16, insert the following:

SPECIAL EMPHASIS PROJECTS

SEC. 10. Section 721(b)(1) of such Act is amended by inserting "and (c)" after "section 705(b)".

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BEALL. Mr. President, I rise to urge the enactment of H.R. 8304. This measure provides that a number of amendments to the national reading improvement program, which was enacted in 1974 as part of the education amendments of that year. I was pleased to coauthor this program with Senator EAGLETON and believe that it is one of the most promising education programs that we have.

The bill before the Senate today makes two important changes in the 1974 program.

First, it makes clear that the reading programs funded under the discretionary right-to-read program, which preceded the national reading improvement program, will continue. It was never the intent of Senator EAGLETON or me that the ongoing right-to-read efforts be terminated with the enactment of the national reading improvements program. Indeed, in the Senate-passed bill, the right-to-read effort was clearly continued. The right-to-read effort provides grants to the States for leadership and training programs and also for certain national impact programs. The 1974 conference committee authorized a State grant approach but provided that the State grant program would not become operative until the funding level exceeded $30 million. With the appropriation level only $17 million, the State-level grant programs are in jeopardy unless the Congress acts. Thus, this clarification will mean that the State grants, such as received by Maryland, will be able to continue.

In my State, the right-to-read program has given emphasis to and impetus for reading efforts. Maryland is developing standards for evaluating both system and school reading programs, developing leadership through seminars for supervisors and principals, and reviewing reading material.

The second major amendment would authorize a new reading motivation program under which local community agencies will contribute inexpensive books to school children. The bill makes available Federal matching assistance of 50 percent of the cost of conducting reading motivational programs by local sponsors of such programs. A 3-year, $22 million program is provided and if fully funded, it is estimated that an additional 21 million books will be distributed to over 4 million children.

Again, I would point out that in the Senate-passed reading provisions last year, we included support for reading is fundamental—RIF-like projects which we will be able to expand with the enactment of today's bill. The RIF provisions under this measure, however, are much more comprehensive than the 1974 provisions and are essentially the language of S. 2535, which was coauthored by Senator EAGLETON and I, on the Senate side and by Congressman AL QUIE as H.R. 9048 on the House side.

The RIF program results from idea of an individual and it serves to show how an individual can make a difference,

and can effectuate positive changes. I am speaking of Mrs. Robert McNamara. Mrs. McNamara was a volunteer reading teacher aid in the Washington, D.C. school system and she became concerned with the dullness of reading material available. She took to the school a Jules Verne adventure story and the student whom she was assisting said: "I sure would like to own a book like that." Mrs. McNamara gave the book to the child. Based on that experience, Mrs. McNamara has created a private, national organization which has done a marvelous job in promoting reading by giving books to youngsters.

RIF's purpose then is to motivate children to read for pleasure through experiencing the "joy and ownership" of owning exciting books of their own. RIF is now in operation in 47 States and in past years, RIF distributed over 5 million paperbacks to 2 million children. In Maryland, we have six RIF action programs underway and two more are in the developing stage—no books yet distributed. Last year in Maryland over 6,000 books were distributed to over 250 children. RIF not only believes that reading is fundamental, but also believes that reading is fun.

It is interesting to note the different organizations which have sponsored RIF projects. These include community groups, private industry, military wives' clubs, educational organizations, civic clubs, and church groups. In fact, an essential element of the RIF program has been the grass-roots support and involvement. In this program, each community organizes, develops, and runs its own program. Most of the children that RIF serves have never owned a book. By providing them with books of their own, we may be beginning for these youngsters a habit that will last a lifetime.

Mr. President, in October, I had the pleasure of witnessing the distribution of books in a RIF project in Baltimore City at the Barclay Elementary School. I only wish my colleagues could have seen the eagerness, excitement and enthusiasm of the children as they selected their own book from a wide variety of attractive and appealing paperbacks. One's impression, based on observing these students, that this program would encourage and stimulate reading was confirmed by my discussions with the school's principal, teachers, and parents. This is an excellent program which will be a valuable addition to the 1974 Reading Improvement Act and will be a great stimulus to the creation of more reading motivational programs not only in Maryland, but throughout this entire Nation.

Mr. President, I have labeled the reading problem as the "Achilles heel" of American Education. The following statistics indicate the magnitude of the reading problem:

Some 7 million elementary and secondary children are in severe need of special reading assistance.

In large urban areas, 40 to 50 percent of the children are reading below grade level.

An Office of Education survey indicated 22 percent of the urban schools had 70 to 100 percent of their pupils reading a year or more below grade level.

These massive reading difficulties have been confirmed by surveys of teachers and pupils alike. Over and over again, parents, the general public, and the press across the Nation have expressed concern with the poor pupil performance in the fundamental reading area. For example, a 1973 survey in my State found that "the people of Maryland believe that the mastering of reading skills is the most important education goal for the schools of the State."

Mr. President, after I had introduced the 1974 reading proposal, I received a letter from an individual from Texas who sent me a copy of an article from the Dallas Morning News. I would like to read a couple of paragraphs from this article.

At commencement exercises throughout the city recently, anywhere from 500 to 1,000 of Dallas' 9,000 graduating seniors, according to official estimates, walked across stages to be handed diplomas they could not read. Barely able to read, many will wind up with poor jobs or no jobs at all. Still in school, youngsters who are either unable to read at all or read only at the most elementary level can be found in almost every one of Dallas' 43 secondary schools. Dallas School Superintendent Noan Estes has estimated more than 20,000 of the public school system's 70,000 secondary students read at least two or more years below grade level.

In summary, Mr. President, H.R. 8304 provides for both emergency amendments to allow the continuation of the former right-to-read programs, as well as the enactment of a promising and proven reading motivational program. Both will be welcome additions to the national reading improvement program and I urge its enactment.

I also ask unanimous consent that articles from the Baltimore Sun and the Baltimore News American be printed in the RECORD.

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

[From the Baltimore Sun, Oct. 14, 1975]

BEALL WANTS MORE BOOKS GIVEN AWAY

Books are almost always lent, and seldom given away, but Senator J. Glenn Beall, Jr. (R., Md.) visited a Baltimore public school yesterday where the latter is the case and announced that he would co-sponsor federal legislation to give the cause a push.

Senator Beall and several aides visited Barclay Elementary School, where they watched eager children visit the library and choose from a selection of books that were given them free under a program called Reading Is Fundamental.

It was the 14th such distribution since the 1971–1972 school year, when Reading Is Fundamental came to Barclay. Parent contributions and aid from the Barclay-Brent Education Corporation have helped pay for reading material, although this year it is being financed by Title I of the Elementary and Secondary Education Act.

Margaret McNamara, wife of the World Bank president, who created the private, national Reading Is Fundamental organization while working as a volunteer reading teacher aide in Washington nine years ago, also visited Barclay. She said the programs are now in 400 schools in 47 states and have distributed 5 million free books.

Senator Beall said his legislation, to be cosponsored by Senator Thomas Eagleton (D., Mo.), would create a three-part national reading-improvement program.

Among other features, it would authorize a three-year, $22 million "reading-motivation" program under which local communities would distribute books to schoolchildren. The federal government would bear half cost of setting up a program.

"We want to see Barclay schools all over the nation," he said.

[From the Baltimore News American, Oct, 16, 1975]

LISTENING IS IMPORTANT

Relating to young children is not always an easy task for full grown adults, and Maryland's Sen. J. Glenn Beall Jr. surely falls in that category.

The senator did a remarkable job recently in listening to a swarm of eight-year-olds in the Barclay Elementary School Library.

On the library floor with youngsters clustering around him, Sen. Beall seemed to be enjoying this part of his job as he learned about sea monsters, dinosaurs, giant dogs and other strange species which poke their heads up from time to time in children's literature.

The senator's tour of Barclay was meant to dramatize what he believes is a need for additional federally sponsored programs to improve the reading skills of elementary school children.

The senator's tact in listening to the kids, instead of indulging in campaign oratory inappropriate for eight-year-olds, was exemplary.

For a good politician, like a good minister, has to learn to listen as well as to preach. Sen. Beall clearly knows that.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read a third time, the question is, Shall it pass?

The bill (H.R. 8304), as amended, was passed.

GUADALUPE MOUNTAINS NATIONAL PARK, TEX.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 313.

The assistant legislative clerk laid before the Senate the amendment of the House of Representatives to the bill (S. 313) to authorize an exchange of lands for an entrance road at Guadalupe Mountains National Park, Tex., and for other purposes.

(The amendment of the House is printed in the RECORD of December 1, 1975, beginning at page 37833.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

RELIEF OF MRIKA MRNACAJ

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 10555.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

An act for the relief of Mrika Mrnacaj.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times, and that the Senate proceed to the immediate consideration of the bill.

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

There being no objection, the bill (H.R. 10555) was considered, ordered to a third reading, read the third time, and passed.

CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS—REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention for the Conservation of Antarctic Seals, with Annex, done at London June 1, 1972 (Executive K, 94th Congress, first session), transmitted to the Senate today by the President of the United States.

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

Mr. ROBERT C. BYRD. I also ask unanimous consent that the convention, with accompanying papers, be referred to the Committee on Foreign Relations and ordered to be printed and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I am pleased to transmit for the Senate's advice and consent to ratification the Convention for the Conservation of Antarctic Seals, with Annex, done at London June 1, 1972. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Convention.

Though commercial sealing has not yet started in the water and on the sea ice in Antarctica, this Convention provides some valuable protection for seals of that region. It prohibits entirely the commercial taking of three species of Antarctic seals and sets conservative limits on the taking of three other species. It prohibits sealing in the water, except in limited quantities for scientific research. It sets aside reserves where no sealing can take place and forbids sealing entirely during six months of the year. More importantly, it sets up the machinery to give the necessary warning when catch limits are being approached. It obligates the Parties at that point to prevent further sealing by their nationals and vessels. Provision is also made for adoption of additional controls, including an effective system of inspection, if commercial sealing starts in the area. There is nothing in the Convention to prevent a Party from adopting for its nationals and vessels more stringent controls than provided in the Convention. The United States has done this in the Marine Mammal Protection Act of 1972. While that legislation is in effect, and until the Parties decide to adopt controls and inspection procedures in accordance with Article VI, no new legislation is needed to implement the Agreement.

Unfortunately in recent years, it has often been only after a species or class of wildlife has become severely depleted or even endangered that international conservation measures have been initiated. This Convention represents a unique opportunity for the world community to put into practice the hard learned lessons of the past and to act prospectively to protect the seals of Antarctica. I urge the Senate to give the Convention its prompt and favorable consideration.

GERALD R. FORD.

THE WHITE HOUSE, *December 17, 1975.*

COMPENSATION AND OTHER EMOLUMENTS FOR ANY PERSON FILLING THE VACANCY OF THE FEDERAL MARITIME COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11172.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 11172) to insure that the compensation and other emoluments for any person filling the vacancy on the Federal Maritime Commission caused by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times, and that the Senate proceed to its immediate consideration.

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

There being no objection, the bill (H.R. 11172) was considered, ordered to a third reading, read the third time, and passed.

FEDERAL TRADE COMMISSION AMENDMENTS OF 1975

The Senate proceeded to consider the bill (S. 642) to amend the Federal Trade Commission Act to authorize certain State and local officials to enforce certain rules promulgated by the Federal Trade Commission, and for other purposes, which had been reported from the Committee on Commerce with amendments, as follows:

On page 1, beginning with line 3, strike out

That this Act may be cited as the "State and Local Enforcement Act of 1975".

and insert

That this Act may be cited as the "Federal Trade Commission Amendments of 1975".

On page 1, beginning with line 6, strike out:

SEC. 2. Section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) is amended by adding at the end thereof the following two new sentences: "The functions of the Commission under this subsection with respect to the issuance and service of complaints may be exercised by bureau and regional directors designated by the Commission for such purpose, pursuant to the general policy of, and any guidelines set forth by, the Commission. Any such designated person may exercise the powers which the Commission is authorized to exercise under section 9 of this Act, in pursuing investigations to determine whether facts exist which would warrant the issuance of a complaint. If any such complaint is issued, any such designated person may bring suit pursuant to section 13 of this Act."

SEC. 3. The first sentence of Section (5)(c) of the Federal Trade Commission Act (15 U.S.C. 45(c)) is amended by striking out in the first sentence thereof "where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business" and inserting in lieu thereof "where such person, partnership, or corporation has its principal place of business".

On page 2, beginning with line 19, insert

SEC. 2. Section 5(c) of the Federal Trade Commission Act (15 U.S.C. 45(c)) is amended by striking out the first sentence thereof and inserting in lieu thereof the following: "Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or any act or practice may obtain a review of such order in the court of appeals of the United States for the circuit within which such person, partnership, or corporation resides or maintains its principal place of business.".

On page 3, in line 4, strike out:

STATE AND LOCAL ENFORCEMENT

On page 3, in line 5, strike out "4" and insert "3".

On page 3, in line 7, after the semicolon, insert "and".

On page 3, in line 13, strike out the semicolon and insert a period.

On page 3, beginning with line 14, strike out

(3) by redesignating section 20 as section 21; and (4) by inserting after section 19 the following new section:

"SEC. 20. (a)(1) If any person, partnership, or corporation (A) violates any rule which is promulgated by the Commission under this Act with respect to unfair or deceptive acts or practices (other than an interpretive rule or a rule which the Commission has provided is not one whose violation is an unfair or deceptive act in or affecting commerce), or (B) engages in any act or practice in or affecting commerce with respect to which the Commission has issued against any person, partnership, or corporation a cease and desist order which has become final, then the Attorney General of the State in which such act or practice occurred, or his delegate, may commence a civil action for appropriate relief against such person, partnership, or corporation, in any court of competent jurisdiction in such State.

"(2) If any person, partnership, or corporation violates any rule which is promulgated by the Commission under this Act with respect to unfair or deceptive acts or practices (other than an interpretive rule or a rule which the Commission has provided is not one whose violation is an unfair or deceptive act or practice in or affecting commerce), then the chief law enforcement officer of any Indian reservation or similar self-governing entity not under the jurisdiction of State authorities, in which such act or practice occurred, may commence a civil action against such person, partnership, or corporation for relief in a tribal court or in an appropriate district court of the United States.

"(3) If any person, partnership, or corporation violates any rule promulgated by the Commission under this Act with respect to unfair or deceptive acts or practices (other than an interpretive rule or a rule violation which the Commission has provided is not one whose violation is an unfair or deceptive act or practice in violation of section 5(a) of this Act), then any person directly affected by such violation may commence a civil action against such person, partnership, or corporation for relief under subsection (b) in any court of competent jurisdiction of a State or of an Indian reservation or similar self-governing entity not under State jurisdiction.

"(4) In commencing an action authorized by paragraph (1) or (2) the Attorney General, the chief law enforcement officer, or the moving party shall give notice of the theory and the alleged facts of the action to the Commission and its appropriate regional office, or in the case of an action authorized by paragraph (3) to the appropriate State Attorney General, within 10 days of filing the action. The Commission, or a regional office if so authorized by the Commission, or in the case of an action authorized by paragraph (3) such Attorney General may intervene in any such action as a matter of right to move that such action be consolidated, in whole or in part, with a broader civil action which involves the same issue or issues and the same or different parties and which the Commission, or, in the case of an action authorized by paragraph (3), the Attorney General, is in the course of diligently pursuing through appropriate administrative or judicial proceedings. The court, in ruling on such motion, shall consider which course is more likely (i) to resolve the factual or legal issues involved; (ii) to preclude repetition of the alleged unfair or deceptive act or practice; and (iii) to result in substantive justice to the parties directly involved in such litigation. A court order consolidating such an action with other actions shall not prejudice the right of any claimant involved to recommence such civil action if the Commission's action fails to result in a conclusive determination of the claim. Any applicable limitation periods are tolled in the interim and begin running again on the termination of the Commission's action.

"(b) The court, in an action under subsection (a), shall have jurisdiction to grant such relief as it finds necessary to redress injury which resulted to consumers or other persons, partnerships, and corporations as a consequence of the rule violation. Such relief may include, but shall not be limited to, injunctions, rescission or reformation of contracts, the refund of money or return of property, or the payment of damages or attorneys' fees, or both, and public notification respecting the rule violation, except that nothing in this subsection shall be construed to authorize any award of exemplary or punitive damages. In any action brought under this section, Federal statutes and the decisions of the Commission and decisions and opinions of the courts of the United States shall be the rules of decision, and any remedy available in a court of the United States or for enforcing an order of a court of the United States shall be available. Except with regard to the actual claims settled or decided in actions brought under subsection (a), actions brought under subsection (a) shall in no way restrict or prejudice any right of the Commission to commence any actions involving the same or other parties of the same or similar issues in any place wherein the Commission has jurisdiction to act.

"(c)(1) The governing body on Indian reservations, or similar self-governing entities not under State jurisdiction, is authorized to develop regulations required by local circumstances or conditions to eliminate or preclude unfair or deceptive acts and practices in commerce. Such regulations, when adopted, are to supplement existing laws, rule, and regulations affecting trade on the reservations and similar self-governing entities not under State jurisdiction. Such regulations shall preempt any trade regulations promulgated by the Bureau of Indian Affairs, wherever the two conflict. Such regulations are to be promulgated under procedural rules adopted by the local self-governing body and they shall be applied uniformly to such proceedings: *Provided*, That reasonable opportunity shall be given for oral or written comment on proposed regulations before they take effect. The local self-governing body may alter or amend such regulations and procedural rules from time to time as is necessary to insure the smooth flow of commerce and the elimination or preclusion of trade abuses.

"(2) The governing body of Indian reservations, and other self-governing entities not under State jurisdiction, shall have the exclusive authority to license traders as a prerequisite to the operation of trading establishments. The Commission shall cooperate with such governing body to develop regulations and procedures to control the granting of such licenses. Upon the approval of such regulations and procedures by such local self-governing body, the sole authority to license trading establishments shall vest in such body, and any prior Federal or State authority with reference to such licensing shall lapse and cease to have any further force and effect.

"(d) The Commission shall coordinate local, State, and Federal trade regulation and enforcement activities. Such coordination shall include, but not be limited to, the gathering and dissemination of information about regulation enforcement in all parts of the United States, periodic evaluations and progress reports concerning the enforcement of trade regulations, special studies to develop recommendations for alternative enforcement strategies, consumer education programs, and other programs that might enhance the impact of regulations, and seminars or similar educative programs designed to inform State and local authorities of current Commission regulations and anticipated Commission initiatives.".

On page 8, in line 21, after "SEC." strike out "5." and insert "4".

On page 8, at the end of line 22, strike out "repealed." and insert

amended to read as follows: "(2) outer coverings of furniture, mattresses, and box springs, except that the Commission may require care labeling with respect to outer coverings of furniture.".

On page 9, beginning with line 3, strike out

(b) Paragraphs (3) through (11) of section 12(a) of such Act (15 U.S.C. 70j(a)(3) through 70j(a)(11)) are renumbered as paragraphs (2) through (10), respectively, of such section 12(a).

SEC. 6. Section 5(a)(6) of the Federal Trade Commission Act (15 U.S.C. 45(a)(6)) is amended to read as follows:

"SEC. 5. (a)(6) The Commission is empowered and directed to prevent persons, partnerships, or corporations, except banks and entities subject to the Packers and Stockyards Act, 1921, as amended (to the extent so subject, and except as provided in section 406(b) of such Act) from using unfair methods of competition in or affecting commerce and from committing unfair or deceptive acts or practices in or affecting commerce.".

On page 9, in line 18, strike out "7" and insert "5".

On page 9, in line 22, strike out "8" and insert "6".

On page 10, in line 13, strike out "9" and insert "7".

On page 10, in line 13, after "Section" strike out "21" and insert "1".

On page 10, in line 15, after "by" strike out (1) inserting "(a)" before the first sentence thereof; and (2)

On page 10, in line 17, strike out "three" and insert "two".

On page 10, beginning with line 18, strike out

"(b) The Congress, through the duly authorized committees of the Senate and the House of Representatives, shall exercise continuing oversight over the activities of the Commission. In the exercise of such oversight, such committee may authorize professional staff members to conduct inquiries into the activities of the Commission, maintain transcripts of pertinent discussions, and to report thereon to such committees in order to facilitate such oversight. Each agency and officer of the Federal Government is directed to assist, and cooperate with, such oversight.

On page 11, beginning with line 19, insert

SEC. 8. Section 5(g) of the Federal Trade Commission Act (15 U.S.C. 45(g)) is amended to read as follows:

"(g) An order of the Commission to cease and desist shall become effective against a party thereto 60 days after such order is served on such party, except that any such order may be stayed, in whole or in part, subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if a petition for review of such order is pending in such court and if an application for such a stay was previously submitted to and denied by the Commission; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending.

The Commission may modify or set aside any order to cease and desist, pursuant to subsection (b).".

SEC. 9. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended by—

(a) inserting "(1)" immediately after "(b)", and

(b) inserting at the end thereof, the following new paragraph—

"(2)(A) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person petitions the Commission for issuance, amendment, or repeal of a rule under this section, the Commission shall grant or deny such petition within 120 days after the date that such petition is received by it. If the Commission grants such a petition, it shall commence an appropriate proceeding under subsection (a)(1)(B) of this section as soon thereafter as practicable. If the Commission denies such a petition, it shall set forth, and publish in the Federal Register, its reasons for such denial.

"(B) If the Commission denies such a petition (or if it fails to act thereon within the 120-day period mandated by subparagraph (A)), the petitioner may commence a civil action in an appropriate district court of the United States for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate within 60 days after the date of expiration of such 120-day period.

"(C) If such a petitioner can demonstrate to the satisfaction of such court, by a preponderance of the evidence in a de novo proceeding before such court, that the action requested in such petition to the Commission is necessary to prevent acts or practices which are unfair or deceptive acts or practices in or affecting commerce, within the meaning of section 5(a)(1) of this Act, and that the failure of the Commission to take such action will result in the continuation of such un-

lawful acts or practices, such court shall order the Commission to initiate such action.

"(D) In any action under this paragraph, a court shall have no authority to compel the Commission to take any action other than the initiation of a rulemaking proceeding in accordance with this section.".

SEC. 10. Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended by—

(1) inserting "(a)", "(b)", "(c)", and "(f)" immediately before the first, second, third, and fourth paragraphs thereof,

(2) deleting the first sentence of the newly designated subsection (c) thereof, and inserting in lieu thereof the following:

"(c) If any person, partnership, or corporation which is required by the Commission to file or submit any annual or special report, or to obey any subpoena or other order requiring access to documentary evidence, fails to comply with any such requirement within the time prescribed therefor by the Commission, and if such failure continues for 15 days after notice of such default to such person, partnership, or corporation, such person, partnership, or corporation shall be liable to the United States for a civil penalty of not less than $1,000 nor more than $5,000 as the court may determine, for each day that such failure continues after such 15th day. The amount of such civil penalty shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit by and in the name of the Commission, brought in the district court of the United States within which such person, partnership, or corporation resides or does business.",

(3) inserting immediately after the newly designated subsection (c) thereof, the following two new subsections:

"(d) No action to stay accumulation of any of the penalties provided by subsection (c) or to challenge the validity, or to enjoin the Commission or the United States from enforcement, of any requirement to submit or file any annual or special report or any subpoena or other order requiring access to documentary evidence may be commenced until after the service of a notice of default by the Commission as provided in such subsection (c). No court shall issue any order staying the accumulation of such penalties unless the party seeking such relief shall have first demonstrated—

"(1) a substantial probability of ultimate success on the merits;

"(2) that such party will be irreparably injured unless the accumulation of such penalties is stayed; and

"(3) that the equities clearly favor such stay.

"(e) No court shall hold invalid, or issue an order enjoining the Commission or the United States from enforcement of, any requirement to submit or file any annual or special report or any subpoena or other order requiring access to documentary evidence unless the party subject to such requirement shall have first demonstrated—

"(1) that such requirement to submit or file any annual or special report or such subpoena or other order requiring access to documentary evidence is unduly burdensome; or

"(2) that the information sought by such requirement to submit or file any annual or special report or such subpoena or other order requiring access to documentary evidence is not reasonably relevant to an inquiry being conducted by the Commission. The Commission shall have authority to conduct investigations and to adjudicate complaints consistent with the applicable provisions of this Act, unless such investigation or adjudication is expressly prohibited by this Act.".

SEC. 11. Section 5 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68c) is amended by striking out the term "wood" in the second paragraph thereof and inserting in lieu thereof "wool".

SEC. 12. Section 9(b)(1) of the Fur Products Labeling Act (15 U.S.C. 69g(b)(1)) is amended by striking out the term "volating" and inserting in lieu thereof "violating".

So as to make the bill read:

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 "Federal Trade Commission Amendments of 1975".

SEC. 2. Section 5(c) of the Federal Trade Commission Act (15 U.S.C. 45(c)) is amended by striking out the first sentence thereof and inserting in lieu thereof the following: "Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or any act or practice may obtain a review of such order in the court of appeals of the United States for the circuit within which such person, partnership, or corporation resides or maintains its principal place of business.".

SEC. 3. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by (1) striking out section 21 thereof; *and* (2) amending section 1 thereof by striking out "That a" in the first sentence thereof and inserting in lieu thereof, with appropriate paragraph indentation, the following:

"(a) This Act may be cited as the 'Federal Trade Commission Act'

"(b) A".

SEC. 4. Section 12(a)(2) of the Textile Fiber Products Identification Act (15 U.S.C. 70j(a)(2)) is amended to read as follows: "(2) outer coverings of furniture, mattresses, and box springs, except that the Commission may require care labeling with respect to outer coverings of furniture.".

SEC. 5. Sections 2, 2a, and 3 of the Clayton Act (15 U.S.C. 13, 13a, and 14) are amended by striking out "in commerce" wherever the term appears and inserting in lieu thereof "in or affecting commerce".

SEC. 6. Section 2 of the Federal Trade Commission Act (15 U.S.C. 42) is amended by adding at the end thereof the following new paragraph:

"No officer or agency of the United States, other than the Civil Service Commission for the purpose of evaluating professional qualification, shall have any authority to require the Chairman or the Commission to obtain approval of the appointment, employment, or promotion of any individual by the Commission. No individual may be required to advocate, or to be involved in advocating or supporting programs and positions espoused by the executive branch of the Federal Government or to participate significantly in the determination of major political questions by such branch, as a prerequisite to, or as a condition of, any appointment, employment, or promotion by the Commission.".

SEC. 7. (a) Section 1 of the Federal Trade Commission Act, as amended by this Act (15 U.S.C. 41), is further amended by adding at the end thereof the following two new subsections:

"(c) Whenever the Commission submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(d) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.".

SEC. 8. Section 5(g) of the Federal Trade Commission Act (15 U.S.C. 45(g)) is amended to read as follows:

"(g) An order of the Commission to cease and desist shall become effective against a party thereto 60 days after such order is served on such party, except that any such order may be stayed, in whole or in part, subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if a petition for review of such order is pending in such court and if an application for such a stay was previously submitted to and denied by the Commission; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending.

The Commission may modify or set aside any order to cease and desist, pursuant to subsection (b).".

SEC. 9. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57(b)) is amended by—

(a) inserting "(1)" immediately after "(b)", and

(b) inserting at the end thereof, the following new paragraph—

"(2)(A) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person petitions the Commission for the issuance, amendment, or repeal of a rule under this section, the Commission shall grant or deny such petition within 120 days after the date that such petition is received by it. If the Commission grants such a petition, it shall commence an appropriate proceeding under subsection (a)(1)(B) of this section as soon thereafter as practicable. If the Commission denies such a petition, it shall set forth, and publish in the Federal Register, its reasons for such denial.

"(B) If the Commission denies such a petition (or if it fails to act thereon within the 120-day period mandated by subparagraph (A)), the petitioner may commence a civil action in an appropriate district court of the United States for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate within 60 days after the date of expiration of such 120-day period.

"(C) If such a petitioner can demonstrate to the satisfaction of such court, by a preponderance of the evidence in a de novo proceeding before such court, that the action requested in such petition to the Commission is necessary to prevent acts or practices which are unfair or deceptive acts or practices in or affecting commerce, within the meaning of section 5(a)(1) of this Act, and that the failure of the Commission to take such action will result in the continuation of such unlawful acts or practices, such court shall order the Commission to initiate such action.

"(D) In any action under this paragraph, a court shall have no authority to compel the Commission to take any action other than the initiation of a rulemaking proceeding in accordance with this section.".

SEC. 10. Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended by—

(1) inserting "(a)", "(b)", "(c)", and "(f)" immediately before the first, second, third, and fourth paragraphs thereof,

(2) deleting the first sentence of the newly designated subsection (c) thereof, and inserting in lieu thereof the following:

"(c) If any person, partnership, or corporation which is required by the Commission to file or submit any annual or special report, or to obey any subpoena or other

order requiring access to documentary evidence, fails to comply with any such requirement within the time prescribed therefor by the Commission, and if such failure continues for 15 days after notice of such default to such person, partnership, or corporation, such person, partnership, or corporation shall be liable to the United States for a civil penalty of not less than $1,000 nor more than $5,000 as the court may determine, for each day that such failure continues after such 15th day. The amount of such civil penalty shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit by and in the name of the Commission, brought in the district court of the United States within which such person, partnership, or corporation resides or does business.",

(3) inserting immediately after the newly designated subsection (c) thereof, the following two new subsections:

"(d) No action to stay accumulation of any of the penalties provided by subsection (c) or to challenge the validity, or to enjoin the Commission or the United States from enforcement, of any requirement to submit or file any annual or special report or any subpoena or other order requiring access to documentary evidence may be commenced until after the service of a notice of default by the Commission as provided in such subsection (c). No court shall issue any order staying the accumulation of such penalties unless the party seeking such relief shall have first demonstrated—

"(1) a substantial probability of ultimate success on the merits;

"(2) that such party will be irreparably injured unless the accumulation of such penalties is stayed; and

"(3) that the equities clearly favor such stay.

"(e) No court shall hold invalid, or issue an order enjoining the Commission or the United States from enforcement of, any requirement to submit or file any annual or special report or any subpoena or other order requiring access to documentary evidence unless the party subject to such requirement shall have first demonstrated—

"(1) that such requirement to submit or file any annual or special report or such subpoena or other order requiring access to documentary evidence is unduly burdensome; or

"(2) that the information sought by such requirement to submit or file any annual or special report or such subpoena or other order requiring access to documentary evidence is not reasonably relevant to an inquiry being conducted by the Commission.

The Commission shall have authority to conduct investigations and to adjudicate complaints consistent with the applicable provisions of this Act, unless such investigation or adjudication is expressly prohibited by this Act.".

SEC. 11. Section 5 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68c) is amended by striking out the term "wood" in the second paragraph thereof and inserting in lieu thereof "wool".

SEC. 12. Section 9(b)(1) of the Fur Products Labeling Act (15 U.S.C. 69g(b)(1)) is amended by striking out the term "volating" and inserting in lieu thereof "violating".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to amend the Federal Trade Commission Act, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? The Senate is transacting business.

APPOINTMENT OF MARINE CORPS OFFICERS TO BE ASSISTANT COMMANDANTS OF THE MARINE CORPS IN THE GRADE OF GENERAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this request has been cleared, I believe, on both sides—that the Senate reconsider the action by which the Senate earlier today passed S. 2117, and that the measure be reconsidered for the purpose of one amendment to be offered by the Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2117) to amend secs. 5202 and 5232 of title 10, United States Code, relating to the appointment to the grades of general and lieutenant general of the Marine Corps officers designated for appropriate higher commands or for performance of duties of great importance and responsibility.

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill add a new section as follows:

SEC. 2. (a) Section 1216 of title 10, United States Code, is amended—

(1) by striking out "The Secretary" in subsection (b) and inserting in lieu thereof "Except as provided in subsection (d) of this section, the Secretary"; and

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

"(d) The Secretary concerned may not, with respect to any member who is in pay grade O–7 or higher or is a Medical Corps officer being processed for retirement under chapter 63 or 65 of this title—

"(1) retire such member under section 1201 of this title;

"(2) place such member on the temporary disability retired list pursuant to section 1202 of this title; or

"(3) separate such member from an armed force pursuant to section 1203 of this title by reason of unfitness to perform the duties of his office, grade, rank, or rating unless the determination of the Secretary concerned with respect to unfitness is first approved by the Secretary of Defense on the recommendation of the Assistant Secretary of Defense for Health and Environment.".

"SEC. 2. The amendments made by the first section of this Act shall apply with respect to unfitness determinations made on or after the date of the enactment of this Act by the Secretaries of the military departments concerned for purposes of sections 1201, 1202, and 1203 of title 10, United States Code.

Mr. HARRY F. BYRD, JR. Mr. President, this amendment has been cleared by the chairman of the Armed Services Committee (Mr. STENNIS) and by the ranking Republican member of the Armed Services Committee (Mr. THURMOND).

This measure passed the House of Representatives by a vote of 398 to 4 in the form of House bill 9691.

Mr. ROBERT C. BYRD. Mr. President, I cannot hear the Senator and I am standing beside him. May we have order in the Senate.

Mr. HARRY F. BYRD, JR. In the form of H.R. 9691. This amendment, Mr. President, provides that in determining disability retirement for general officers and medical officers, the decision must be made by the Secretary of Defense, rather than by the service secretary.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the status of the bill be returned to second reading, and that the amendment of the Senator from Virginia be considered to be in order.

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

Mr. HARRY F. BYRD, JR. As I say, Mr. President, this amendment already has passed the House of Representatives as H.R. 9691.

I have discussed the amendment with the distinguished floor manager of the bill, who is also a cosponsor of the amendment.

The purpose of this proposal is to amend title 10 of the United States Code in order to make certain disability retirements determinations by the Secretaries of the military departments subject to review by the Secretary of Defense.

This amendment would provide that for general and medical officers retiring for length of service, or because of age, a finding of unfitness for duty may not be made by the Secretary of the military department concerned unless first approved by the Secretary of Defense on the recommendation of the Assistant Secretary for Health and Environment.

Such determinations of unfitness for duty make the retiring officer eligible for disability retirement, and thus preferred tax treatment.

I have no desire to deny disability pay to service personnel of any rank who are legitimately entitled to it, and this amendment does not reflect on any individual.

Instead it is the intent of this legislation to eliminate abuses in the system.

In 1972, the General Legislation Subcommittee of the Senate Armed Services Committee, which I chair, held hearings on the awards of disability pay on retirement, and found that disability benefits were proportionately much greater for senior officers than for lower-ranking men.

Defense Department officials, at that time, conceded that there had been abuses in the system, and, as a result of the legislation before the Senate and House Armed Services Committees, the Department of Defense changed its guidelines for awarding disability benefits for retiring military personnel.

These guidelines have worked well, but I think this amendment is necessary to further clarify the procedures, and insure that decisions concerning disability benefits for retiring general and medical officers are made at the highest level at the Department of Defense.

To that end, I introduce this amendment, and I would like to point out that

the House of Representatives has already approved a similar proposal.

The proposal was offered in the House of Representatives by the distinguished Congressman from New York, Mr. SAM STRATTON. Mr. STRATTON has long shared my concern in this matter. Under his able leadership the House of Representatives adopted this proposal overwhelmingly, by a vote of 398 yeas to 4 nays.

I think this is a timely and important matter, and I thank the distinguished floor manager for his support.

The PRESIDING OFFICER (Mr. BURDICK). The question is on agreeing to the amendment of the Senator from Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. HARRY F. BYRD, JR. 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.

SMALL BUSINESS EMERGENCY RELIEF ACT—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 5541, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BURDICK). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5541) to provide for emergency relief for small business concerns in connection with fixed-price Government contracts, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the RECORD of December 12, 1975, at pages 40244–40245.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

AMENDMENT OF ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the recognition of Senators tomorrow morning be in the following order, each for not to exceed 15 minutes: Mr. PERCY, Mr. ROBERT C. BYRD, Mr. LONG, Mr. TAFT, Mr. DOMENICI, and Mr. JAVITS.

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

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from New Jersey.

SENATE JOINT RESOLUTION 154—EXTENSION OF TIME FOR WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

Mr. WILLIAMS. Mr. President, I send to the desk a joint resolution to extend the time period during which the President is authorized to call a White House Conference on Handicapped Individuals and to extend the time period during which funds appropriated for such conference may be expended, and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 154) to extend the time period during which the President is authorized to call a White House Conference on Handicapped Individuals, and to extend the time period during which appropriated funds may be expended.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice, and the Senate will proceed to its consideration.

Mr. WILLIAMS. Mr. President, title III of Public Law 93–516, enacted in December of 1974, authorized the President to call a White House Conference on Handicapped Individuals within 2 years from the date of enactment. Unfortunately, Mr. President, there was a 10-month delay in appointing the National Planning and Advisory Council which is to oversee the development and planning of the Conference, and consequently, it was not until October of this year that the Planning Council commenced its activities. I was very pleased that last month the President announced the convening of the White House Conference, but because of the 2-year period provided in the authorizing legislation, this Conference must be convened by December of 1976, leaving only 14 months in which to work with the States to develop and convene the required State conferences and to plan and develop the national conference.

On December 11, the Committee on Labor and Public Welfare received communication from the Planning Council detailing the difficulties this short time span would cause for development of a successful national conference. The Council informed us that participation by disabled individuals in the State conferences and in the national conference will be jeopardized by the short time span remaining and considerable problems will arise in assuring that all persons who will want to be and should be involved will be able to participate.

Recognizing these problems, the Planning Council has recommended that the Conference be postponed until September of 1977. I ask unanimous consent that the letter from the Chairman of the Planning Council, Mr. Henry Viscardi, be printed in the RECORD at this point.

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

THE WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS,
Washington, D.C., December 11, 1975.

Hon. HARRISON A. WILLIAMS, Jr.,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: I know the importance you place on the success of the White House Conference on Handicapped Individuals in helping to provide programmatic directions for the legislative and administrative branches of our Government.

Although the Presidential Announcement of the Conference will play a significant role in officially launching Conference activities, it is, as we discussed, unfortunate that there was an 11-month delay between the passage of the legislation (December 1974) until the announcement by President Ford.

The National Planning and Advisory Council (which was not appointed until October 1975) and the White House Conference planning staff have expended large amounts of time energy planning Conference-related activities. However, the short time line of one year seriously works against the possibility of a successful White House Conference. Extensive planning is required, regional and State conferences need to be conducted, not to mention the National Conference itself.

The number of handicaps are many and the issues are so broad that sufficient time is required to create a national awareness of the problems, provide adequate State input, and develop meaningful solutions that will result in dignity and integration of the handicapped into all aspects of community life.

The National Planning and Advisory Council to the White House Conference on Handicapped Individuals recommended a delay in the National Conference from December of 1976 to September of 1977 (rationale enclosed). This position was reaffirmed in the Council's December meeting.

The Council, and I, as Chairperson of the Conference, trust we can rely on your support to secure an extension for the Conference, which is in the best interest of all mentally and physically handicapped individuals and the Country.

Warmest regards.

Cordially,

Dr. HENRY VISCARDI, Jr.,
Chairperson, National Planning and Advisory Council.

NATIONAL PLANNING AND ADVISORY COUNCIL: RATIONALE FOR DELAY IN DATE FOR WHITE HOUSE CONFERENCE

Title III of the Rehabilitation Act Amendments of 1974 authorizes the President to call a White House Conference on Handicapped Individuals within two years of the date of enactment of this law (December 7, 1974). The purpose is to stimulate a national assessment of problems facing individuals with physical and mental handicaps and develop recommendations to solve such problems. Conferences are to be conducted in each State, and in the territories, in order to insure maximum consumer input

The members of the National Planning and Advisory Council to the White House Conference on Handicapped Individuals feel an effective White House Conference is in the Country's best interest. The Council was not initiated as a functioning body until Otcober, 1975; the President's announcement of the Conference was made November 22, 1975. Accordingly, the members are of the strong opinion that the previously established date of December 11–15, 1976, would not permit sufficient time to develop successful, meaningful State and National Conferences.

It is the opinion of the Council that the scheduled date for the National Conference of December 11–15, 1976, mitigates against a successful Conference for the following reasons:

The focus on the competition of the Bicentennial will prevent the Conference from receiving the national attention essential to its success.

The Christmas holidays will have the same effect on national visibility in terms of media coverage.

The holiday season will make it difficult for delegates, 50 percent of whom are handicapped, to arrange travel.

This time of year for the Conference could produce weather that will prevent many consumers from participating as Conference delegates.

With only 14 months for planning (other conferences have had up to three years for planning), states will be required to conduct State Conferences in June and July of 1976. This early date will diminish the effectiveness of State Conferences. State Conferences, according to the legislation, are to provide to the National Conference the input relative to problems faced by handicapped individuals.

The date of December, 1976, for the Conference also works against the inclusion of state input into materials used by delegates to the National Conference.

Therefore, in order to (a) insure national input to the White House Conference, (b) develop thorough State and National Conferences, and (c) develop, through public information programs, a national awareness regarding the needs of all physically and mentally handicapped individuals, as spelled out in the legislation, the Council hereby strongly recommends that the National Conference be postponed until September 11–15, 1977.

The final completion date for the White House Conference on Handicapped Individuals would be April 15, 1978, in order to complete the final report and carry out the necessary wrap-up activities. This final date would comply with the legislation mandates.

Dr. HENRY VISCARDI, Jr.,
Chairperson, National Planning and Advisory Council, White House Conference on Handicapped Individuals.

Mr. WILLIAMS. Because of the critical nature of the planning and development of representative and comprehensive State and national conferences, and because the month of December may cause problems for attendance by disabled individuals because of holiday travel and weather, it is the committee's position that the Conference should be postponed.

Therefore, Senator RANDOLPH and I offer this joint resolution which would provide that the President would be authorized to call the White House Conference within 3 years from date of enactment or until December 1977 and that funds appropriated to carry out the White House Conference remain available for expenditure until the close of fiscal year 1977. It is our further understanding that the White House Conference could be held in September of 1977, as that is the first available time for appropriate conference facilities.

Mr. President, I understand that there would be no objection to this resolution. It has been cosponsored by 15 of the 16 members of the Committee on Labor and Public Welfare. The resolution would simply allow the postponing of the Conference until calendar year 1977 and does not involve an additional authorization. I, therefore, urge that the joint resolution be approved.

Mr. RANDOLPH. Mr. President, during the last few years, we have seen an increasing public awareness of the fact that many of the benefits and fundamental rights of our society are denied individuals with physical and mental handicaps. Because of this awareness, Congress sought to explore the problems faced by handicapped individuals and to find solutions to these problems by the establishment of a White House Conference on Handicapped Individuals.

In December of 1974, the President signed into law the Rehabilitation Act Amendments of 1974, Public Law 93–516, which authorized him to call a White House Conference on Handicapped Individuals in order to develop recommendations and stimulate a national assessment of problems, and solutions to the problems, facing handicapped individuals. Certainly, the Conference can make a meaningful contribution to the lives of many handicapped Americans; therefore, it is essential that the Council members of the Conference and support personnel have the necessary flexibility to determine the date of the Conference so that it will have maximum impact on both handicapped and non-handicapped Americans.

Public Law 93–516 required that the White House Conference on Handicapped Individuals be called not later than 2 years after date of enactment; however, it has become increasingly apparent that holding the Conference in December of 1976 will not permit the fullest exploration of the many possible benefits that this Conference can bring to handicapped Americans. There are a number of reasons for delaying the Conference until calendar year 1977:

First. The National Planning and Advisory Council was not appointed until October of 1975, and the Presidential announcement of the Conference was not made until 11 months after passage of the legislation. This delay necessarily contributed to postponement of planning activities vital for a successful Conference in December of 1976.

Second. Unless there is a postponement until calendar year 1977, the short planning period available will necessitate that States hold their State conferences in June or July of 1976. This early date will not allow the States enough time to plan effectively for their own conferences and will therefore diminish their ability to provide input for the national Conference.

Third. One important goal of the White House Conference on Handicapped Individuals is to stimulate national awareness of the problems facing the handicapped. It is essential that adequate time be allowed to develop this national awareness since nonhandicapped Americans have too long seen handicapped persons as handicapped first, and persons second. The success of the national awareness activities will contribute to a greater sensitivity and understanding of the problems faced by persons with handicaps and is vital to the total success of the Conference.

Fourth. Other conferences have had up to 3 years for planning; the White House Conference on Handicapped Individuals has been allowed only 14 months.

Fifth. The Christmas holidays will make it difficult for delegates, 50 percent of whom are handicapped, to arrange travel.

Sixth. Inclement weather, always a possibility in the month of December, could prevent the participation of handicapped delegates.

Seventh. The Bicentennial activities will detract from the national attention that the Conference on Handicapped Individuals would receive otherwise.

For these reasons, I urge that my colleagues join with me in supporting this joint resolution to extend the time period during which the President is authorized to a call a White House Conference on Handicapped Individuals.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for third reading, was read the third time, and passed.

The preamble was agreed to.

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

S.J. RES. 154

Joint resolution to extend the time period during which the President is authorized to call a White House Conference on Handicapped Individuals, and to extend the time period during which appropriated funds may be expended

Whereas the White House Conference on Handicapped Individuals Act (Public Law 93–516) authorized the President to call a White House Conference on Handicapped Individuals not later than two years after the date of enactment of such Act; and

Whereas that Act authorized funds appropriated to carry out the White House Conference to remain available for expenditure until June 30, 1977; and

Whereas that Act provided that the White House Conference be planned and conducted under the direction of a National Planning and Advisory Council, appointed by the Secretary of the Department of Health, Education and Welfare; and

Whereas the National Planning and Advisory Council has recommended that the convening of the White House Conference be postponed in order to assure sufficient time to develop and convene required State conferences, to assure ease in travel to the Conference by individuals with handicaps, and to assure more effective mobilization of national awareness regarding the problems faced by individuals with handicaps: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 302 (a) of the White House Conference on Handicapped Individuals Act (Public Law 93–516) is amended to read as follows: "The President is authorized to call a White House Conference on Handicapped Individuals not later than three years from the date of enactment of this title in order to develop recommendations and stimulate a national assessment of problems, and solutions to such problems, facing individuals with handicaps.".

SEC. 2. Section 306 of the White House Conference on Handicapped Individuals Act (Public Law 93–516) is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1978".

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, there having been no such period today.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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. Marks, one of his secretaries.

APPROVAL OF BILL

A message from the President of the United States announced that on December 15, 1975, he approved and signed the bill (S. 240) to amend the act entitled "An Act Granting a Charter to the General Federation of Women's Clubs."

MESSAGES FROM THE HOUSE

At 12:34 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed without amendment the bill (S. 2350) to amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5559) to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations.

At 1:15 p.m., a message from the House of Representatives by Mr. Hackney announced that the House has passed the following bills and joint resolution in which it requests the concurrence of the Senate:

H.R. 1425. An act for the relief of Juliet Elizabeth Tozzi;

H.R. 1645. An act for the relief of Kevin Patrick Saunders;

H.R. 1647. An act for the relief of Gabriel Edgar Buchowiecki;

H.R. 2399. An act for the relief of Leonard Alfred Brownrigg;

H.R. 4016. An act to provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes;

H.R. 4046. On act for the relief of Valerie Ann Phillips, nee Chambers;

H.R. 4113. An act for the relief of Mitsue Karimata Stone;

H.R. 4941. An act for the relief of Oscar H. Barnett;

H.R. 10555. An act for the relief of Mrika Mrnacaj;

H.R. 10792. An act for the relief of Jana Hlavaty;

H.R. 11172. An act to insure that the compensation and other emoluments for any person filling the vacancy on the Federal Maritime Commission caused by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and for other purposes; and

H.J. Res. 749. A joint resolution to provide for the beginning of the second session of the 94th Congress and for other purposes.

ENROLLED BILLS SIGNED

At 3:45 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker has signed the following enrolled bills:

S. 848. An act to amend section 2 of the National Housing Act to increase the maximum loan amounts for the purchase of mobile homes.

S. 1922. An act to amend the act of July 7, 1970 (84 Stat. 409) to authorize appropriations to the Secretary of the Interior without reference to the agencies involved.

H.R. 1535. An act to increase the amount of benefits payable to widows of certain former employees of the Lighthouse Service.

H.R. 5559. An act to make changes in certain tax provisions of the Internal Revenue Code of 1954, and for other purposes.

H.R. 6851. An act to increase the retired pay of certain members of the former Lighthouse Service.

H.R. 6874. An act to amend the Small Reclamation Projects Act of 1956, as amended.

H.R. 8151. An act to authorize the President of the United States to present in the name of Congress, a medal to Brig. Gen. Charles E. Yeager.

The enrolled bills were subsequently signed by the President pro tempore.

At 4:29 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 2672) to extend the State Taxation of Depositories Act, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 1469) to authorize the Secretary of the Interior to enroll certain Alaska Natives for benefits under the Alaska Native Claims Settlement Act, to resolve certain issues arising from the implementation of such act, and for other purposes, with amendments in which it requests the concurrence of the Senate.

At 5:55 p.m., a message from the House of Representatives by Mr. Hackney announced that the House agrees to the amendment of the Senate to the bill (H.R. 8631) to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 1391. An act for the relief of Boulos Stephan; and

H.R. 5090. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket numbered 218 and for other purposes.

At 8:15 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4073) to extend the Appalachian Regional Development Act of 1965 for an additional 2-fiscal-year period.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the resolution (S.J. Res. 121) to provide for quarterly adjustments in the support price of milk.

The message further announced that the House has passed the bill (H.R. 11184) to amend title 3, United States Code, to provide for foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes, in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. STONE) laid before the Senate the following letters, which were referred as indicated:

REPORTS OF THE COMPTROLLER GENERAL (S. Doc. No. 94–141)

A letter from the Comptroller General of the United States dated December 12, 1975, transmitting, pursuant to law, a report on certain deferrals and proposed rescissions by the President in his seventh special message for fiscal year 1976 (with an accompanying report); jointly, to the Committees on Appropriations, Budget, Labor and Public Welfare, Foreign Relations, and Finance, pursuant to the order of January 30, 1975, and ordered to be printed.

A letter from the Comptroller General of the United States dated December 15, 1975, transmitting, pursuant to law, a report on the status of certain impounded budget authority including certain proposed rescissions contained in the President's second special message of July 25, 1975 (with an accompanying report); jointly to the Committees on Appropriations, Budget, Banking, Housing and Urban Affairs, Agriculture and Forestry, Labor and Public Welfare, and Interior and Insular Affairs, pursuant to the order of January 30, 1975, and ordered to be printed.

REPORT OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET (S. Doc. No. 94–140)

A letter from the Director of the Office of Management and Budget transmitting the cumulative report required by the Congressional Budget and Impoundment Control Act (with an accompanying report); jointly, to the Committees on Appropriations, Budget, Agriculture and Forestry, Labor and Public Welfare, Banking, Housing and Urban Affairs, Interior and Insular Affairs, Commerce, Finance, Armed Services, Foreign Relations, Public Works, and Aeronautical and Space Sciences, and ordered to be printed.

REPORTS OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Two letters from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a report on proposed transfer of $3.9 million of construction and facilities funds (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

REPORT OF THE SECRETARY OF DEFENSE

A letter from the Secretary of Defense transmitting, pursuant to law, a report relating to reductions in 1976 active military and

civilian manpower (with an accompanying report); to the Committee on Armed Services.

REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY

A letter from the Chairman of the Council on Wage and Price Stability transmitting, pursuant to law, the quarterly report of the Council for September 1975 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE EXPORT-IMPORT BANK

A letter from the Vice President of the Export-Import Bank transmitting, pursuant to law, a report on transactions of the Bank during October 1975 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

PROPOSED LEGISLATION BY THE SECURITIES AND EXCHANGE COMMISSION

A letter from the Chairman of the Securities and Exchange Commission transmitting a draft of proposed legislation to amend the Investment Advisers Act of 1940 (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION BY THE SECRETARY OF COMMERCE

A letter from the Secretary of Commerce transmitting a draft of proposed legislation to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 (with accompanying papers); to the Committee on Commerce.

REPORT OF THE DEPARTMENT OF THE INTERIOR

A letter from the Assistant Secretary of the Interior transmitting, pursuant to law, a report of the Migratory Bird Conservation Commission for the fiscal year ended June 30, 1974 (with an accompanying report); to the Committee on Commerce.

REPORT OF THE SECRETARY OF DEFENSE

A letter from the Secretary of Defense transmitting pursuant to law the 10th report on the Federal voting assistance program (with an accompanying report); to the Committee on Rules and Administration.

REPORT OF AMVETS

A letter from the National Executive Director of the American Veterans of World War II—Korea and Vietnam transmitting, pursuant to law, the audit report for the year ending August 31, 1975 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE DISTRICT OF COLUMBIA AUDITOR

A letter from the District of Columbia Auditor transmitting, pursuant to law, a report entitled "Need for Copies of Birth Certificates" (with an accompanying report); to the Committee on the District of Columbia.

PROPOSED ACTS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

Four letters from the Chairman of the Council of the District of Columbia each transmitting, pursuant to law, a copy of a proposed act adopted by the Council (with accompanying papers); to the Committee on the District of Columbia.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into within the past 60 days (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF THE COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

A letter from the Executive Director of the Committee for Purchase From the Blind and Other Severely Handicapped transmitting pursuant to law, a report on a proposed change in the committee's system of records (with an accompanying report); to the Committee on Government Operations.

REPORTS OF THE COMPTROLLER GENERAL

Six letters from the Comptroller General of the United States each transmitting, pursuant to law, a report entitled as follows: "Federal Support for Restaurant Sanitation Found Largely Ineffective," "How States Plan for and Use Federal Formula Grant Funds To Provide Health Services," "Concept, Cost, and Management of Administrative Support Services Provided by Department of State to Other Federal Agencies Overseas," "Assessment of Reading Activities Funded Under the Federal Program of Aid for Educationally Deprived Children," "Overseas Military Banking: How It Is Financed and Managed," and "Audit of the United States Capitol Historical Society for the Year Ended January 31, 1975" (with accompanying reports); to the Committee on Government Operations.

PROPOSED CONCESSION CONTRACT OF THE DEPARTMENT OF THE INTERIOR

A letter from the Deputy Assistant Secretary of the Interior transmitting a copy of a proposed concession contract to provide certain facilities and services for the public within Mount Rainier National Park (with accompanying papers); to the Committee on Interior and Insular Affairs.

ORDERS OF THE IMMIGRATION AND NATURALIZATION SERVICE

Two letters from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders entered by the service concerning certain visa applications (with accompanying papers); to the Committee on the Judiciary.

REPORT OF THE CIVIL RIGHTS COMMISSION

A letter from the Chairman of the Civil Rights Commission transmitting, pursuant to law, a report relating to the extent of civil rights progress in the United States since 1954 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the first annual report to the Congress on the activities of the health maintenance organization program (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF THE VETERANS' ADMINISTRATION

A letter from the Administrator of Veterans' Affairs transmitting, pursuant to law, a report entitled "Education Tuition Assistance Study, 1975" (with an accompanying report); to the Committee on Veterans' Affairs.

REPORT OF THE NATIONAL TRANSPORTATION SAFETY BOARD

A letter from the Chairman of the National Transportation Safety Board transmitting, pursuant to law, a report on the budget estimate for the fiscal year 1976 (with an accompanying report); to the Committee on Commerce.

PROPOSED LEGISLATION BY THE ATTORNEY GENERAL

A letter from the Attorney General of the United States transmitting a draft of proposed legislation relating to the compensation and other emoluments attached to a seat on the Federal Maritime Commission (with accompanying papers); jointly, by unanimous consent, to the Committees on Post Office and Civil Service, the Judiciary, and Commerce.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a communication from the Attorney General transmitting proposed legislation relative to the compensation of a seat on the Federal Maritime Commission be referred jointly to the Committees on Judiciary, Post Office and Civil Service, and Commerce.

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

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. STONE) laid before the Senate the following petitions, which were referred as indicated:

A resolution adopted by the Board of Legislators of Westchester County, N.Y., urging approval of Federal aid to New York City, N.Y.; ordered to lie on the table.

A letter from the Iowa Department of Environmental Quality relating to Federal assistance programs to State and local governments; to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Commerce, with amendments:

S. 1187. A bill to authorize the documentation of the vessel, *Bruja Mar*, as a vessel of the United States with coastwise privileges (Rept. No. 94–571).

By Mr. BUCKLEY, from the Committee on Public Works, without amendment:

S. 2796. A bill 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 (Rept. No. 94–573).

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

S. 1689. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578), as amended (Rept. No. 94–572).

By Mr. LONG, from the Committee on Finance:

S. 2804. An original bill to amend title IV of the Social Security Act to encourage increased employment among recipients of aid to families with dependent children, and for other purposes (Rept. No. 94–574).

By Mr. CHURCH, from the Committee on Interior and Insular Affairs, without amendment:

S. 726. A bill to direct the Secretary of the Interior to convey, for fair market value, certain lands to Valley County, Idaho (Rept. No. 94–575).

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

S. Res. 332. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to consideration of the provisions of the "Rehabilitation Act Extension of 1975" (S. 2807). Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. EASTLAND, from the Committee on the Judiciary:

Thomas A. Olson, of Montana, to be U.S. attorney for the district of Montana; and

Frederick M. Coleman, of Ohio, to be U.S. attorney for the northern district of Ohio.

(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.)

SENATE RESOLUTION 328—ORDER FOR A STAR PRINT

Mr. KENNEDY. Mr. President, on Friday, December 12, 1975, the distinguished Senator from Delaware (Mr. BIDEN) and I introduced Senate Resolution 328, relating to long-term energy needs and the Paris Conference on International Economic Cooperation.

Inadvertently, a portion of a sentence was omitted from section 2 of Senate Resolution 328.

Accordingly, I ask unanimous consent that a star print be made of this resolution, as submitted on December 12, and I further ask that the corrected version of the resolution be printed in the RECORD.

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

S. RES. 328

Whereas fundamental changes are taking place in the global economy, requiring bold and imaginative steps to restructure and reform international economic practices and institutions, for the benefit of all nations and peoples; and

Whereas the United States retains the capacity and responsibility for sharing effective leadership in efforts to promote constructive efforts to achieve this end; and

Whereas the world's fossil fuels are being progressively exhausted, thus creating an imperative need to develop new sources of energy, and design equitable ways of sharing energy among nations; and

Whereas meeting the world's long-term energy needs involves and affects all countries; and

Whereas the World Food Conference demonstrated that nations can work together in seeking to meet long-range problems critical to the future of mankind; and

Whereas, on December 16 and 17, 1975, the first meeting of the Conference on International Economic Cooperation will be held in Paris, bringing together oil producing and consuming nations: Therefore be it

Resolved, That it is the sense of the Senate that—

(1) the President should propose to other nations a global approach to world energy problems, seeking to assess energy needs for the future, the energy sources most likely to prove both cheap and abundant, the areas of the world where investments are most likely to produce cheap and abundant energy, and the problems of equity and justice in sharing among nations the world's energy resources;

(2) that the President should make this proposal within such forums that would be most likely to permit systematic effort to understand the problems and work toward the goals in section 1. These forums should include, but not be limited to, the Conference on International Economic Cooperation and a global energy conference to which all nations would be invited; and

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

HOUSE BILLS REFERRED

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

H.R. 1425. An act for the relief of Juliet Elizabeth Tozzi; to the Committee on the Judiciary.

H.R. 1645. An act for the relief of Kevin Patrick Saunders; to the Committee on the Judiciary.

H.R. 1647. An act for the relief of Gabriel Edgar Buchowiecki; to the Committee on the Judiciary.

H.R. 2399. An act for the relief of Leonard Alfred Brownrigg; to the Committee on the Judiciary.

H.R. 4016. An act to provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 4046. An act for the relief of Valerie Ann Phillips, nee Chambers; to the Committee on the Judiciary.

H.R. 4113. An act for the relief of Mitsue Karimata Stone; to the Committee on the Judiciary.

H.R. 4941. An act for the relief of Oscar H. Barnett; to the Committee on Interior and Insular Affairs.

H.R. 10792. An act for the relief of Jana Hlavaty; to the Committee on the Judiciary.

H.R. 1391. An act for the relief of Boulos Stephan; to the Committee on the Judiciary.

H.R. 5090. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket numbered 218 and for other purposes; to the Committee on Interior and Insular Affairs.

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. GRAVEL (for himself and Mr. STEVENS):

S. 2798. A bill for the relief of the city of Yakutat, Alaska. Referred to the Committee on Interior and Insular Affairs.

By Mr. BENTSEN:

S. 2799. A bill to amend the Internal Revenue Code of 1954 to provide a limited exclusion of capital gains realized by taxpayers other than corporations with respect to securities purchased after the date of enactment. Referred to the Committee on Finance.

By Mr. KENNEDY:

S. 2800. A bill to authorize the Secretary of Housing and Urban Development to enter into contracts with State and local governments to provide interest subsidy payments with respect to bond issues in order to broaden and stabilize the municipal capital market and to establish within the Department of Housing and Urban Development a Municipal Technical Assistance Office. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATFIELD (for himself, Mr. ABOUREZK, Mr. PACKWOOD, and Mr. BARTLETT):

S. 2801. A bill to repeal the Act terminating Federal supervision over the property and members of the Confederated Tribes of Siletz Indians of Oregon; to reinstitute the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe; and to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. CULVER (for himself, Mr. NELSON, Mr. PHILIP A. HART, Mr. BROOKE, Mr. HARTKE, Mr. MCGEE, Mr. BAYH, Mr. CLARK, Mr. MCGOVERN, and Mr. ABOUREZK):

S. 2802. A bill to require the Federal Trade Commission, the Department of Justice, and the Department of Agriculture, to compile information and annually report to the Congress with respect to antitrust enforcement, market structure, and state of competition in the food industry, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. STONE:

S. 2803. A bill to amend the Immigration and Nationality Act to provide for the refusal of nonimmigrant visas in certain instances. Referred to the Committee on the Judiciary.

By Mr. LONG, from the Committee on Finance:

S. 2804. An original bill to amend title IV of the Social Security Act to encourage increased employment among recipients of aid to families with dependent children, and for other purposes. Placed on the Calendar.

By Mr. DOLE:

S. 2805. A bill to permit any person otherwise eligible to become a naturalized citizen during calendar year 1977 to become a naturalized citizen during calendar year 1976. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 2806. A bill for the relief of Miss Aurora B. Munar. Referred to the Committee on the Judiciary.

By Mr. RANDOLPH (for himself, Mr. CRANSTON, Mr. WILLIAMS, Mr. PELL, Mr. KENNEDY, Mr. HATHAWAY, Mr. STAFFORD, Mr. TAFT, Mr. SCHWEIKER, and Mr. JAVITS):

S. 2807. A bill to amend the Rehabilitation Act of 1973 to extend the authorization of appropriations contained in such Act. Referred to the Committee on Labor and Public Welfare.

By Mr. THURMOND:

S. 2808. A bill to amend the Agricultural Act of 1949, as amended, to require a loan program for the 1975 through 1977 crops of soybeans. Referred to the Committee on Agriculture and Forestry.

By Mr. BEALL (for himself and Mr. MATHIAS):

S. 2809. A bill to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such Act. Referred to the Committee on Labor and Public Welfare.

By Mr. RANDOLPH:

S. 2810. A bill for the relief of Victorino D. Chin. Referred to the Committee on the Judiciary.

S. 2811. A bill for the relief of Gaspar Z. Barcinas. Referred to the Committee on the Judiciary.

By Mr. MANSFIELD (for Mr. PROXMIRE):

S.J. Res. 153. A joint resolution extending the filing date of the 1976 Joint Economic Committee Report. Considered and passed; subsequently, passage vitiated and joint resolution indefinitely postponed.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. STAFFORD, Mr. CRANSTON, Mr. JAVITS, Mr. PELL, Mr. TAFT, Mr. KENNEDY, Mr. SCHWEIKER, Mr. MONDALE, Mr. BEALL, Mr. DURKIN, Mr. EAGLETON, Mr. HATHAWAY, and Mr. LAXALT):

S.J. Res. 154. A joint resolution to extend the time period during which the President is authorized to call a White House Conference on Handicapped Individuals, and to extend the time period during which appropriated funds may be expended. Considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 2798. A bill for the relief of the city of Yakutat, Alaska. Referred to the Committee on Interior and Insular Affairs.

Mr. GRAVEL. Mr. President, I am to-

day introducing a bill for the relief of the city of Yakutat, Alaska.

In August 1950, the Department of Interior granted to the city of Yakutat a parcel of land, better described in Patent No. 1143948, under the terms of the act entitled "An Act to direct the Secretary of Interior to convey abandoned school properties in the Territory of Alaska to local school officials." (64 Stat. 470). Certain restrictions were made a part of this land grant by placing the parcel of land in "school reserve" status. At the time of the land conveyance, this restriction did not pose a problem. However, in recent years the city of Yakutat has changed substantially, and the city now finds the restrictions on this land greatly encumber the formation of comprehensive planning and zoning policies.

Since the time of the land grant, the Yakutat school complex has been relocated approximately 1 mile away from the land in question. This parcel of land is no longer needed for school purposes.

Another factor which is greatly affecting the city of Yakutat is the U.S. Department of Interior's announced accelerated Outer Continental Shelf petroleum leasing program wherein the Gulf of Alaska adjacent to Yakutat is scheduled for immediate leasing. The development of Yakutat into a primary port city is imminent. The city has sufficient present and contemplated municipal lands for future public use purposes but has had difficulty in providing land to Yakutat residents for homesites and other private uses. In addition, there is a scarcity in Yakutat of lands for economic development located in areas identified as suitable for that purpose in the city's overall land use plan.

The city feels it must be able to plan the use of all municipal lands based upon up-to-date planning and current needs assessments and accordingly desires the encumbrances attached to the school parcel removed.

The bill I am introducing today would allow the city of Yakutat to dispose of this parcel of land in order to further economic development and enhance the city's aggressive program of planning for the impact of Outer Continental Shelf leasing. Proceeds from the disposal or lease of the land in question would, under the terms of my bill, be used for public school or other public purposes.

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

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

S. 2798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Interior, upon request of the city of Yakutat, Alaska, is authorized and directed, according to the provisions under section 2 of this Act, to convey without consideration to the city of Yakutat, Alaska, by quitclaim deed, all right, title, and interest of the United States in and to the following described tract of land situated in Alaska:

Beginning at corner No. 4 of school reserve, identical with meander corner No. 4, Tract A, of United States Survey No. 1897, from which United States location monument No. 179 bears S. 54° 06′ E. 37.04 chains distant; thence S. 52° 54′ E. 243.17 feet to meander corner No. 1 of school reserve; thence N. 33° 41′ E. 177 feet to corner No. 2 of school reserve; thence N. 43° 15′ W. 184.65 feet to corner No. 3 of school reserve; thence S. 50° 47′ W. 213.75 feet to corner No. 4, the place of beginning; containing 41.169 square feet, according to the Official Plat of the Survey of the said Land, approved March 1, 1937, on file in the Bureau of Land Management.

SEC. 2. The Secretary of the Interior shall condition the conveyance of the land to the city of Yakutat upon the use of the land for public school or other public purposes, or upon the use of any revenues derived from the sale, lease, or other disposition of the land or any interest therein for public school or other public purposes.

SEC. 3. The Secretary of the Interior is authorized and directed to prepare and execute such instrument as may be appropriate to carry out the provisions of this Act.

By Mr. KENNEDY:

S. 2800. A bill to authorize the Secretary of Housing and Urban Development to enter into contracts with State and local governments to provide interest subsidy payments with respect to bond issues in order to broaden and stabilize the municipal capital market and to establish within the Department of Housing and Urban Development a Municipal Technical Assistance Office. Referred to the Committee on Banking, Housing and Urban Affairs.

THE MUNICIPAL CAPITAL MARKET IMPROVEMENT ACT—A FEDERAL INTEREST SUBSIDY FOR STATE AND LOCAL GOVERNMENT BONDS

Mr. KENNEDY. Mr. President, I introduce and send to the desk the Municipal Capital Market Improvement Act and I ask that it be appropriately referred.

Identical legislation is being introduced in the House of Representatives today by Congressman HENRY S. REUSS, of Wisconsin, chairman of the House Committee on Banking, Currency and Housing.

Mr. President, the purpose of this legislation is to provide a significant alternative for hard-pressed State and local governments in their efforts to obtain capital to meet their growing needs. A summary and explanation of the proposed legislation is contained in the joint statement I made today with Congressman REUSS. I ask unanimous consent that the text of the bill, the joint statement, and a summary of the issue prepared by the staff of the House committee be printed in the RECORD.

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

S. 2800

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Municipal Capital Market Improvement Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds—

(1) that municipal capital markets as presently organized are unable to provide needed capital at reasonable interest rates at all times;

(2) that municipal capital markets are subject to cyclical instability; and

(3) that the Federal Government does not, at present, provide efficient financial assistance to State and local governments.

(b) It is, therefore, the purpose of this Act to broaden the municipal capital market, to stabilize it, and to provide more efficient Federal assistance to State and local governments.

DEFINITIONS

SEC. 3. For purposes of this Act, the term—

(1) "State or local public body" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or a possession of the United States, or any political subdivision of any of the foregoing.

(2) "State or local obligation" means any obligation issued by or on behalf of a State or local public body which, but for the election under section 4(a) of this Act, would be an obligation to which section 103(a)(1) of the Internal Revenue Code of 1954 applies.

(3) "Secretary" refers to the Secretary of Housing and Urban Development.

INTEREST SUBSIDY PAYMENTS

SEC. 4. (a) The Secretary shall, upon the written notice of any State or local public body that it has elected to issue a taxable obligation, provide interest subsidy payments to such entity for such obligation. Such payments shall be used to reduce the net interest cost, as determined in subsection (b), to such body on such obligation. Such payments shall be made on any taxable State or local obligation issued or authorized to be issued by or on behalf of such State or local public body on or after the effective date of this Act.

(b)(1) The interest subsidy payments authorized under subsection (a) on account of a State or local obligation shall (a) be sufficient to pay 40 percent of the net interest cost per annum of such obligations, and (B) be made at such periodic intervals as may be necessary to enable a State or local public body to pay interest to the holder of such obligation at the time such interest is due.

(2) No interest subsidy payment shall be made under this section with respect to any State or local obligation for any period for which the United States or any agency or instrumentality thereof makes any payment of interest on such obligation pursuant to a guarantee by the United States or any agency or instrumentality thereof of the payment, in whole or in part, of interest on such obligation.

(c) The interest subsidy payments referred to in subsection (b) shall be made by the Secretary either directly to the issuer of the State or local obligation or to a trustee or paying agent therefor or other designee, as may be requested by such issuer.

(d) All interest paid on any State or local obligation with respect to which an interest subsidy payment is made under this section shall be included in gross income under chapter 1 of the Internal Revenue Code of 1954.

RULES

SEC. 5. The Secretary shall promulgate such rules as may be necessary or appropriate to carry out this Act.

MUNICIPAL TECHNICAL ASSISTANCE OFFICE

SEC. 6. (a) There is established within the Department of Housing and Urban Development the Municipal Technical Assistance Office (hereinafter referred to in this section as the "Office").

(b) The Secretary shall appoint a director and staff of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and who shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) The Office is authorized to provide technical assistance to State and local gov-

ernments concerning municipal capital market management and budget planning.

(d) The Office is authorized to undertake research and information gathering and to facilitate the exchange among State and local governments of advanced concepts and techniques relating to municipal growth and development.

(e) The Office may charge appropriate fees to State and local governments for its services under this section.

REPORTS TO CONGRESS

SEC. 7. Not later than April of each calendar year which begins on or after the effective date of this Act, the Secretary shall transmit a report to each House of Congress concerning the administration of his functions under this Act.

AUTHORIZATION

SEC. 8. There is authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATE

SEC. 9. This Act shall take effect on the sixtieth day beginning after the date of its enactment.

MUNICIPAL FINANCING: AN ALTERNATIVE APPROACH

(Statement by Rep. HENRY S. REUSS, chairman of the House Committee on Banking, Currency, and Housing, and Senator EDWARD M. KENNEDY of Massachusetts)

Today we are introducing the Municipal Capital Market Improvement Act to provide an automatic 40 percent federal interest subsidy for municipal bonds which the issuing unit of state or local government has chosen to make taxable. The Act also sets up a Municipal Finance Assistance Office within HUD to extend technical assistance in fiscal matters to state and local governments. The Act would take effect 60 days from enactment. (A brief summary of the provisions of the Act is attached.)

The problems of municipal financing have been catapulted to headline status this year by the New York fiscal crisis. But New York is not alone in feeling the impact of these problems.

The average municipal bond yield has risen 5.17 percent in 1973 to 7.52 percent in 1975—an increase of 45 percent, representing an enormous additional burden of debt on state and local governments. Many bond issues have been crowded out altogether from the market.

Immediate causes of this situation are tight money and high interest rates generally, high prices and investor expectation of further inflation, and the new perception of municipal risk introduced by the New York crisis.

But there are also long-term problems with the municipal capital market as traditionally constituted which prevent state and local governments from borrowing the growing amount of money they need at interest rates they can afford. Now that the New York crisis is nearing a satisfactory resolution in Congress, we believe it is time for Congress to turn to the more general problems of capital financing by state and local governments.

We believe that the proposal we are introducing today in the House and Senate can reduce substantially the long-term structural difficulties from which the municipal capital market suffers in six major areas.

1. The Municipal Bond Market Is Too Narrow to Absorb State and Local Obligations at Reasonable Rates of Interest.

Municipal bonds have traditionally appealed to only a handful of institutional and wealthy private investors, for whom the tax exemption outweighs the interest sacrifice. In the case of institutions already tax-exempt, for example, tax-exempt bonds are no bargain at all.

The Municipal Capital Market Improvement Act, by encouraging municipalities to issue taxable bonds bearing a market rate of interest, would bring new investors into the municipal market. The 40 percent interest subsidy would prevent exorbitant debt service burdens on state and local governments. In many cases, the actual interest cost to state and local governments would be lower than for tax-exempt bonds today.

The 40 percent subsidy level is an appropriate incentive to state and local governments to include the taxable bond among their fiscal options. A lower subsidy might prove ineffective, while a higher one might provoke unnecessary disruption of existing markets.

With a federally-subsidized taxable bond, institutional investors which are now tax-exempt or lightly taxed would enter the market for state and local bonds. Pension funds could purchase billions of dollars. Mutual savings banks, charities, universities, and tax-exempt foundations could all provide substantial new sources of funds. Life insurance companies, attracted by higher rates of interest, could invest heavily.

In addition, the municipal bond market would be opened up to individual investors with moderate incomes and lower marginal tax rates, who would be induced to invest in these higher-interest bonds.

2. The Municipal Bond Market Is Subject to Serious Cyclical Instability.

Because bank purchases of municipals drop sharply as interest rates rise generally, the tax-exempt market is subject to severe periodic disruptions. The Municipal Capital Market Improvement Act would help ensure that municipal borrowers are not disproportionately handicapped in tight money periods.

In practice, the taxable subsidized bond option will generate a counter-cyclical effect by tying the tax-exempt interest rate to the taxable rate. When the interest rate spread beween tax-exempt and taxable securities is less than 40 percent (at present, it is closer to 20 percent), state and local governments are likely to choose the taxable option. There will tend to be few new issues of tax-exempts at that time unless they can be placed with yields at least 40 percent below taxable yields. Thus municipalities will be able to survive tight money periods more easily, and the additional interest costs incurred will be relieved by the federal government. In periods of easier money, local governments will not tend to choose the taxable option—tax-exempt rates should be low enough to make them attractive.

Moreover, by broadening the market for municipal securities and attracting new investors, the taxable subsidized bond option will reduce the heavy reliance of state and local finances on small and relatively volatile institutions. Pension and life insurance funds, in particular, should be more stable sources of funds, since they are less sensitive to monetary policy than are banks, and usually seek long-term investment.

3. Tax-exempt Bond Interest Distributes Tax Benefits Inequitably.

Tax-exempt interest on state and local bonds is a large windfall for the wealthiest taxpayers. In 1974, approximately 88 percent of the tax benefit from about $2.8 billion in tax-exempt interest to individuals went to the richest 1.2 percent of all taxpayers.

The Municipal Capital Market Improvement Act, by encouraging state and local governments to issue taxable bonds, would lessen the flagrant inequity of the present system. In general, with a 40 percent subsidy, it is estimated that about 15 percent of tax-exempt bonds would be replaced by taxable bonds.

4. The Tax Exemption Is an Inefficient Subsidy to State and Local Governments.

Under the present system, tax-free interest on municipal bonds costs the federal Treasury $4.8 billion, and generates interest savings of $3.5 billion for state and local governments. Thus, it costs the Treasury $1.00 to provide a $.75 subsidy to state and local governments. The remaining $.25 is siphoned off as a "commission" to wealthy individuals and institutions.

By contrast, the Municipal Capital Market Improvement Act's subsidized taxable bond option provides its benefits directly to state and local governments, at a much smaller net cost to the federal government. Increased federal revenues on taxable bonds will come close to meeting the cost of the 40 percent subsidy. An Urban Institute study has estimated that the maximum cost per year to the Treasury of the 40 percent subsidy would be $650 million, while state and local governments would derive $1.3 billion in interest savings. Under the current program, each $1.00 of federal subsidy buys only $.75 of state and local relief; under the taxable bond option, each federal $1.00 would buy $2.00 of state and local aid. In effect, the new program would almost triple the efficiency of the federal subsidy to municipal bonds. State and local governments would find their borrowing costs reduced for both taxable and tax-exempt issues.

5. Municipalities Have Been Forced into Financing Long-Term Investments with Short-Term Borrowing.

In an effort to accommodate the commercial banks' preference for short-term obligations, municipalities have been forced to finance long-term projects through one-year bond anticipation notes, and are thus in perennial jeopardy of default.

The Municipal Capital Market Improvement Act, by providing a taxable alternative, will allow state and local governments to tap the long-term taxable market, reduce their dependence on unstable short-term obligations, lower the risk of default, and help remove the risk premium incorporated in today's high municipal interest rates.

6. Local Governments' Access to Municipal Capital Markets Is Limited by Size, Location, and Lack of Financial Expertise.

Many local governments, particularly those which are small, which borrow rarely, and which are located far from major capital markets often fail to obtain money on terms which their creditworthiness deserves. Frequently, they suffer from the lack of sound financial advice.

The Municipal Capital Market Improvement Act deals with this problem by establishing a Municipal Finance Assistance Office within HUD, to provide local governments with the technical assistance they require. Municipal market experts will advise local governments on whether to borrow, how much to borrow, when to borrow, where to borrow, and what yields to expect. Additional counseling in budget procedures and management will also be available.

While the Municipal Finance Assistance Office cannot remedy the marketing problem which the small size of many local issues presents, it can assure local governments of access to the best financial advice available.

The legislation we are proposing can achieve its goals in these six areas without

any significant federal intrusion into state and local governments. The federal interest subsidy is automatic. It is triggered by the issuance of a state or local taxable bond. It is not contingent on federal approval of the purpose of the bond issue or on any other condition. The new federal subsidy is as automatic for state and local governments as the tax-exempt federal subsidy is today.

Finally, we would note that the essence of this proposal is neither new nor the special preserve of any political party. It was proposed by Democratic Administrations in the 1960's, and was incorporated in the House version of the Tax Reform Act of 1969. Subsequently, it has been endorsed by officials of the Nixon and Ford Administrations.

We feel that the time is now ripe for Congress to take this major step to deal with the serious problems of obtaining capital confronting state and local governments. The New York crisis has made both the House and the Senate sensitive to the urgency of these problems. We believe that the measure we are proposing offers the fairest and the most effective form of federal assistance with the least intrusion into state and local affairs.

SUMMARY—REUSS-KENNEDY MUNICIPAL CAPITAL MARKET IMPROVEMENT ACT

Purposes: Authorizes HUD to provide an alternative method of financing for state and local governments, by offering a federal interest subsidy for taxable bond issues.

Findings: The high cost of borrowing, the periodic instability of municipal capital markets, and inadequate federal assistance have compounded the financing problems of state and local governments and require action by Congress.

Provisions:

1. Participation: States and local governments, the District of Columbia, the Commonwealth of Puerto Rico, and all U.S. territories or possessions.

2. Administrator of the Program: The Secretary of Housing and Urban Development.

3. Eligible Bonds: Any obligation of a state or local government which, but for the Act, would qualify for tax-exempt status.

4. Election and Level of Subsidy: The federal government will pay 40 percent of the net interest cost of obligations of states or local governments electing to issue taxable bonds. Interest payments on such bonds will be included in the gross income of the recipient under the Internal Revenue Code.

5. Automatic Subsidy: The subsidy is triggered solely by notice of the issuance of a taxable state or local obligation. It is not contingent on the financial condition of the issuing jurisdiction, on federal audit or approval, or any other condition.

6. Method of Interest Payments: At such intervals as appropriate to enable jurisdictions to make requisite interest payments; specific methods of payment will be determined by HUD regulations.

7. Technical Assistance: Establishes a new Municipal Technical Assistance Office in HUD to provide financial and other advice and technical assistance to states and localities with respect to municipal capital market management and budget planning. The Office is also authorized to undertake research into municipal financing and to serve as a clearinghouse for exchanges of information among states and local governments. The Office may charge appropriate fees for its services.

8. Reports to Congress: HUD is required to make a report each April to the House and Senate on its administration of the program.

9. Cost: The bill authorizes such sums as necessary for the program. Under present conditions, the Treasury cost for 1976 is estimated at $650 million, with a savings of $1.3 billion to state and local governments.

10. Effective Date: 60 days after enactment.

[Staff summary prepared for the use of the Committee on Banking, Currency and Housing]

THE MUNICIPAL CAPITAL MARKET—WHY IT NEEDS HELP

Two years ago, Madison, Wisconsin, rated Aa by Moody's, sold its 10-year general obligation bonds at 4.4 percent net interest cost. This year, it was forced to pay 5.3 percent on a comparable issue. And Madison is not alone in facing soaring interest costs; the same pattern is repeated by state after state and local government after local government. The Bond Buyer's 20-Bond Index of average municipal bond yields was 5.17 percent in November, 1973; last month it was 7.52 percent. Even more frightening is the fact that these state and local governments are the *lucky* ones—they at least have obtained funds, although at a high price. Many other borrowers have been crowded from the market altogether. Clearly, a crisis exists in the municipal bond market today, and it promises to get worse over time.

This crisis has some immediate sources. Restrictive monetary policy has raised rates on municipals as it has on other securities. Investor expectation of further inflation has kept interest rates high. And the New York fiscal catastrophe has made investors see risk in municipals previously considered as firm as the Rock of Gibraltar.

Beyond these immediate problems, however, are some long-term difficulties with the municipal capital market which must be faced:

1. The municipal bond market, as traditionally constituted, is too narrow to absorb state and local obligations at reasonable rates of interest.

The tax-exempt bond, with its lower rate of interest than the taxable bond, has limited the number of potential investors. It has attracted only those taxable institutional investors which have substantial unshielded profits neither distributed to stockholders nor re-invested. (Commercial banks have special tax treatment which has made the investment especially desirable, and until recently they dominated the market.) Foundations, pension funds, mutual savings banks, and other low-tax institutions with substantial funds to invest have no incentive to buy tax-exempt municipals. It has attracted only those individual investors whose high marginal tax rate has more than offset the interest sacrifice. The market has effectively been restricted to about 2 percent of individual taxpayers and a handful of institutional ones.

To bring new investors into this narrow market, state and local governments are paying higher and higher interest rates, and the differential between tax-exempt and taxable bond interest rates, normally averaging 30 percent of the latter, has narrowed to about 20 percent. Many municipalities are unable to carry so large a debt service burden without cutting back on needed expenditures or raising taxes at the possible expense of economic recovery.

Municipal borrowing has more than doubled in the last decade. In 1964, outstanding tax-exempt municipals totalled $93 billion; by the end of 1974, they were $207 billion. Annual long-term borrowing figures show the same trend—$10.5 billion in 1964, rising to almost $23 billion in 1974, with the 1975 total likely to reach $27 billion. In addition, municipal bonds are taking an increasingly important share of the capital market. In 1964, they represented 19.4 percent of all securities, while by 1974, they accounted for 21.8 percent.

Municipal capital expenditures are expected to continue to grow for the rest of the decade. A recent Brookings Institution study put the annual figure at $66 billion (in 1973 dollars) by 1980. About half this sum, the authors predict, must come from bond proceeds.

Another source of pressure in the municipal bond market, much of which is not included in the Brookings estimate, is the growing volume of state and local borrowing for non-governmental purposes, especially for pollution control in private industry. Local governments may float tax-exempt bonds and use the proceeds to lease equipment "for controlling pollution and for a significant purpose other than controlling pollution" to private industry. This arrangement has several intrinsinc disadvantages. First, it provides private companies not only with pollution control facilities at substantially lower than market cost but with substantial additional tax write-offs as well. Second, it tends to discriminate against smaller companies, which cannot convince municipalities to float bonds on their behalf or investors to buy such bonds. Third, it encourages capital-intensive pollution control techniques to the exclusion of other processes.

Pollution control bonds are a form of industrial development bonds, which were heavily used in the late 1960's. The Revenue and Expenditure Control Act of 1968 and the Tax Reform Act of 1969 cut back on industrial development bonds as a whole, but left a loophole for pollution control. With the passage of environmental legislation, publicly-reported issues of pollution control bonds jumped from $93.3 million in 1971 to $1.6 billion in 1974, and will reach an estimated $3.5 billion in 1975. The annual total could eventually rise as high as $7.5 billion. Unreported issues may add at least as much again to the total of pollution control bonds.

Reported issues of pollution control bonds alone have raised all tax-exempt bond yields by 30 basis points, and, according to George Petersen at the Urban Institute, if unreported issues are again as great, total pollution control borrowing in the tax-exempt market has probably raised yields by 80 to 85 basis points. Unless the tax-exempt status of these securities is repealed, pollution control bonds will put even greater pressure on interest rates for bona fide municipal borrowing.

While municipal borrowing is increasing, traditional investors seem to be cutting back.

Banks. Commercial banks have been the biggest buyer of municipal bonds. In 1974, they held about 48 percent of all outstanding municipal debt—up from 36 percent a decade earlier. Municipal bonds were 10.7 percent of bank assets in 1964, and 12.1 percent in 1974. Municipals have traditionally been attractive to banks for several reasons. First, the tax law does not forbid banks, as it does other investors, to deduct from taxable income interest costs attributable to the purchase of tax-exempt bonds. Second, commercial banks are forbidden under national law to invest in corporate stocks for their own accounts. Third, many local governments require banks to hold municipal bonds against tax and loan accounts. But state and local bonds as an investment may be less attractive to their banks now.

First, in the 1950's and 1960's, banks were reducing as a percent of portfolio their large holdings of federal securities built up during the 1930's, and 1940's, and thus had funds available for investment in municipals. Now that they have cut their federal holdings from 40 percent of total assets in 1954 to 10.7 percent in 1974, this source of funds has largely dried up.

TABLE I.—U.S. GOVERNMENT AND MUNICIPAL SECURITIES HELD BY ALL BANKS

Type of security	1954		1964		1974	
	Percent of bank assets	Billions	Percent of bank assets	Billions	Percent of bank assets	Billions
U.S. Government (including agencies)	40.0	$73.3	21.9	$68.8	10.7	$89.8
Municipal	7.0	12.9	10.7	33.7	12.1	101.2

Source: Federal Reserve Board flow of funds data.

Second, and perhaps more important, the Bank Holding Company Act opened up new tax shelters for banks through holding company subsidiaries qualifying for such tax breaks as accelerated depreciation, investment tax credit, and deferral of tax on unrepatriated foreign earnings. Municipal bonds are no longer the only way for banks to shelter income.

As a result, bank demand for municipals has been decreasing for the last 4 years.

TABLE II.—ANNUAL NET CHANGES IN BANKS HOLDINGS OF MUNICIPAL SECURITIES

[Amounts are in billions of dollars]

1971	1972	1973	1974	1974 (1st qtr.)	1975 (2d qtr.)
12.6	7.2	5.7	5.5	−2.7	6.9

Source: Congressional Budget Office, New York City's Fiscal Problem, Oct. 10, 1975, p. 8.

It may well continue to decrease. Can other major municipal investors be expected to take up the slack?

Fire and casualty insurance companies. The only other institutional investors of significant proportion, these companies held 15 percent of outstanding municipals in 1974, slightly more than the 12 percent which they owned in 1964. Since fire and casualty insurance companies, unlike life insurance companies, are taxed at regular corporate rates and buy municipals to shield profits, their purchase of state and local bonds falls sharply in years when they have little or no profit to shield (for example, 1963–5, 1968, 1969). These investors cannot be counted on to provide the investment capital which state and local governments will need over the next few years.

Individuals. The household sector had 30 percent of outstanding municipals in 1974, a decrease from the 37 percent which they held in 1964. While statistics of individual ownership of municipals are sketchy (holders are not required to include the income on their tax returns, still less to pay tax on it), it seems that over 85 percent of tax-exempt bonds held by individuals are owned by people with $25,000 or more of gross income. Over 70 percent are in the hands of investors with gross incomes of $50,000 or more.

It is obvious why the number of individual investors has tended to be limited to the rich and near-rich. Suppose that a prosperous corporate executive with a marginal tax rate of 50 percent is comparing the advantages of a $1,000 15-year tax-exempt municipal with a 7 percent yield against a similar taxable corporate security at 10 percent. His after-tax (there is no tax) yield on the municipal is $70, while the corporate security will give him, after taxes, only $50. He buys the tax-exempt.

But suppose a young couple of moderate means and in, for instance, the 25 percent bracket weigh the same alternatives. The tax-exempt would net them $70, but the after-tax corporate security would be worth $75 to them. They buy the corporate taxable bond.

The spread between tax-exempt and taxable rates must be greater than the investor's marginal tax rate before he or she will buy state and local obligations. The higher the tax bracket, the stronger the incentive to buy tax-exempt bonds. With individual participation in the market thus limited, at reasonable interest rates, to a handful of upper and upper-middle income investors, and with alternative tax shelters competing for their investment dollars, the danger of oversaturation of the market is strong.

The only way for municipalities to draw more individual investors into the tax-exempt market is to offer higher yields relative to taxable securities. The smaller the yield differential between tax-exempt and taxable bonds, the greater the incentive for moderate-income investors to buy municipal and for upper-income investors to move from other tax shelters into municipal bonds. But there are reasons for which many moderate-income investors are not interested in tax-exempts. First, the customary $5,000 minimum denomination in which municipals are marketed is a substantial barrier. Second, the secondary market for these bonds is weak, a sizeable penalty is usually incurred in liquidating holdings, and investors without much financial leeway are reluctant to tie themselves up for long periods. Thus, many moderate-income investors will come into the tax-exempt market even for higher interest rates.

Bank demand for municipals is decreasing, fire and casualty insurance companies demand for municipals fluctuates with profits, and middle-income individuals can be lured into the market only at the price of interest rates which many municipalities find insupportable.

2. The municipal bond market is subject to cyclical instability.

Over the recent years, tax-exempt yields have tended to average about 70 percent of taxable yields. When money is tight, however, and interest rates rise, tax-exempt rates rise faster than taxable rates. At present, for instance, the ratio is closer to 80 percent (although the New York City crisis must take part of the blame). State and local governments are periodically simply squeezed out of the market.

The main reason for this cyclical instability of municipal bonds is that the behavior of commercial banks (who hold about 50 percent of municipal bonds) is strongly influenced by money market and economic changes. Banks are primarily in business to make relatively short-term loans to corporations and individuals. Investment in tax-exempt bonds is considered a residual use for funds. When private sector interest rates rise, banks tend to put more funds into loans and cut back on purchases of municipals or even sell them. During these periods, there are thus relatively more municipal bonds and relatively fewer buyers, and interest rates soar. A number of states—especially southern states—have legal or constitutional limits on the amount of interest its obligations can bear, and if unable to waive the ceilings are forced out of the market at this point. Others are forced out by fiscal limits.

The impact of this cyclical pressure on state and local finances is terrible. Enormous debt burdens are incurred, capital projects are suspended with increased eventual costs, effective planning becomes impossible, and substantial sacrifices result.

3. The tax-exempt bond interest distributes tax benefits inequitably.

Tax-exempt bond interest amounted to some $9.4 billion in 1974, of which roughly 30 percent went to individuals. That tax-free $2.8 billion give-away to wealthy investors contributes to the persistent inequality of income in this country and undermines the progressivity of our federal income tax.

An average factory worker, receiving perhaps $13,000 total a year, all of it in wages, pays income tax on every penny of it, and social security as well. A municipal coupon clipper, whose $13,000 in interest on tax-exempt bonds is likely to be only a fraction of his total income, pays not one red cent. The principle of progressive taxation is that richer people pay a larger percent of income. Even allowing for the fact that interest on a municipal bond contributes less to the investor's income than would interest on a taxable bond, exempting bond interest is a flagrantly regressive element in the tax code.

A study using the tax expenditure data for fiscal year 1974 provided by the Treasury Department came up with the following distribution of tax benefits from state and local bond interest:

TABLE III.—DISTRIBUTION OF TAX-EXEMPT BOND INTEREST BENEFITS

Adjusted gross income (thousands)	Amount distributed (millions)	Percentage distribution
$0 to $3	(1)	0.09
$3 to $5	(1)	
$5 to $7	(1)	
$7 to $10	$1	
$10 to $15	4	2.5
$15 to $20	22	
$20 to $50	98	9.3
$50 to $100	389	88.2
Over $100	546	
Total	1,060	100.0

[1] Statistically insignificant.

Source: Staff Study, Office of Senator Walter F. Mondale, May 1975.

The table shows that 88 percent of the tax benefit went to people with more than $50,000 in adjusted gross income—or 1.2 percent of all taxpayers.

Another tax principle more honored in the breach than the observance is horizontal equity—giving taxpayers at the same income level the same tax treatment. By failing to tax municipal bond interest, inequity is created between taxpayers—whether corporate or individual—with identical income totals derived from different sources.

4. The tax exemption is an inefficient subsidy to state and local governments.

What would we say to a person who wanted to give $1,000 to a worthy cause, handed the cash to a messenger, and allowed him to keep 25 percent as a commission for transmitting the rest? We would say that the donor was weak in the head.

Yet this is exactly what is happening with municipal tax-exempts. In recent years, it has cost the federal government $1.00 to give state and local governments about $.75 in interest savings through tax exemption, while municipal investors received the missing $.25. The gap is caused by the difference be-

tween the tax-exempt taxable spread necessary to attract the marginal investor (the middle income person with a tax rate just greater than the spread) and the tax rate of the average investor (the upper income person or the corporation who would have bought even at a lower yield and greater spread, and thus reaps a windfall on the deal). Thus, while the spread (by definition, the tax rate of the last, or marginal, investor) from 1960 until less than a year ago averaged about 30 percent, the Treasury Department estimates the average tax rate of municipal investors at 42 percent. The 30 percent interest saving goes to state and local governments; the 42 percent tax revenue loss depletes the federal Treasury.

In fiscal 1976, the federal government will lose $4.8 billion in taxes foregone on municipal bond interest, while local governments will save only $3.5 billion in lowered interest costs. The missing $1.3 billion goes right into the pockets of well-to-do investors—the higher the tax bracket the greater the subsidy. And these figures are based on the traditional 30 percent spread. If tax-exempt yields continue to hover close to 80 percent of taxable yields, the gap between Treasury losses and municipal savings is likely to be even greater in future years.

5. Municipalities have been forced to finance long-term investment with short-term loans.

It used to be that municipalities used short-term borrowing only for seasonal cash-flow requirements, and financed all of their capital projects with the appropriate long-term bonds. No longer. Because of highly unstable municipal interest rates, and because of the demand by commercial banks for short-term investments which can be liquidated in only a few months time at full face value, municipalities have increasingly been forced to issue bond anticipation notes with maturities of only one year. These then are rolled over year after year, in the hope that eventually interest rates will fall and a low-cost, long-term bond may be issued. If interest rates instead go up, the municipality finds itself forced at frequent intervals to find new money at ever higher costs. If the money cannot be found, then there is a persistent danger of default which, once present, further compounds the difficulty of raising funds. This is one of the problems which almost brought New York City to its knees in the past month. There are only two solutions: to lower the general level of interest rates, or to provide states and municipalities with access to the market for long-term taxable funds.

6. Local governments' access to municipal capital markets is often limited by size, location, and lack of financial experience.

In municipal bond markets, it is whom you know that counts. For many units of local government, the main barrier to credit is the fact that they are an unknown quantity to bond index makers, underwriters, and investors. A small town which borrows rarely often finds it hard to establish a credit rating, or may be given one lower than its creditworthiness deserves, and pays the penalty in higher interest rates and unplaced issues. Underwriters frequently object to bidding on small bond offerings. Local governments far from financial centers and without expert technical staff tend to rely upon the advice of local banks or brokers, which may or may not be in their best interests. Municipal capital markets are thus an imperfect source of funds for many local governments.

* * * * *

These are the main problems besetting the municipal bond market—narrowness, cyclical instability, inequity of tax subsidy, inefficiency of tax subsidy, short-term bias, and imperfect access. Now for some proposed solutions.

MUNICIPAL CAPITAL MARKET IMPROVEMENT PROPOSALS

The proposals which have been presented to the House Committee on Banking, Currency, and Housing to improve the municipal capital market are of four types. All are worthy of careful consideration, and aspects of each may be incorporated into a final recommendation.

The four ideas now before the Committee are as follows: (1) an interest-subsidized federally-taxable municipal bond option (Reuss-Kennedy), (2) a federal guarantee of a subsidized taxable municipal bond option (Congressman Barrett), (3) a plan for insurance of tax-exempt municipal bond offerings (two variants: one by Senator Jackson, the other by a private insurance company), and (4) a plan for an intergovernmental RFC or Urbank, which would borrow in the taxable market and relend to states and municipalities on advantageous terms. (Many variants of this plan have been proposed, notably by Reps. Sullivan and Patman, by two former officials of the Johnson Administration, Charles Haar and Peter Lewis, and by a private securities firm.)

1. The taxable municipal bond option.

This proposal, advanced by Senator Kennedy and Chairman Reuss, is undoubtedly the simplest of those presented today. It would provide a federal subsidy of 40 percent of the interest cost of taxable bonds which states and municipalities may choose to offer in lieu of tax-exempts. The subsidies would be administered by the Secretary of Housing and Urban Development and would be automatic upon the election by a municipality or state of the taxable bond option. A Municipal Technical Assistance Office would be established within HUD to assist municipalities in capital market management and budget planning.

Arguments in favor: The Reuss-Kennedy proposal would stabilize the long-run differential between taxable and tax-exempt securities at a level equal to the subsidy rate, or 40 percent of the taxable interest rate. This would confine the demand for tax-exempt bonds among individual investors to those whose marginal tax rates exceed 40 percent. But it would create a market in taxable municipal securities for those moderate income individual investors whose low marginal tax rates have hitherto made tax-exempt municipal securities an unattractive investment. Equally, it would open to states and municipalities the vast market for long-term securities provided by pension funds, life insurance companies and other institutions whose own tax-exempt or tax-sheltered status has previously made municipals unattractive to them. Therefore, the proposal would widen the market for municipal bonds, and would lessen the cyclical instability caused by the unstable tax-exempt market share held by commercial banks.

The provision of a taxable municipal bond option also has progressive effects on the distribution of income. At a 40 percent subsidy rate, between 10 and 15 percent of the borrowing now undertaken by states and municipalities would be shifted from the tax-exempt to the taxable market, according to a study by the Urban Institute. This would reduce the market interest rate on tax-exempts from current levels to about .6 of the rate on comparable taxable obligations. The effect would be a substantial transfer of future income from wealthy purchasers of tax-exempt securities to state and local governments. The efficiency of the federal subsidy of state and municipal governments provided by the tax-exempt status would be improved, along with the equity of the federal tax system.

Arguments against: The Reuss-Kennedy proposal does not completely resolve the problems of the municipal bond market. It only slightly reduces the perception of risk which the New York City crisis has suddenly introduced into municipal bonds. Although it provides technical marketing assistance, it does not assure market access for those small jurisdictions whom size or location may have prevented from competing in the municipal capital market on reasonable terms in the past. It ameliorates but does not completely eliminate the cyclical nature of the municipal bond market.

The redistributive effects of the proposal, and its effects on efficiency and tax equity, while progressive, are not so progressive as those which could be had under a 50 percent subsidy for somewhat greater net Treasury cost. The net Treasury cost of the Reuss-Kennedy plan was estimated by the Urban Institute in March, 1974 to be $54 million in the first year and $650 million annually after twenty years, compared with $161 million and $2 billion respectively for a 50 percent subsidy rate. Under the higher subsidy, virtually all municipal borrowing would shift to the taxable market, with progressive redistribution effects greater than that of the 40 percent rate.

The Committee will consider subsidy rates in the range of 30 to 50 percent.

2. A federal guarantee of a taxable municipal bond option.

Under a proposal introduced by Congressman Barrett (H.R. 10113), a Municipal Debt Guarantee Corporation would be established under the Secretary of Housing and Urban Development to issue federal guarantees and a 33⅓ percent interest subsidy on a taxable obligation of municipalities found to be in sound fiscal condition. The guarantee would carry a one-quarter percent annual fee. Under certain emergency conditions, local governments threatened with default could exchange their outstanding obligations for taxable, guaranteed obligations under the Act. The Secretary of HUD could direct the Federal Financing Bank to purchase bonds for federally-assisted projects, such as housing and urban development, thereby relieving pressure on the municipal capital market.

Arguments in favor: The bill by Congressman Barrett would eliminate the risk involved in the issue of a taxable obligation, although not that of tax-exempts. Under some but not all conditions, it would encourage municipalities to issue a taxable obligation, which would open the market to investors in low marginal tax brackets, moderate the cyclical instability of the municipal market, have favorable effects on the efficiency of the subsidy, on the equity of the tax system, and on the distribution of income, and would somewhat alleviate the difficulty of selling long-term bonds

To be precise, H.R. 10113 would set a long-term floor on the differential between interest on unguaranteed tax-exempt and guaranteed taxable securities of the same municipality at 33⅓ percent of the latter, less the one quarter of one percentage point guarantee fee. During periods of high risk, when the interest on an unguaranteed taxable security rises far above the risk-free guaranteed rate, large movements from the tax-exempt market to the option provided by H.R. 10113 would be induced. The effect would be similar to that of a far higher subsidy rate on the interest on an unguaranteed taxable bond option (as is proposed in the Reuss-Kennedy bill).

This feature enhances the positive effects of Congressman Barrett's proposal: the broadening and lengthening of the municipal market, and the progressive effects on efficiency, equity, and income distribution. However, during periods of low risk municipalities would flow back into the tax-exempt market, and it is possible that during an extremely stable economic period no use at all would be made of the guaranteed taxable bond option.

Under the exchange plan which Congressman Barrett proposes to assist municipalities threatened by default, investors would be given the choice between retaining the tax-exempt securities they hold—and running the risk of default—or of trading those securities for identical guaranteed securities without the tax-exempt feature. On securities which have substantial time to run before maturity, investors would bear the cost of averting default in proportion to the benefit they previously enjoyed from tax-exemption. Those who sold such relatively low-interest securities on the market would bear the cost in the form of a capital loss, thus assuring an equitable sharing of sacrifice.

Arguments against: Congressman Barrett's proposal would empower the federal government to supervise and audit the fiscal condition of state and local governments which elect assistance under his program. A new federal regulatory agency is established to meet this need. The strong reluctance of state and local governments to submit to such supervision may seriously impair the effectiveness of the plan.

Second, H.R. 10113 would introduce a significant new element of uncertainty in municipal capital management. In times of recession and rising tax-exempt interest rates, municipalities would shift rapidly from tax-exempt to guaranteed taxable bonds—under current conditions, for example, if economic considerations predominated virtually all new issues of municipal debt might be guaranteed taxables instead of tax-exempts. As economic conditions improved the shift back to tax-exempt might be equally rapid. Such changes might fuel speculation in the municipal bond market.

Third, while the effect of the municipal debt exchange plan designed to stave off municipal default would be progressive in the case of securities which have a long time to maturity, it is usually securities on which maturity is imminent which are threatened by default. H.R. 10113 would permit such short-maturity bonds, threatened with default, to be exchanged for fully-guaranteed bonds of equally short maturity. The effect of guaranteeing full payment of principal amount—and enormous capital gains to recent purchasers of the threatened security—would far outweigh the minor loss of interest income to high-tax-bracket investors in the case of these short-term securities. Moreover, the municipality would not be saved from default: barring other significant assistance it would merely default to the federal government rather than to its investors. The costs to the Treasury of this aspect of H.R. 10113 could be very large, and its effect on income distribution in this case would be regressive.

Finally, H.R. 10013 would provide assistance to political subdivisions of states only. States themselves would be unaffected.

3. Proposals for insurance and re-insurance of municipal bonds.

The Committee has two proposals involving insurance of tax-exempt municipal bond offerings which it will consider. One of these, offered by Senator Jackson, would establish a Fair Finance Insurance Board to reinsure 75 percent of the tax-exempt obligations of local government previously insured by a private insurance company. The Board would also be empowered to guarantee 75 percent of the debt issued by a state agency established to assist local governments, upon finding that such an agency was fiscally sound. The Board would charge a fee for its services, and would be designed to be self-financing.

The second proposal, which the Committee received from the W. R. Berkley Corporation, a private insurer, would establish a Municipal Bond Insurance Corporation (MBIC), capitalized by financial institutions, the federal government and, at their option, the states, which would insure the payment of principal and interest on tax-exempt municipal securities maturing in more than five years. Congress would authorize the Federal Reserve to lend up to $10 billion to the MBIC to cover potential losses, and the initial amount of insurance could be up to $100 billion. Premiums would vary according to risk, and would increase at penalty rates on insured municipalities which fail to achieve a balanced budget. Coverage would be available to all municipalities in member states, and to municipalities in non-member states which pay a coverage fee.

Arguments in favor: The Municipal Bond Insurance Corporation would enable large, troubled cities plagued by uncertainty to market their debt. It would also solve the marketing problem of smaller locales who must pay an interest premium because the infrequency of their bond issues prevents them from establishing a top credit rating. Fees could be varied according to risk, so that relatively sound municipalities would not bear the insurance cost of those which are weaker. Penalty insurance rates on cities which slip into the red, together with the accounting supervision implicit in an insurance plan, would provide a strong incentive to sound financial management. If insurance were extended only to long-term securities, the problem of competition with taxable Treasury instruments would not arise. The effect of the plan on borrowing cost would be to eliminate the element of market skittishness which recently has forced risk premiums on many municipalities far above the actual level of risk. Insured municipalities would benefit on the market from a high credit rating; the insurance fee would augment the market borrowing cost to each municipality to the extent of actual risk, as determined by the MBIC.

The reinsurance proposal of Senator Jackson would share many of the advantages listed above. In addition, it would encourage private insurance companies to enter the municipal bond market, and to share the risk in that market, to a greater extent than they now do. Since Senator Jackson's bill would not limit the initial maturity on insured debt to more than five years, some problem of competition with Treasury issues might arise.

Arguments against: The insurance proposals are addressed solely to the question of risk. Historically, risk has been a minor factor in the municipal bond market, and may fade again when the current recession is over. The insurance proposals do not open the market for municipal bonds to classes of investors and institutions which historically have been shut out, they do not act to lower the net-of-risk interest cost to state and local governments, they do not offset the cyclical instability of the municipal bond market, they improve neither the efficiency of the subsidy nor the equity of the tax system, and they do not make it any easier for a municipality to borrow long-term. It is possible that the existence of insurance schemes for some municipalities will drive up interest costs for others which are not insured.

In the MBIC proposal, participation by municipalities is somewhat limited by the willingness of their states to help capitalize the Corporation. In Senator Jackson's proposal, federal insurance may be severely limited by the necessity to attract private insurance money into the municipal market as a prior condition. Also, in Senator Jackson's bill, it is the financial condition of the insurer, not the municipality, which determines eligibility for reinsurance. Senator Jackson's proposal could have the effect of providing a large windfall to those few gigantic private insurance companies capable of making a multi-milion dollar commitment to the municipal bond market. It is possible that lower insurance costs could be delivered to state and local governments by a direct insurance scheme.

4. Proposals for a federal municipal financing bank.

The Committee will consider three proposals for a federal bank which would channel credit to state and local governments on favorable terms. These are:

(1) a proposal to reconstitute the Reconstruction Finance Corporation with broad loan and guarantee powers. This approach was introduced by Congresswoman Sullivan, Congressman Patman, and 16 cosponsors (H.R. 10452).

(2) a proposal to constitute an Urban Development Bank (Urbank) with subsidized loan powers only. This approach has been advanced most recently by two officials of the Johnson administration, Charles Haar and Peter Lewis.

(3) a proposal for a federal municipal financing bank, to take advantage of the borrowing power of the federal government, but without explicit additional subsidy powers. This approach is suggested by a private securities firm, Blyth, Eastman, Dillon Co.

All three of these proposals would create a new federal institution to borrow on the capital market with the borrowing power of the United States, and to relend to state and municipal governments at a rate lower than that they could otherwise obtain on a comparable (taxable) instrument. The effect is to give state and municipal governments a route of access to the market for taxable securities, albeit with strings attached.

The bill by Congresswoman Sullivan would create an Emergency Financial Assistance Corporation with broad powers to extend credit to state and municipal governments and to private corporations. The assistance to state and local government could be in the form either of loans or guarantees; such loans as were extended could be at below-market interest rates. The Corporation would have a capital stock of $1 billion paid in by the Treasury; it could incur indebtedness of up to twenty times paid in capital. It would be empowered to establish criteria and procedures necessary to assure the fiscal soundness of assisted state and local governments.

Under the Urbank proposal, shares would be owned by the state and local governments themselves, and not by the federal Treasury, thereby avoiding the need to pass loan outlays through the federal budget. Urbank would extend loans at subsidized interest rates to state and local governments for a wide variety of capital improvements, with maturities geared to the economic amortization period of the project. Differences between the cost of money to Urbank and the subsidized interest rates charged would be covered by an annual appropriation. The bank would extend technical assistance to its debtor governments where needed, and would act as an investment banker, intermediary and organizer of consortia where such a function is useful.

The Federal Municipal Financing Agency proposal would establish a profit-making, federally-capitalized bank specializing in municipal loans. The bank would borrow without the full faith and credit of the United States, and relend at a slight premium to needy state and local governments. It would have an annual appropriation as needed and a line of credit with the Federal Reserve in order to make good on any losses. It would have broad powers to intercede to assure the fiscal soundness of its debtor governments.

Arguments in favor: All three proposals would share, to a greater lesser extent, in the advantages of the taxable municipal bond option. They would open the municipal capital market to individuals and institutions which hitheto have found the returns in that market unattractive. They would reduce the cyclical instability of the market by reducing the proportionate share of

municipal debt held in tax-exempt form by commercial banks. By causing a reduction in the volume of tax-exempt borrowing, they would put downward pressure on tax-exempt interest rates, which would improve the efficiency of the subsidy, reduce the inequity of the tax exemption, and have a progressive effect on the distribution of income.

The extent to which these benefits would be achieved depends on the degree to which the bank, corporation or agency is empowered to subsidize the interest cost of its loans. All three proposals would also enable cities and states to make long-term loans whose maturities accurately reflect the working life of the projects they finance. All three would serve to reduce or eliminate the borrowing disadvantage suffered by small communities remote from the money market. And, to the extent that the technical assistance provided by the federal agency improved municipal management and investor confidence in assisted governments, such governments might expect an improved rating and reduced rates on their tax-exempt borrowing.

In this connection, it is necessary to distinguish the third proposal from the first two. In the case of the Emergency Financial Assistance Corporation or of Urbank, subsidized loans would be forthcoming. If the subsidy were, say, 40 percent of the rate which the assisted municipality would have to pay on a taxable instrument independently issued, the effect on efficiency, equity, income distribution market-widening and reduction of cyclical instability would be virtually identical to that of a taxable bond option at a 40 percent subsidy rate, on the assumption that the bank was able to meet all forthcoming loan demands. In the case of the profit-making bank, such a subsidy would be precluded. The clients of such a bank would therefore be those municipalities whose tax-exempt rates were higher than the bank's lending rate, who were shut out of the market altogether for any reason, or who had a particular interest in a long-term loan not normally attainable on the market.

Arguments against: The proposals for a federal financing bank for state and local governments imply a substantially larger degree of direct control over the composition of state and local capital budgets than do the alternatives presented above. Under the Reuss-Kennedy bill, for example, the subsidy would be automatic; under the bank proposals it would depend upon evaluation and approval by the bank of each loan application. While this has some advantages from a national policy perspective, it would be considered a negative feature by many state and local governments.

The debt obligations issued by a federal bank would compete more or less directly with Treasury offerings; they would therefore apply some upward pressure to the cost of federal borrowing. As was true of the RFC, there would be a potential for abuse, and the bank would have both a difficult regulatory job and, from time, to time, the difficult decision whether to cut off further financial assistance to a municipality which has failed to meet its commitments, thereby forcing it into default.

It may be objected that under Congresswoman Sullivan's proposal, the Emergency Financial Assistance Corporation could extend guarantees to the tax-exempt obligations of state and local governments. This would have the effect of creating a class of securities considered superior to U.S. Treasury obligations, which the Treasury has traditionally opposed.

Finally, it may be objected that the only clients of a profit-making federal assistance bank (the third proposal) would be those municipalities whose credit ratings are so low as to force their interest costs above the federal taxable rate. Such municipalities would enjoy a benefit not available to those who are better managed, and the wisdom of extending such a benefit is open to question. In any case, the risk of loss to such a bank would be great, and the potential benefits in terms of a shift from tax-exempt to taxable indebtedness would not be large.

* * * * *

The appropriate subcommittee is expected to begin hearings on these four municipal capital market proposals early in the year.

By Mr. HATFIELD (for himself, Mr. ABOUREZK, Mr. PACKWOOD, and Mr. BARTLETT):

S. 2801. A bill to repeal the act terminating Federal supervision over the property and members of the Confederated Tribes of Siletz Indians of Oregon; to reinstitute the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe; and to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HATFIELD. Mr. President, I am pleased today to introduce legislation to restore to the Confederated Tribes of the Siletz Indians of Oregon the status of a federally recognized Indian Tribe. This legislation would reverse the termination of Federal supervision over this small western Oregon tribe which came with the act of August 13, 1954 (68 Stat. 724–58; 25 U.S.C. 691–708).

In 1953, termination was declared to be the long-range goal of Federal Indian policy; basically, this meant that the trust relationship which existed between the Federal Government and the various Indian tribes would be severed. During the 1950's, 13 termination acts were passed by the Congress, including 1 which terminated all of the small tribes and bands of western Oregon. It was this act which terminated the Confederated Tribes of the Siletz Indians.

In order to understand the reasons why the legislation I am introducing today is necessary, it is important to provide some background on the Federal Government's trust responsibility toward Indians. After all, the Government did not assume the role of guardian and trustee of Indian existence as an act of generosity toward a disadvantaged people. Rather, this special relationship arose out of solemn commitments in the nature of contractual obligations. The Indians agreed to cede vast tracts of lands to the Federal Government and agreed not to take up arms against the white settlers; in return, the Government agreed to protect the Indians from incursions, within certain described tracts of land, or reservations.

These reservations and, indeed, the very nature of the Government-Indian relationship, were intended to provide a structure whereby Indian culture could survive and flourish. Through formal treaties, acts of Congress, and formal and informal agreements, the United States secured the Indians with the possession of their lands and agreed to provide health, education, and other social services. These commitments continue to carry immense legal and moral force. To simply wipe them out by congressional action is unfair and dishonorable.

The purpose of the termination of this special, contractual relationship was to end a paternalistic governmental relationship. Termination was to allow native Americans to participate fully in the mainstream of our society. As a general proposition, however, Indians have suffered greatly under the termination policies; the social and economic devastation which these policies have wrought upon many groups has been tremendous. While, in many cases, unemployment, health problems, alcoholism, and school dropout rates have risen dramatically, the means for dealing with these problems has been withdrawn. While these problems were already severe among Indian societies generally, they have become epidemic among terminated Indians. In Oregon, 60 western Oregon tribes and the larger Klamath Tribe were terminated; the difference in economic and social development between these groups and federally recognized tribes in Oregon is easily discerned.

It has been my observation that the Indian citizens with the most severe social problems, the most pronounced inability to function successfully in American society, are those who have been told by the Federal Government that they are no longer recognized as Indians, that their tribes no longer exist, that they are to go and live as non-Indian people do—that they are terminated.

The ill effects of termination have not been confined to the members of those tribes which were terminated. President Nixon noted in his 1970 address on Indian affairs that the very threat of termination has created tremendous apprehension among recognized tribes. As a result, he said:

> Any step that might result in greater social, economic, or political autonomy is regarded with suspicion by many Indians who fear that it will only bring them closer to the day when the federal government will disavow its responsibility and cut them adrift.

The threat of termination has worked to encourage excessive dependence upon the Federal Government, exactly the opposite goal which termination was to achieve.

Termination is no longer the policy of this Nation. In 1970, the administration called upon the Congress to repudiate House Concurrent Resolution 108, which declared termination to be the long-range goal of Government Indian policy. In 1973, the Congress passed and the President signed into law the Menominee Restoration Act, which restored to the Menominee Tribe of Wisconsin its status as a Federally recognized tribe. And again, on December 7 of this year, Dr. Theodore Marrs, Special Assistant to the President for Human Resources, expressed the administration's opposition to termination philosophies.

In attempting to reverse the effects of termination, we must be careful not to foster an excessive dependence upon the Federal Government. As was noted so often during the 1950's, the effects of excessive paternalism can be extremely de-

structive; it is my view that this danger rivals that of termination in its ability to destroy the Indian way of life. We must learn that the control over one's destiny is absolutely necessary for personal dignity and that this cannot be achieved through dependence upon the Federal bureaucracy.

We must strive for the middle ground of self-determination without termination, a system in which tribal governments and their social programs are controlled not by outsiders who are responsible to Federal officials in Washington, but are controlled by the Indian people themselves. Congress recognized the wisdom of this approach when it enacted the Indian Self-Determination Act of 1974, which provided the mechanism for tribal governments to assume far greater control over the programs and decisions which affect the lives and welfare of their members.

When they were terminated in 1954, the Siletz were ill prepared to cope with the realities of American society. They were tossed abruptly from a state of almost total dependency to a state of total independence. The ensuing disorientation was massive, and its effects are pronounced even today. Siletz Indians were told by officials of the Bureau of Indian Affairs to leave the only way of life they had known and to begin to participate fully in the dominant society. But they were not accepted as equals by the dominant culture, nor were they any longer accepted as Indians by other tribes which had not been terminated. The Siletz were lost between two cultures.

Recent figures indicate a 44-percent unemployment rate among Indians in Lincoln County, Oreg., the majority of whom are in Siletz. The median family income of Indian families in the town of Siletz is $3,300 per year. The Siletz public school in 1974 reported that 40 percent of Siletz Indians between the ages of 17 and 25 did not finish high school. Roughly 70 percent of the Indian students in Siletz School have only one parent due to the death of the other parent. Twenty-three percent of the Indian children in grades 1 through 12 come from broken homes. Indian children at Siletz School averaged 0.6 grade equivalent below the school mean. In a nonrandom sample of 84 Siletz Indians, 52.9 percent reported dental needs, 21 percent reported medical needs, and 21.8 percent reported visual needs. These figures bear sad witness to the presumably inadvertant attempt through termination to destroy a once proud people.

The legislation I am introducing today is designed to turn this picture of what termination can do around. It is consistent with the principle of self-determination and is strongly supported by the Siletz Indians. This legislation is the product of lengthy deliberations of the Siletz and other interested parties. Restoration is, in fact, a goal toward which the Siletz have been working for over 3 years; tribal meetings where the bill has been discussed have been well attended and there is enthusiastic support.

One issue which has come up in connection with this bill—an issue which is important to nearly all Oregonians—is that of hunting and fishing rights. As this bill is presently written, it would not grant or restore any hunting, fishing, or trapping rights to the Siletz Indians. The language on this point could not be any clearer. I ask unanimous consent that a letter which Congressman LES AUCOIN and I wrote to Governor Straub of Oregon on this matter be printed in the RECORD, as it clarifies our position on this particular issue.

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

U.S. SENATE,
Washington, D.C., December 4, 1975.

Hon. ROBERT STRAUB,
Governor,
State Capitol,
Salem, Oreg.

DEAR BOB: Your support of legislation to restore federal recognition to the Confederated Tribes of the Siletz Indians is greatly appreciated. We share your view that the termination policy has been extremely detrimental to the Confederated Tribes, and we intend to introduce the restoration legislation in the near future.

As you recognize, the issue of hunting and fishing rights has been the most controversial issue which has arisen in relation to this legislation. We agree that the issuance of additional rights to the Indians would be undesirable. The enclosed draft bill is very clear on this point: section 3(c) specifically states that no new rights would be granted.

We do not believe, however, that this legislation can or should be utilized as a vehicle to resolve other hunting and fishing rights issues. To include language which would prohibit the Siletz or other tribes from seeking a definition of their rights would be to withdraw rights which have not yet been defined and might constitute a taking without compensattion. Moreover, it is not clear that such rights exist at all.

The issue of Indian hunting and fishing rights is a complex and difficult one. We want to be of all possible assistance in assuring that our valuable natural resources will be protected and conserved.

We are looking forward to working with you further on these matters. It is our hope that the Congress will give the Siletz bill the thorough consideration it deserves; public hearings will allow an airing of all the issues surrounding this legislation.

Again, we appreciate your support of the efforts of the Confederated Tribes, and we hope that they will prove to be successful.

Warmest personal regards.

Sincerely,

MARK O. HATFIELD,
U.S. Senator.
LES AUCOIN,
Member of Congress.

Mr. HATFIELD. Mr. President, the bill I am introducing today is a simple one. It does not involve the transfer of any Federal lands; the tribe has regained 10 acres of ancestral lands from the town of Siletz and any additional lands which would form a small reservation would have to be obtained through purchase or donation. The basic thrust of the bill is to formally recognize the Siletz as a tribe, and to make this group eligible for the Federal services to which other federally recognized Indians are entitled. Passage of this legislation would restore the sense of tribal unity which tends to be destroyed through termination.

It is my hope, therefore, that the Congress will give this matter the thorough consideration which the Siletz Indians deserve, and that the bill will be approved during the 94th Congress. This measure has been supported by both local and State government units in Oregon, and I ask unanimous consent that several supportive letters be printed in the RECORD following my remarks, as well as the bill itself.

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

Mr. HATFIELD. As my colleagues are aware, the American Indian Policy Review Commission is presently studying all aspects of Indian policy, including termination. As a member of that Commission, I share the view of its chairman, Senator JAMES ABOUREZK, who stated on September 18, 1975:

The Congress of the United States and the executive and judicial branches of the U.S. government cannot wait for the American Indian Policy Review Commission to, within two years, find answers to questions and solutions to problems which it has taken 200 years to create. These branches of government cannot neglect their duties.

Senator ABOUREZK then went on to say:

The Commission now calls on the U.S. Congress and all Federal agencies to move expeditiously on pending legislation and other current matters brought before them on behalf of American Indians.

Mr. President, let us heed these words and move ahead to correct a serious error which has had such a serious impact on the lives of the Confederated Tribes of the Siletz Indians. As a resident of Lincoln County, the home of the Siletz, I know firsthand the hardships they have suffered. The enactment of this small piece of legislation will serve as a much-needed installment toward paying a moral debt to which this Nation has committed its national honor; it is the right thing to do.

S. 2801

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 Siletz Restoration Act."

SEC. 2. For the purpose of this Act—

(1) The term "tribe" means the Confederated Tribe of Siletz Indians of Oregon, which is comprised of any tribes and bands, or remnants thereof, which were represented on the membership roll of the tribe which was published in the Federal Register on July 26, 1956.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Siletz Interim Council" means that council of nine Siletz Indians who shall be elected pursuant to sections 4(a) and 4(b) of this Act.

SEC. 3. (a) Notwithstanding the applicable provisions of the Act of August 13, 1954 (68 Stat. 724–28; 25 U.S.C. 691–708), or any other law, Federal recognition is hereby extended to the Tribe and the provisions of the Act of June 18, 1934 (25 U.S.C. § 461, et seq.) are made applicable to it. The Tribe and its members shall be entitled to all Federal services and benefits furnished to federally recognized Indian tribes and their members.

(b) The Act of August 13, 1954 (68 Stat. 724–28; 25 U.S.C. § 691–708), to the extent such act is applicable to the tribe, is hereby repealed. There are hereby reinstated all rights and privileges of the tribe or its members, except for hunting, fishing, and trapping rights, under Federal treaty, executive order, agreement, statute, or otherwise which may have been diminished or lost pursuant to the Act of August 13, 1954 (68 Stat. 724–28; 25 U.S.C. § 691–708).

(c) This Act shall not grant or restore any hunting, fishing, or trapping rights of any nature to the tribe or its members.

(d) Except as specifically provided in this Act, nothing contained in this Act shall alter any property rights or obligations, any contractual rights or obligations, or any obligations for taxes already levied.

(e) In providing to the tribe such services to which it may be entitled upon its recognition pursuant to subsection (a) of this section, the Secretary and the Secretary of Health, Education, and Welfare, as appropriate, are authorized, from funds, appropriated pursuant to the Act of November 2, 1921 (25 U.S.C. 13); the Act of August 5, 1954 (68 Stat. 674); the Act of January 4, 1975 (88 Stat. 2203); or any other Act authorizing appropriations for the administration of Indian affairs, upon the request of the tribe and subject to such terms and conditions as may be mutually agreed to, to make grants and contract to make grants which will accomplish the general purposes for which the funds were appropriated. The Siletz Interim Council shall have full authority and capacity to be a party to receive such grants to make such contracts, and to bind the tribal governing body as the successor in interest to the Siletz Interim Council: *Provided, however,* That the Siletz Interim Council shall have no authority to bind the tribe for a period of more than six months after the date on which the tribal governing body takes office.

SEC. 4. (a) Within fifteen days after the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Siletz Interim Council. Such general council meeting shall be held within thirty days of the date of enactment of this Act. Within forty-five days of the general council meeting provided for herein, the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect the membership of the Siletz Interim Council from among the nominees submitted to him from the general council meeting provided for herein. The ballots shall provide for write-in votes. The Secretary shall approve the Siletz Interim Council elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. The Siletz Interim Council shall represent the Siletz people in the implementation of this Act and shall be the interim tribal governing body until tribal officials are elected pursuant to Section 5(c) of this Act. The Siletz Interim Council shall have no powers other than those given to it in accordance with this Act. The Siletz Interim Council shall have no power or authority under this Act after the time which the duly-elected tribal governing body takes office: *Provided, however,* That this provision shall in no way invalidate or affect grants or contracts made pursuant to the provisions of section 3(e) of this Act.

(b) In the absence of a completed tribal roll prepared pursuant to subsection (d) hereof and solely for the purposes of the general council meeting and the election provided for in subsection (a) hereof, all living persons on the final roll of the tribe published under section 3 of the Act of August 13, 1954 (25 U.S.C. 693), and all descendants, who are at least eighteen years of age and who possess at least one-fourth degree of Siletz Indian blood of persons on such roll shall be entitled to attend, participate, and vote at such general council meeting and such election. Verification of descendancy, age, and blood quantum shall be made upon oath before the Secretary or his authorized representative and his determination thereon shall be conclusive and final. The Secretary shall assure that adequate notice of such meeting and election shall be provided eligible voters.

(c) If vacancies occur on the Siletz Interim Council the Siletz Interim Council shall hold a general council meeting within thirty (30) days after receiving written notice of such vacancy. The Siletz Interim Council shall give at least ten (10) days notice of such general council meeting. Any vacancy or vacancies shall be filled at such general council meeting after nominations have been made at such general council meeting. The person or persons receiving the highest number of votes shall fill the vacancy or vacancies. Eligibility to vote at such general council meeting shall be determined by the procedures provided for in subsection (b) hereof except that verification of descendancy, age, and blood quantum shall be made upon oath before the Siletz Interim Council and their determination thereon shall be conclusive and final. The Siletz Interim Council shall assure that adequate notice of such meeting and election shall be provided eligible voters.

(d) The membership roll of the tribe which was published in the Federal Register on July 12, 1956 is hereby declared open. The Secretary, under contract with the Siletz Interim Council, shall proceed to make current the roll in accordance with the terms of this Act. The names of all enrollees who are deceased as of the date of enactment of this Act shall be stricken. All persons shall be added to the roll who were entitled to be included on the roll of July 12, 1956 but who were not, for whatever reason, included on that roll. The names of any descendents of an enrollee shall be added to the roll provided such descendant possesses at least one-fourth degree Siletz Indian blood. Upon installation of elected constitutional officers of the tribe, the Secretary and the Siletz Interim Council shall deliver their records, files, and any other material relating to enrollment matters to the tribal governing body. All further work in bringing and maintaining current the tribal roll, including the determination of membership in the tribe, shall be performed by the tribe in such a manner as may be prescribed in accordance with the tribal governing documents. Until responsibility for the tribal roll is assumed by the tribal governing body, appeals from the omission or inclusion of any name upon the tribal roll shall lie with the Secretary and his determination thereon shall be final. The Secretary shall make the final determination of each such appeal within ninety days after an appeal is initiated.

SEC. 5. (a) Upon request from the Siletz Interim Council the Secretary shall conduct an election by secret ballot, pursuant to the provisions of the Act of June 18, 1934, for the purpose of determining the tribe's constitution and by-laws. The election shall be held within sixty days after final certification of the tribal roll.

(b) The Siletz Interim Council shall distribute to all enrolled persons who are entitled to vote in the election, at least thirty days before the election, a copy of the constitution and by-laws as drafted by the Siletz Interim Council which will be presented at the election, along with a brief impartial description of the constitution and by-laws. The Siletz Interim Council shall freely consult with persons entitled to vote in the election concerning the text and description of the constitution and by-laws. Such consultation shall not be carried on within fifty feet of the polling places on the date of the election.

(c) Within one hundred and twenty days after the tribe adopts a constitution and by-laws, the Siletz Interim Council shall conduct an election by secret ballot for the purpose of determining the individuals who will serve as tribal officials as provided in the tribal constitution and by-laws. For the purpose of this initial election and notwithstanding any provision in the tribal constitution and by-laws to the contrary, absentee balloting shall be permitted and all tribal members who are eighteen years of age or over shall be entitled to vote in the election. All further elections of tribal officers shall be as provided in the tribal constitution and by-laws and ordinances adopted thereunder.

(d) In any election held pursuant to this section, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate the adoption of a tribal constitution and by-laws and the initial election of the tribe's governing body, so long as, in each such election, the total vote cast is at least 30 percent of those entitled to vote.

SEC. 6. (a) The Secretary shall negotiate with the Siletz Interim Council to develop a plan for the assumption of the assets of the tribe. The Secretary shall submit such plan to the Congress within six months from the date of the enactment of this Act.

(b) If neither House of Congress shall have passed a resolution of disapproval of the plan within sixty (60) days of the date the plan is submitted to Congress, the Secretary shall, subject to the terms and conditions of the plan negotiated pursuant to subsection (a) of this section, accept the assets of the tribe, but only if transferred to him by the tribe subject to the laws of Oregon. Such assets shall be subject to all valid existing rights, including, but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, outstanding corporate indebtedness of all types, and any other obligation. The land and other assets transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Oregon. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the tribe and shall be their reservation. The transfer of assets authorized by this section shall be exempt from all local, State and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(c) The Secretary shall accept the real property (excluding any real property not located in or adjacent to the former boundaries of the reservation) of members of the tribe, but only if transferred to him by the Siletz owner or owners. Such property shall be subject to all valid existing rights including, but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, and any other obligations. The land transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Oregon. Subject to the conditions imposed by this subsection, the land transferred shall be taken in the name of the United States in trust for the tribe and shall be part of their reservation. The transfer of assets authorized by this section shall be exempt from all local, State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(d) The Secretary and the Siletz Interim Council shall consult with appropriate State and local government officials to assure that the provision of necessary governmental services is not impaired as a result of the transfer of assets provided for in this section.

SEC. 7. The Secretary is hereby authorized to make such rules and regulations as are necessary to carry out the provisions of this Act.

SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

OFFICE OF THE GOVERNOR,
Salem, Oreg., December 4, 1975.

Hon. MARK O. HATFIELD,
U.S. Senator,
Washington, D.C.

DEAR MARK: I want to assure you of my continued support for the Siletz Restoration Bill.

I understand that the Confederated Tribes have agreed to the following substantive language for Section 3(c) in an effort to accommodate my and other concerns about hunting, trapping and fishing rights:

"3(c) This Act shall not grant or restore any hunting, fishing, or trapping rights of any nature to the tribe or its members."

The only other change I understand is to be made in the proposed draft is to delete the allusion to Section 3(c) in Section 3(b): "as described in Section 3(c)."

I do not believe that the legitimate needs of the Siletz Confederated Tribe should be jeopardized or made subject to Congressional consideration of the much larger question respecting fishing and hunting rights.

Sincerely,

BOB.

COUNTY OF LINCOLN,
BOARD OF COUNTY COMMISSIONERS,
Newport, Oreg., October 13, 1975.

Hon. MARK O. HATFIELD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: The Confederated Tribes of Siletz Inc. is an organization composed of Siletz Indians, living in the Siletz area of Lincoln County.

Tribal Identity is an important factor to these people and at a full general Council meeting last June, more than 140 members of the Tribe voted to support the Siletz Restoration Bill" which will continue and improve Social progress for these people.

The Restoration Bill will correct some of the loss of Federal benefits received in Health, Education, and Welfare that these individuals have not had the benefits from. Under Title IV, recognized tribes can receive additional aid in the Indian Education Act, C.E.T.A. and many other H.E.W. Programs. Without this recognition many of these available aids will be lost.

B.I.A. programs and other Federal Administered benefits will mean more and better job opportunities upon the Restoration Bill's" passage.

The Board of Commissioners of Lincoln County urge you to help in any way possible to better these Citizens and we as a Board will help any way possible.

Sincerely,

LINCOLN COUNTY
BOARD OF COMMISSIONERS.

OREGON STATE SENATE,
Salem, Oreg., September 28, 1975.

Hon. MARK O. HATFIELD,
Senate Office Building,
Washington, D.C.

DEAR MARK: Legislation has been introduced on behalf of the Siletz tribe and I want to tell you how much it is appreciated and how essential this legislation is.

I have worked with Mayor Bensell, who is now President of the Confederated Tribes of Siletz, in the past and he is truly a dedicated man. He has a deep heartfelt interest in assisting his people.

I know you will do all in your power to push this much-needed legislation and I just wanted to add my own endorsement.

Sincerely,

W. STAN OUDERKIRK,
State Senator.

COUNTY OF LINCOLN,
OFFICE OF THE ASSESSOR,
Newport, Oreg., October 22, 1975.

Hon. MARK O. HATFIELD,
U.S. Senator, Senate Office Building,
Washington, D.C.

DEAR MARK: I understand that you and Les AuCoin are introducing the Restoration Bill for the Indians in Congress.

I am sure you are aware of my appointment to five Counties for the A.A.R.P.-N.R.T.A. Joint Legislative Committee, and that these organizations have given endorsement to your Bill.

As a Part-Indian, and a member of the Cherokee Nation, and since I am in the process of being adopted by the Confederate Tribes of Siletz, I wish to offer my support for your Bill, which has great local endorsement.

We all talk about Affirmative Action, and I am sure that everyone concerned must do their part at their own level. We hear it talked at the State level and the Federal level and in my little way, I have my own Affirmative Action program in my office.

We have on the Assessor's staff; eight Part-Indians, five Handicapped, and one of Mexican nationality. So, you see, it has to come from the local level as well as the Federal and State level.

Now, referring back to the Restoration Bill, I am writing to Al Ullman, Jim Weaver, Robert Duncan and Bob Packwood for their support of your Bill.

Would you please send the address of Senator Meads of Washington, and Forrest Gerard, who I understand, is on the Sub Committee for the Senate, as I would like to write to both of them.

Also, would it be possible for you to send me a copy of this Bill, which you intend to introduce.

Mark, you know you have my full support as a Senator and I would appreciate keeping in close contact with you with regard to any legislation that you might introduce.

They hare having a Pow-Wow at Siletz on November 12. I am sorry to say, I will not be able to attend, due to illness in the family, I will be in Albuquerque, New Mexico that week, but I understand Forrest Gerard will be in attendance.

Any information that will be helpful to me, I will appreciate, Mark.

Warmest personal regards.

Sincerely,

JAMES (JIM) H. JOHNSON, *Assessor.*

By Mr. CULVER (for himself, Mr. NELSON, Mr. PHILIP A. HART, Mr. BROOKE, Mr. HARTKE, Mr. McGEE, Mr. BAYH, Mr. CLARK, Mr. McGOVERN, and Mr. ABOUREZK):

S. 2802. A bill to require the Federal Trade Commission, the Department of Justice, and the Department of Agriculture, to compile information and annually report to the Congress with respect to antitrust enforcement, market structure, and state of competition in the food industry, and for other purposes. Referred to the Committee on the Judiciary.

Mr. CULVER. Mr. President, the statistics which showed that in the first 9 months of 1975 the average American family's food bill climbed $126 came as no surprise to American consumers. For them, food inflation is an unsavory fact of life rather than a number on an economist's chart. Nor were the Nation's farmers amazed to learn that only 26 percent of the increase in price would go to them. Farmers have grown to realize that higher food prices scarcely mean increased profits for those who actually produce the food.

Nevertheless, Mr. President, although these facts are unmistakable, there does remain a substantial element of mystery about the food price situation.

We do not know exactly who does gain from high food prices.

We do not understand as well as we must the economic structure of the food industry.

We do not know the extent to which processors, transporters, and retailers of food operate in a competitive market. We do not know whether the growth of large corporations, the degree of vertical integration, the creation of barriers to entry, and other factors have created unconscionable oligopolies.

Until we enlighten ourselves on these matters, we will not learn why consumer prices are high and farm prices are low. We will not be able to take effective action to correct this imbalance. And we will have to view high food prices as a reality to be lived with instead of a condition to be equitably adjusted and corrected.

Mr. President, I am introducing today the Food Industry Antitrust Reports Act on behalf of myself and Senators NELSON, PHILIP A. HART, BROOKE, HARTKE, McGEE, BAYH, CLARK, McGOVERN, and ABOUREZK.

This bill would provide for the Congress the hard information about the food industry which is essential to dealing effectively with the food price situation. Specifically, it provides the following:

First, a comprehensive study of the food industry updating the 1966 study by the National Commission of Food Marketing. The study would contain an examination of the makeup of various food industries including possible trends toward vertical integration, conglomerate and multinational predominance, and antitrust exemptions. It would also examine regulated transportation in order to determine its effect upon food prices. The study would take 5 years and would be released in segments.

Second, a yearly index of competition in the industry accompanied by specific recommendations to promote competition. This would be prepared by the FTC and the Justice Department.

Third, annual reports by the Department of Agriculture, the Department of Justice, and the FTC on their antitrust activities in the food industry. These reports would provide a yardstick for appraising the commitment of these agencies to the removal of anticompetitive practices in the industry.

I stated earlier that we lacked the complete, detailed information we needed for proper decisionmaking. The information which is available only strengthens the need to update, revise, and increase our data.

We know, for example, that the number of firms competing nationally in almost every manufacturing segment of the food industry has declined drastically in the 10-year period from 1963 to 1972.

We know that in that period the num-

ber of firms engaged in the production of fluid milk declined from 4,030 to 2,024.

We know that the number of firms producing canned fruit and vegetables declined from 1,135 to 766.

We know that 540 meatpacking plants disappeared in that decade.

These figures reflect the situation throughout the food industry. And they do not even begin to suggest the decline of competition within limited geographic areas.

What do they mean for the consumer and the family farmer?

One tentative conclusion drawn by an FTC study was $2.6 billion of the food bill was an unwarranted overcharge on the part of the food industry—directly attributable to the lack of competition.

The FTC, however, could endorse neither the conclusions nor statistics of this study: It was based on inadequate data.

The study and others like it, however, are sufficiently rooted in evidence to suggest that Congress must obtain the necessary facts. Until those facts are available, Congress will not be able to fulfill its obligations to the American public. The Food Industry Antitrust Reports Act is an effort to make those facts available.

I ask unanimous consent that the text of the Food Industry Antitrust Reports Act be printed in the RECORD, together with Sylvia Porter's article in the Washington Star of December 4, 1975, "Don't Know Who Gets What As Food Rises."

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

S. 2802

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 "Food Industry Antitrust Reports Act of 1975".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that:

(1) in order for the Congress, the executive branch, and the public to be fully informed, the Federal Trade Commission should be charged with making a continuing review of market structure and competition in the food industry and report annually thereon to the Congress;

(2) the economic reports on the food industry which have in the past been regularly compiled by the Federal Trade Commission have been decreasing in number;

(3) well-documented evidence of the growing concentration and mergers in the food industry exist but the effect of this trend on food prices and quality has not received adequate scrutiny;

(4) food prices have risen more than 30 per centum over a two year period and are still rising.

(5) there is evidence that antitrust exemptions, anticompetitive regulations, monopolistic practices, and industry structure are contributory causes of inflated food prices;

(6) the coordination between the Federal Trade Commission, the Department of Justice, and the Department of Agriculture in initiating antitrust investigations and law suits in the food industries under their jurisdictions is haphazard and informal and that there is a lack of agency and departmental policy planning and assessment of effectiveness; and

(7) no systematic and yearly accounting to Congress is made by the agencies of governments with jurisdiction over any segment of the food industry of the state of competition, litigation initiated, and action necessary to insure competition in the food industry.

(b) It is the purpose of this Act to make it possible for Congress and the public—

(1) to evaluate the planning, activities, and general effectiveness of the Federal Trade Commission, the Department of Justice, and the Department of Agriculture as enforcers of the antitrust laws as they relate to the various segments of the industries which produce, process, and market foods in the United States; and

(2) to determine whether a healthy competition exists in those food industries and whether anticipated changes in the structure of those industries will result in greater or lesser competition.

To accomplish this purpose, Congress shall require a three-fold series of reports described in sections 4 and 5 of this Act which will give an accounting of antitrust enforcement in the food industries, a yearly index of the state of competition in the food industries, and an in-depth study of the structure of the food industries which will update the Reports of the National Commission on Food Marketing.

DEFINITION

SEC. 3. For purposes of this Act, the term "food industry" means the various food industries from the producers of food through the retail distribution of food, including, but not limited to such industries as agricultural marketing, commodity trade and exchanges, livestock feeding and meat packing, production, processing, manufacturing, distribution and marketing, and other economic activities as defined in Officer of Management and Budget's Standard Industrial Classification, Groups 01, 02, 07, 09, 20, 514, 5154, and 54 (as in effect on the date of enactment of this Act).

ANNUAL REPORTS ON THE FOOD INDUSTRY

SEC. 4. (a) Not later than six months after the date of enactment of this Act, and yearly thereafter, the Federal Trade Commission (hereinafter in this Act referred to as the "Commission"), the Department of Justice, and the Department of Agriculture shall submit to the appropriate House and Senate committees, and shall publish in the Federal Register, a report on their policy planning, budget allotments, investigations, complaints, indictments, litigation, and other actions with respect to the enforcement of the antitrust laws in the various sectors of the food industry.

(b) Not later than six months after the date of enactment of this Act, and yearly thereafter, the Commission and the Department of Justice jointly shall submit to the appropriate House and Senate committees, and shall publish in the Federal Register, an index of the state of competition in the food industry, based on economic indicators available to or collected by the Commisssion, and such index shall include an account of all major segments of the food industry by commodity as well as by line of business, indicating market structure, and performance and trends; growth of horizontal and vertical integration; and possible monopoly overcharges, and be accompanied by specific recommendations to promote competition in the food industry.

COMPREHENSIVE REPORT OF THE FOOD INDUSTRY

SEC. 5. (a) The Commission shall prepare a comprehensive report on the market structure and state of competition in food industries and related economic problems, which shall include:

(1) Industry Studies: an analysis of the structure, conduct, performance, and major trends in the various food industries.

(2) Economic Studies: an analysis of economic problems and trends which affect the various food industries, including concentration, common ownership or control, conglomerate nad multinational predominance, economies of scale, barriers to entry, barriers to product and service innovation, adequacy of product and price information, advertising intensity, antitrust exemptions, vertical integration, and government regulation with an emphasis on regulated transportation.

(b) The Commission shall submit the report specified in subsection (a) to the Congress and make it available to the public no later than five years after the date of enactment of this Act, the Commission shall submit to the Congress and make available to the public yearly status reports with respect to the report specified in subsection (a), and the Commission shall, from time to time within the five-year period, publish segments of the report as they are completed.

AVAILABILITY OF DATA

SEC. 6. (a) The Commission, and the Department of Justice, shall each provide to the Congress an analysis of the adequacy of available data on which any study or report authorized by this Act is based, and where necessary, make legislative recommendations to the Congress with respect to any additional authority needed to improve the reliability or availability of such data or to assist in the prompt and adequate collection of such data.

(b) In preparing the report specified in sections 4 and 5 of this Act, the Commission shall collect and use line of business data in both individual business and aggregate form as may be necessary to insure the completeness and accuracy of such report.

(c) The Commission shall have access to data in the records of the Department of Justice, the Department of Commerce, including the Bureau of the Census, the Department of Labor, and the Department of Agriculture, when necessary to insure the completeness and accuracy of any study or report authorized under this Act or to avoid unnecessary duplication of governmental data collection.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) For purposes of carrying out the provisions of section 4 of this Act, there are authorized to be appropriated such sums as are necessary.

(b) For purposes of carrying out the provisions of section 5 of this Act, there is authorized to be appropriated to the Commission, $1,000,000 for each of the next five fiscal years.

DON'T KNOW WHO GETS WHAT AS FOOD RISES

(By Sylvia Porter)

The average retail cost of a marketbasket of U.S. produced foods—enough to feed a typical American household for one year—climbed $126 to $1,860 in the first nine months of 1975.

Only $33 of this $126 went to the farmer.

A whopping 74 percent, or $93 of the $126 rise, went to the faceless, ever-increasing middleman: Bottlers, meat packers, transporters, processors, wholesalers, grocers.

Over all, for every dollar you spend on food, only 40 cents goes to the farmer—and even this is 6 cents less than he was getting two years ago. Details on specific foods simply underline that central fact. Of the price you pay for a half-pound of American cheese, middlemen take 51 percent; of the price for a 10-pound sack of potatoes, they take 64 percent. Of the price for a 1-pound loaf of bread, they get 80 percent. So it goes.

Why? Why are we paying ever more for food, while the farmer's share stays the same or actually falls? What are the reasons for this food price trend? Are today's prices fair or have they been inflated by profiteering and lack of competition?

The startling answer is: We don't know. In fact, the House Agriculture's subcommittee on domestic marketing and consumer

relations reported a short while ago that "data presently collected by the government on the food-marketing system is not sufficiently specific or timely to allow meaningful interpretation of price changes and profit margins throughout the system."

Way back in 1966 the National Commission of Food Marketing completed the last major study of the multibillion-dollar food industry. There has been no investigation as thorough or conclusive since.

A 1972 Federal Trade Commission study of 17 food and food-related industries suggested that consumers pay $2.6 billion a year overcharge, because the industries are not competitive. But the FTC never officially endorsed this conclusion, on the basis that the data available was inadequate.

Another FTC investigation grew out of that fiasco. It was begun in June, is called the National Food Program and is receiving 18 percent of the FTC's $15 million antitrust enforcement budget.

But this probe also may falter because of lack of essential information. For instance, one of the FTC's studies—an investigation of major retail food chains in Atlanta, Denver, Detroit, Jersey City, Little Rock and Washington, D.C.—has stalled because four of the retailers refused a subpoena to provide the requested data. The FTC is now seeking enforcement of the subpoena through the courts.

Much of the data the commission is seeking never has been disclosed before: The price each store pays for various products, amount of each store's overhead, each firm's earnings per store in each area, each company's contacts with its competitors.

"This is the first in-depth, fact-finding inquiry of representative major food retailers," says Joseph O'Malley of the FTC's Bureau of Competition. "We hope when our work is completed—at least a year from now—we'll be able to give the public a more rational picture of the food-marketing industry. . . . I don't know whether or not the end result will be lower prices to consumers."

Meanwhile, Congress, too, is trying to figure out explanations for food prices and food producers' profits during the economic slump of 1973 to mid-'75. In the words of Sen. George McGovern, D-S.D., chairman of the Senate Committee on Nutrition and Human Needs, "Clearly, there is an urgent need to collect from industry and share with the public the information which explains where the food dollar is going."

Perhaps a new food marketing commission with power to get to the bottom of the issue is needed to get our answers. Or perhaps you will force the explanations on your own, by eliminating as much as you can the costly "middle" packaging, handling, transporting, etc. That's really what you are doing when you patronize farmers' markets, shop at local co-ops, form buying clubs, etc. You're tackling the middleman head on, daring him to come out in the open and answer you.

By Mr. STONE:

S. 2803. A bill to amend the Immigration and Nationality Act to provide for the refusal of nonimmigrant visas in certain instances. Referred to the Committee on the Judiciary.

Mr. STONE. Mr. President, I am today introducing a bill to amend the Immigration and Nationality Act to provide for the refusal of nonimmigrant visas in certain instances. Specifically, the Secretary of State would be directed to deny nonimmigrant visas to citizens of governments which discriminate against U.S. citizens in the issuance of nonimmigrant visas on the basis of race, color, sex, or national origin. Accredited diplomats, members of their immediate families, attendants, servants, and their personal employees would receive visas, as would individual applicants for whom the President has waived these stipulations in the national interest.

The need for this legislation is becoming increasingly urgent, as exempliefid by recent breakdowns in projects in which U.S. universities were working in conjunction with other nations. Two instances were cited in news reports earlier last month. In both cases, joint projects by U.S. universities and the Saudi Arabian Government broke down because of the United States refusal to yield to the Saudi Government's discriminatory practices in the issuance of nonimmigrant visas to Jewish American citizens. Under present law, the United States is handicapped in working with nations such as Saudi Arabia because of religious discrimination against American participants.

If we are to deal with this situation effectively, we must deal with governments on our terms as well as on their terms. In refusing to issue visas to individuals whose governments discriminate against U.S. citizens, we would demonstrate our resolve that all countries that conduct business in the United States or which use American technology and personnel, shall do so in a nondiscriminatory manner.

A companion bill, H.R. 8075, has been introduced to the House of Representatives by Congressman FISH and cosponsored by approximately 12 of his colleagues. This bill is presently before the House Judiciary Subcommittee of Immigration and Naturalization.

By Mr. DOLE:

S. 2805. A bill to permit any person otherwise eligible to become a naturalized citizen during calendar year 1977 to become a naturalized citizen during calendar year 1976. Referred to the Committee on the Judiciary.

Mr. DOLE. Mr. President, I am introducing today a bill which, if enacted, would waive the final year of residency required for those immigrants eligible for naturalization in 1977, thus permitting them to obtain their U.S. citizenship during our Nation's Bicentennial year—1976.

In the last 50 years of this country's development, the native-born have become an overwhelming percentage of our population. As a result, we have tended to overlook and deemphasize our great immigrant heritage—to forget that immigrants or the sons and daughters of immigrants colonized the United States of America; won its independence from foreign control; settled its 3.6 million square miles; and built its unsurpassed agricultural and industrial strength.

In our justifiable concern over current national problems and priorities, we have often lost perspective as to how the United States—and what it stands for—is viewed from the outside. The size, scope, and activism of the media in America assures that our difficulties are the most widely publicized in the world; yet nothing has discouraged those abroad from wishing to enter this country.

We are all aware that the INS denies admission to thousands of potential immigrant aliens annually because no permanent visa numbers are available. The obvious reason for this heavy desire to come to our shores is that no matter how challenging our problems might seem when weighed, as they should be, against our own high standards, they appear much less imposing to the people of many other lands who must deal daily with such basic wants as health, nutrition, and economic opportunity.

So as a tribute to those who have helped make our Nation what it is today, I think we owe a special recognition to the naturalization process in 1976. In order to provide that recognition, it is only appropriate, I believe, that we extend the gesture of gratitude and incentive which I am proposing with respect to our established citizenship standards.

While the practical effect of the modification which my bill contemplates would be to double the number of petitions submitted to the Immigration and Naturalization Service during the coming year, it is my feeling that any adjustments or sacrifices necessary to overcome administrative burdens would be especially worthwhile and well made. In the spirit of our 200-year history, such traditional demonstrations of extra effort on the part of our public servants and court officials would be more than compensated by the deep sense of appreciation, satisfaction, and patriotic dedication among our new Bicentennial citizenry.

The best estimates available indicate that since 132,000 citizens were naturalized in fiscal year 1974 and 142,000 in fiscal year 1975, we could expect in round figures a total of some 300,000 applications to be processed in calendar year 1976 should the minor waiver I am suggesting be approved. That is not, in my view, an overwhelming number and one which could certainly be met if adequate planning and promotion can be accomplished.

Many ceremonies and celebrations will mark our Bicentennial year, Mr. President, but perhaps none will be a more direct testimony to the strength and vitality of this country than the naturalization ceremonies scheduled to occur. Those who carry a 1976 date on their citizenship certificates will always hold that symbolic year in special high regard, and it is to enhance its meaning for all of us that I offer this measure to the 94th Congress.

By Mr. RANDOLPH (for himself, Mr. CRANSTON, Mr. WILLIAMS, Mr. PELL, Mr. KENNEDY, Mr. HATHAWAY, Mr. STAFFORD, Mr. TAFT, Mr. SCHWEIKER, and Mr. JAVITS):

S. 2807. A bill to amend the Rehabilitation Act of 1973 to extend the authorization of appropriations contained in such act. Referred to the Committee on Labor and Public Welfare.

Mr. RANDOLPH. Mr. President, as chairman of the Senate Subcommittee on the Handicapped, I am introducing on behalf of Senators CRANSTON, WILLIAMS, PELL, KENNEDY, HATHAWAY, STAFFORD, JAVITS, TAFT, SCHWEIKER, and myself, a measure which would extend the Rehabilitation Act of 1973 for 1 addi-

tional year, through fiscal year 1977. This act, as amended, expires June 30, 1976. Recently, the House Subcommittee on Select Education and the Senate Subcommittee on the Handicapped held 2 days of joint hearings on extension legislation. Witnesses at those hearings testified in favor of a 1- to 3-year extension of the existing act, with more in-depth hearings to be held early next year on substantive issues and possible amendments.

In the meantime, we must act quickly. As Senators know, the authorizations for grants to the States under this act must be matched by each State if it desires to receive Federal funds for rehabilitation programs. In order to commit the funds to meet its 20 percent of a grant, a State needs to know the amount of available Federal funds. Many State legislatures meet in January. Approval of legislation in a timely manner to authorize appropriations for the vocational rehabilitation program will enable the State legislatures to plan for the required amounts of matching funds.

At the recent hearings, there were organizations that testified in favor of a 2- or 3-year extension of the Rehabilitation Act. The House subsequently passed a 2-year bill. The measure which I introduce calls for a 1-year extension at current funding levels authorized to be appropriated for fiscal year 1976. This approach is taken, in part, because a commitment was made by the Subcommittee on the Handicapped—at the time of the last amendments to the act—to explore the possibility of a different formula for the grants to the States. More importantly, as I mentioned earlier, all witnesses at the hearings requested an additional hearing early in 1976 to discuss other problems and long-term amendments to the act. Having given these matters considerable attention and discussion, our subcommittee generally believes that a 1-year extension would enable the members to meet the commitment I have noted and to give attention to a review of the program. The latter objective is desired by most organizations representing handicapped Americans. The members of our subcommittee and the full Committee on Labor and Public Welfare are in agreement that thorough oversight hearings on the implementation of rehabilitation legislation are urgently needed.

It should be stressed also that a simple extension enable us also to begin a conference with the House at the earliest possible time to resolve the differences between this bill and the House bill that contains a higher funding for the basic grant program, longer extension time, and different amounts for other rehabilitation programs.

Finally, it is our hope that after extensive discussions during the oversight hearings, we will develop legislation that will strengthen the rehabilitation program, resolve differences over issues and will insure a sizable increase in funding, possibly beginning in fiscal year 1977. It is my intention to begin these hearings early next year hopefully during the latter part of January so that we can move forward with comprehensive legislation in an expeditious fashion. The Labor and Public Welfare Committee is reporting a waiver resolution to the Budget Act for the purpose of considering the provisions of the bill I am introducing.

Mr. President, I express deep appreciation to the cosponsors of this legislation and to all members of our committee for their cooperation, particularly during the past several days of extensive discussions on this subject of rehabilitation programs. The very able ranking minority member of our subcommittee, Senator STAFFORD joins in this expression of thanks. He has worked diligently on this vital matter. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2807

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 "Rehabilitation Act Extension of 1975"

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL REHABILITATION SERVICES

SEC. 2. (a)(1) Section 100(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(b)(1)), as amended (hereinafter in this Act referred to as the "Act"), is amended by striking out "and" immediately after "1975," and by inserting imediately before the period at the end thereof ", and $720,000,000 for the fiscal year ending September 30, 1977".

(2) Section 100(b)(2) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and $42,000,000 for the fiscal year ending September 30, 1977".

(b) Section 112(a) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and up to $2,500,000 but no less than $1,000,000 for the fiscal year ending September 30, 1977".

(c) Section 121(b) of the Act is amended by striking out "June 30, 1977" and by inserting in lieu thereof "September 30, 1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND TRAINING

SEC. 3. (a) Section 201(a)(1) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and $32,000,000 for the fiscal year ending September 30, 1977".

(b) Section 201(a)(2) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and $32,000,000 for the fiscal year ending September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 4.(a) Section 301(a) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and September 30, 1977".

(b) Section 301(a) of the Act is further amended by striking out "July 1, 1978" and by inserting in lieu thereof "October 1, 1979".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 5. Section 302(a) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 6. Section 304(a)(1) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and $20,000,000 for the fiscal year ending September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 7. Section 305(a) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAMS AND PROJECT EVALUATIONS

SEC. 8. Section 403 of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SECRETARIAL RESPONSIBILITIES

SEC. 9. Section 405(d) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and $600,000 for the fiscal year ending September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 10. Section 502(h) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and $1,500,000 for the fiscal year ending September 30, 1977".

By Mr. THURMOND:

S. 2808. A bill to amend the Agricultural Act of 1949, as amended, to require a loan program for the 1975 through 1977 crops of soybeans. Referred to the Committee on Agriculture and Forestry.

Mr. THURMOND. Mr. President, I am today introducing legislation to require that the Secretary of Agriculture reinstate a Commodity Credit Corporation nonrecourse loan program on soybeans.

CCC loan programs have previously been made available to soybean producers, just as they are still available to the producers of cotton, wheat, corn, other feed grains, and a number of other commodities. However, on November 27, 1974, the Secretary of Agriculture suspended the CCC nonrecourse loan program for soybeans. At that time the price of soybeans was over $8 per bushel and farmers had little need or desire to put their crop in storage.

Today, the situation is markedly different for the average soybean grower. Soybean prices have declined drastically, to the point where prices received often do not cover production costs. As we all know, farm production costs have greatly increased in the last few years, with the prices farmers have to pay for fuel and fertilizer having doubled and tripled. How can we expect farmers to continue to produce food for this Nation and much of the rest of the world if they are not given some relief from this tightening cost-price squeeze?

According to this morning's Washington Post, soybean futures prices on the Chicago Board of Trade rallied slightly yesterday after declining again on Mon-

day. Contracts for delivery in January, 1976, closed at a price of $4.55 per bushel. Actual market prices in South Carolina are 20 to 30 cents lower, with some farmers reporting prices as low as $3.85 per bushel. There is just no way that farmers can stay in business at such low prices, especially if they have no realistic opportunity to store their crop until prices improve.

Mr. President, the bill I am introducing offers no profit guarantee to soybean farmers. However, I do feel its early enactment will have a favorable psychological impact on soybean markets. Most important, it will give the average farmer the means to hold his crop until prices advance later in the season, while receiving a significant portion of the value of his crop as a nonrecourse loan.

The bill has language similar to the soybean loan provision of the emergency price supports farm bill, disapproved by the President earlier this year. It requires the Secretary of Agriculture to make available CCC soybean loans on the 1975 through 1977 crops at such levels as reflect the historical average relationship of soybean support levels to corn support levels during the 3 years immediately preceding the year for which the support level for soybeans is established. Under this formula, the average loan level for No. 1 grade soybeans would be about $3.94 per bushel.

Mr. President, earlier this year I asked the Secretary of Agriculture and other USDA officials to reinstate the soybean loan program and do everything possible to expand foreign marketings of soybeans. I ask unanimous consent that the USDA replies to these requests be printed in the RECORD at the conclusion of my remarks, together with the bill itself.

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

Mr. THURMOND. Mr. President, since this bill would reestablish a loan program, I do not feel its enactment would be costly to the Government. Historically, the overwhelming majority of farmers who place their commodities in loan and storage programs have later repaid their loans, with interest, and sold their commodities at then higher market prices. This is the manner in which CCC grain loan programs have worked in the past, and, I might add, they have generally worked very well.

The average soybean producer typically does not have sufficient onfarm grain storage facilities. Furthermore, he often must sell his crop immediately after harvest to pay outstanding debts incurred in the production of that soybean crop. As a result, he has little choice but to accept the presently very low market price for soybeans. Reinstating the CCC loan program for soybeans will give farmers an opportunity to store all or some of their crop until prices improve, while making some funds available for immediate needs.

Soybean farmers have responded to the urgings of their Department of Agriculture to step up production. The 1975 soybean crop ranks as a close second to the 1973 crop as the largest ever. Worldwide demand for soybeans and soy products is still good, although not as strong as in previous years. Competing oil products—such as Malaysian palm oil, anchovies, sunflowers, and peanuts—are abundant this year. Brazil has greatly increased its exports of soybeans, thus becoming a major competitor to the United States in a world market where we have long reigned supreme.

All of these supply-demand factors have together resulted in soybean growers receiving only about half as much per bushel for soybeans in late fall 1975 as compared to 1974. If farmers continue to be forced to take a loss on their soybean crop, not only might their already precarious financial situations be jeopardized, but they will probably be forced to shift to alternative crops next year.

I suggest that long-run domestic and world needs for soybean protein and oil products do merit near-maximum production of soybeans by U.S. farmers. It will be unfortunate if the lack of a CCC loan-storage program on soybeans during this period of low prices causes too great a shift away from soybean production. This would be highly unfavorable for domestic livestock farmers, as well as for those countries throughout the world who buy or might want to buy U.S. soybeans. I believe reestablishing a CCC loan program for soybeans will help stabilize market prices and soybean production in the future. Thus, I urge that this bill be promptly and favorably considered.

S. 2808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title I of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof a new section as follows:

"SEC. 108. The Secretary shall make available to producers loans and purchases on the 1975 through 1977 crops of soybeans at such levels as reflects the historical average relationship of soybean support levels to corn support levels during the three years immediately preceding the year for which the support level for soybeans is established.".

DEPARTMENT OF AGRICULTURE,
Washington, D.C., December 11, 1975.

Hon. STROM THURMOND,
U.S. Senate.

DEAR SENATOR THURMOND: This is in response to your letter of November 20 concerning reinstatement of the Soybean Loan and Purchase Program. This will also respond to your letters to Secretary Butz and Messrs. Feltner, Foltz and Frick.

At the time of our decision to terminate the soybean loan program, prices were strong, farmers were making very little use of the loan program, and prospects were very favorable for continued strong foreign and domestic demand. It was concluded that a loan program was not needed and that terminating the program would have little effect on prices or the farmers' decision to produce soybeans. Further, it was concluded that adequate interim financing was available through local financial institutions on terms comparable with those offered through the loan program. The decision was also in keeping with our policy of less government interference in agriculture and more reliance on the marketplace.

The supply-demand and price situation for soybeans has not changed substantially since our decision to terminate the program. It is true that prices have declined from the record levels we experienced in 1972–73 when there was a shortage of fishmeal and the demand for soybean meal expanded rapidly. Current prices, while on a downward trend, are still almost double the previous loan rate.

The recent decline in soybean prices is viewed as a temporary situation due to the large supply relative to demand. This year's soybean crop almost reached the level of the record 1973 crop. Most farmers experienced ideal weather and crop conditions which led to rapid harvest and created a temporary market glut. We believe this situation will correct itself as the season progresses and prices will begin to recover. The long term outlook for soybeans is favorable. Foreign demand is expected to continue strong with some increase in soybean meal use likely as a result of a possible shortfall in Peruvian fishmeal. Livestock feeding in the U.S. is on an upward trend and demand for grains and concentrates is likely to increase.

The Government has disposed of its storage facilities and at this time does not plan on reestablishing a government-owned storage program. Loans are available to farmers for the construction of grain storage facilities. Anyone interested should contact their county ASCS office. Farmers should be encouraged to arrange for interim financing and storage at the local areas of production.

Many more farmers are utilizing the facility loan program this year than last. Nationally during the July-October 1975 period, farmers obtained loans amounting to more than $26 million to construct farm storage with a capacity of more than 31 million bushels. Last year for the same period, loans were about half this level. We expect at least 60 million bushels to be added to farm storage capacity for the full 12 months of the program. In South Carolina, 73 loans for nearly $340,000 were made during the four-month period this year. This also was about double last year's activity.

The latest figures on soybean exports show that inspections are nearly 35 percent greater this marketing year than last. This bears out our appraisal of strong export demand for soybeans this year which we expect to continue, with soybean exports larger this year than last. We will continually watch the supply-demand and price situation for soybeans. If the situation warrants, consideration will be given to reinstatement of the loan program.

Sincerely,

RICHARD E. BELL,
Assistant Secretary.

U.S. DEPARTMENT OF AGRICULTURE,
Washington, D.C., December 8, 1975.

Hon. STROM THURMOND,
U.S. Senate

DEAR SENATOR THURMOND: Thank you for your letter of November 13 to Deputy Under Secretary John C. Foltz on behalf of Mr. Harold Ingram, Jefferson, South Carolina, regarding soybean prices and market expansion.

We assure you the Department of Agriculture is quite concerned about the decline in the market price of soybeans and farmers' reaction to the handling of sales to the Soviet Union. The weakness in the market price is caused by a number of factors. Brazilian soybeans and Malaysian palm oil are causing overseas markets to become increasingly competitive. The decreased demand for soybean meal and oil overseas is the result of unemployment, reduced income, previous high prices for fats and oils, and slower population growth which has reduced consumption of edible oils and meat. Another factor is the unusual rapid harvest of the large, good quality crop.

The temporary ban on soybean exports to the Soviet Union was a move to set a cooperative atmosphere for the United States to work towards a long term grain trade

agreement. The recently signed agreement should reduce the uncertainty that resulted from the past erratic pattern of Soviet purchases by providing the Department with viable information on the size of foreign demand. Enclosed is a fact sheet giving highlights of the Grain Trade Agreement with the Soviet Union.

This year's production plus last year's carryover will yield a record supply of soybeans of 1,706 million bushels. Since farmers must export about 50 percent of their soybean crops, the Foreign Agricultural Service (FAS), is working to find overseas markets for this year's record supply of soybeans and products (soybean oil, meal and soy protein) and to offset increasing competition in those markets.

To expand exports of U.S. soybeans and products, FAS is working in close contact with the American Soybean Association (ASA), in conducting an aggressive market development program. In FY 1976, approximately $5.3 million will be contributed by ASA, FAS, and foreign cooperators to promote soybeans and products overseas. The ASA has six offices overseas which conduct worldwide activities for soybean products. After analyzing market development opportunities, promotional campaigns are initiated in areas where it is believed export expansion can achieve the best results. Also, current FAS/ASA promotional activities are being expanded in West and East European countries. In addition, a new program emphasizing soybean meal in feed rations will be initiated in the Middle East this fiscal year.

Two government-industry teams will go abroad in January to encourage sales of soybean oil. The teams will discuss the use of Commodity Credit Corporation credit for soybean oil in an effort to create additional interest in purchases. Other possible aids to increased oil exports are under active consideration.

We hope this information will prove to be helpful.

Sincerely,

DAVID L. HUME,
Administrator.

By Mr. BEALL (for himself and Mr. MATHIAS):

S. 2809. A bill to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such act. Referred to the Committee on Labor and Public Welfare.

Mr. BEALL. Mr. President, today I am introducing a 2-year extension of the Rehabilitation Act, the identical bill to that introduced and passed by the House of Representatives on December 15, 1975.

The basic reason for a 2-year extension is the fact that our States have only been operating under the new regulations and the new law for 1 year, hardly enough time to adjust to the new requirements. In addition, I feel that the full implications of the changes in the Rehabilitation Act have not been felt at this time. It seems, then, that a 1-year extension gives the States little to work with, particularly with regard to planning for future programs and establishing long-range goals.

The hearings held by the Senate Subcommittee on the Handicapped and the House Education and Labor Subcommittee evidence the fact that those involved with the rehabilitation programs feel the need for at least a 2-year extension. This longer extension is needed to insure program stability in the State-Federal vocational rehabilitation programs and to provide continued quality services to the millions of disabled Americans who are in desperate need of help. I would point out that the administration also requested and urged a 2-year extension, reflecting their belief that the programs funded under the act are making a significant contribution toward helping handicapped individuals acquire the skills and ability necessary to lead productive lives.

Unless Congress moves promptly to enact extension legislation, it will be impossible for States to maintain the continuity of funding which is so essential to the operation of a major social program. The House has already agreed to a 2-year extension, and, as previously mentioned, the administration supports such an extension. I feel that we must act quickly in this matter, and I also feel that we should be attentive to the needs of those in the field who are trying to provide these services. The programs have proved to be a highly effective investment of Federal funds, and have helped thousands of our handicapped citizens.

One of the major arguments I hear against a 2-year extension is the belief by some that an earlier review of the program is needed. I have no objection to early oversight of the vocational rehabilitation program and if such hearings demonstrate the need for amendments, there is nothing to stop us from enacting legislation making those changes next year, even if we provide the 2-year extension at this time.

The overwhelming requests by consumers and providers is for a 2-year extension. I do not feel that we should ignore these requests, and I hope that the Senate will take quick action on this bill.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 388

At the request of Mr. CHURCH, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 388, a bill to amend titles II, VII, XVI, XVII, and XIX of the Social Security Act to provide for the administration of the old-age, survivors, and disability insurance program, the supplemental security income program, and the medicare program by a newly established independent Social Security Administration, to separate social security trust fund items from the general Federal budget, to prohibit the mailing of certain notices with social security and supplemental security income benefit checks, and for other purposes.

S. 2020

At the request of Mr. RIBICOFF, the Senator from New Hampshire (Mr. McINTYRE) was added as a cosponsor of S. 2020, a bill to provide medicare coverage for optometric services.

S. 2548

At the request of Mr. CRANSTON, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2548, a bill to revise and extend the authorizations of appropriations in provisions of title XII of the Public Health Service Act relating to emergency medical services systems, and for other purposes.

S. 2732

At the request of Mr. ROTH, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2732, to amend the Internal Revenue Code of 1954 to permit an individual to deduct amounts paid by that individual for retirement savings for the benefit of his spouse.

S. 2740

At the request of Mr. BROCK, the Senators from Kentucky (Mr. FORD and Mr. HUDDLESTON) were added as cosponsors of S. 2740, a bill entitled the "Tennessee Valley Citizen Review Act of 1975."

S. 2741

At the request of Mr. MONDALE, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 2741, a bill to establish a series of six regional Presidential primaries at which the public may express its preference for the nomination on an individual for election to the Office of President of the United States.

S. 2791

At the request of Mr. ROTH, the Senator from Pennsylvania (Mr. SCOTT) was added as a cosponsor of S. 2791, a bill to require approval by the Director of the Office of Management and Budget of the use of new or revised forms by the Internal Revenue Service.

S. RES. 319

At the request of Mr. CURTIS, the Senator from Nebraska (Mr. HRUSKA) was added as a cosponsor of Senate Resolution 319, relating to the occupation of certain Baltic nations by the Soviet Union.

S.J. RES. 147

At the request of Mr. RANDOLPH, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of Senate Joint Resolution 147, calling upon the President to designate 1976 as National Bicentennial Highway Safety Year.

S.J. RES. 148

At the request of Mr. BROCK, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of Senate Joint Resolution 148, a joint resolution to clarify and reaffirm Government purchasing policies.

S. CON. RES. 66

At the request of Mr. HATFIELD, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Concurrent Resolution 66, declaring as national policy the right to food.

SENATE RESOLUTION 332—ORIGINAL RESOLUTION REPORTED PROVIDING A WAIVER UNDER THE CONGRESSIONAL BUDGET ACT

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH, from the Committee on Labor and Public Welfare, reported the following resolution:

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of the provisions of the "Rehabilitation Act Extension of 1975" (S. 2807). Such waiver, with respect to so much of such provisions as would provide new budget authority, and new spending authority under section 401(c)(2)(C) of the Congressional Budget Act of 1964, for fiscal year 1977 prior to adoption of the first concurrent resolution on the budget for such year (by extending the State allotment formula in the Rehabilitation Act of 1973 (Public Law 93-112), as amended, through fiscal year 1977 to be determined, pursuant to section 110 of such Act, based on a nationwide allocation level equal to the amount authorized to be appropriated for making grants to the States for basic vocational rehabilitation services), is necessary because the authorization of appropriations in the Rehabilitation Act of 1973, as amended, for the State grant vocational rehabilitation program, on which authorization level the State-by-State allocation formula is based, expires on June 30, 1976. The twenty-per-centum matching requirement for such allotments to States is determined on the basis of funding decisions by State legislatures which generally meet and adjourn prior to May 15, the date by which the first concurrent resolution on the budget must be adopted under the Congressional Budget Act of 1974. During such sessions of State legislatures, commitments are made to provide each State's share, on the basis of which the Federal eighty-per-centum allotment is then paid to each State with an approved State plan. If legislation authorizing a nationwide allotment level for the program for fiscal year 1977 is not enacted at an early date, many State legislatures will be unable to authorize the funds needed for vocational rehabilitation programs for such year.

Further, the authorization of appropriations and the nationwide allotment level for fiscal year 1977 for State grants for basic vocational rehabilitation services in the provisions of the "Rehabilitation Act Extension of 1975" (S. 2807) would not increase the currently authorized and Congressionally-approved program level for fiscal year 1976 but would maintain continuity in the vocational rehabilitation program and permits the States to continue such programs at reasonable levels.

For the foregoing reasons, pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of H.R. 11045, the Rehabilitation Act Amendments of 1975, but only for purposes of consideration of an amendment, incorporating the provisions of S. 2807, in the nature of a substitute for the text of H.R. 11045.

REPORTING OF A RESOLUTION PROVIDING WAIVER UNDER SECTION 303(a) OF CONGRESSIONAL BUDGET ACT OF 1974, FOR CONSIDERATION OF PROVISIONS OF SUCH BILL

Mr. RANDOLPH. Mr. President, as chairman of the Senate Subcommittee on the Handicapped of the Committee on Labor and Public Welfare, I am reporting from the Committee on Labor and Public Welfare, a Senate resolution to provide a waiver, pursuant to section 303(a) of the Congressional Budget Act of 1974, as it would apply to consideration by the Senate of a simple 1-year extension of the State grant program for providing vocational rehabilitation services to handicapped individuals under title I of the Rehabilitation Act of 1973—Public Law 93-112—as amended by Public Law 93-516. Section 303(a) of the Budget Act provides that—

It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which provides . . . new budget authority for a fiscal year . . . until the first concurrent resolution on the budget for such year has been agreed to . . . .

Such concurrent resolution must be agreed to by May 15 of each year.

With the cosponsorship of 10 of the 16 members of the Committee on Labor and Public Welfare, including the chairman, Mr. WILLIAMS and ranking minority member, Mr. JAVITS, and the ranking minority member of the subcommittee, Mr. STAFFORD, I introduced earlier today S. 2807, a measure to extend for 1 fiscal year, through fiscal year 1977, all of the authorizations of appropriations in the Rehabilitation Act of 1973, including the authorization of appropriations and the allotment level for the basic State grant program. The authorization levels in our bill are the same as those in current law for fiscal year 1976.

Mr. President, a waiver is necessary to permit Senate consideration of legislation proposing such a simple extension, because the allotments paid to States for providing basic vocational rehabilitation services under the Rehabilitation Act of 1973, as amended, are in the nature of entitlements under the formula and State plan provisions in that act. As I indicated in my earlier remarks, the total level available for such State grants is, under section 110 of that act, the amount authorized to be appropriated—$720 million for fiscal year 1976. Once the State plan of a State is approved, then if that State commits itself to provide its 20-percent matching share, it becomes entitled to the 80-percent Federal grant. Thus, under section 303(a) of the Congressional Budget Act, authority to carry out this program in fiscal year 1977 constitutes the provision of new budget authority as well as new spending authority under section 401(c)(2)(C) of that act, for that fiscal year, thereby necessitating the waiver we are seeking in order to take up the simple 1-year extension at this time.

Mr. President, during the conference on the Rehabilitation Act of 1973, the conferees were advised regarding this entitlement aspect of the basic State grant program by the American Law Division of the Congressional Research Service of the Library of Congress. Mr. President, the written opinion on this subject, dated September 21, 1973, was printed in the CONGRESSIONAL RECORD on November 7, 1973, by the Senator from California (Mr. CRANSTON)—page 36168—and reprinted by the Labor and Public Welfare Committee as part of appendix D to the hearings on the Rehabilitation Act Amendments of 1974, now Public Law 93-516. For ease of reference, Mr. President, I ask unanimous consent that this opinion and Mr. CRANSTON's remarks on it be printed in the RECORD at the conclusion of my remarks.

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

Mr. RANDOLPH. Mr. President, the Appropriations Committees and the Congress have treated these grants to the States under the Rehabilitation Act of 1973 as an entitlement, having provided full funding for this program.

In my comments on S. 2807, I stressed that in order for each State to know how much money it must put up to meet its 20 percent matching requirement in order to earn its full 80 percent Federal fund entitlement, the total Federal allocation level must be known. As my colleagues are aware, most State legislatures meet in January, and some meet for only 60 days or so. Thus, Mr. President, the States must know in the very near future exactly how much they can expect to receive in Federal grants for the basic State grant program under title I of the Rehabilitation Act.

This makes it necessary for us to request a waiver, pursuant to section 303(a) of the Congressional Budget Act, so that the Senate can consider this extension now rather than having to wait until the first concurrent resolution is agreed to, on or about May 15. Obviously, waiting until after May 15 to take this action would be too late for many States to make their commitments for matching their Federal grant entitlements.

Mr. President, it should be emphasized that delay until after May 15 to extend the basic State grant program would be disastrous. We must provide the States at an early date with certainty as to their fiscal year 1977 grant levels.

Mr. President, I want to outline clearly what the members of our subcommittee and full Committee on Labor and Public Welfare understand will transpire procedurally at this point. S. 2807 has been referred to the Labor and Public Welfare Committee. The waiver resolution reported from the Labor and Public Welfare Committee will now be referred to the Budget Committee. I will ask my good friend, the very chairman of that committee, Mr. MUSKIE, to attempt to secure the most rapid action on that resolution. Hopefully, that resolution will be favorably reported back to the Senate in a day or so, and the Senate will adopt it.

Then, it is our plan to ask the Senate to take up the bill, H.R. 11045, passed by the House on Monday, providing for a 2-year extension with increased basic State grant program levels. But we plan to move adoption of a substitute amendment incorporating the provisions of S. 2807, providing for a simple 1-year extension, in lieu of the House text. The waiver resolution reported by the Labor and Public Welfare Committee provides for a waiver to permit consideration of the House bill but only for purposes of considering this substitute amendment.

As I stressed in remarks on S. 2807, our position at this point is that a 1-year extension is what is necessary now both to provide sufficient certainty to the States and to allow a full and effective opportunity for the Subcommittee on the Handicapped to study carefully exactly how the existing programs under the Rehabilitation Act are being carried out and whether the statutory purposes,

policies, and directives are being fully complied with.

To do this, Mr. President, early next Congress, it is my intention to open in-depth oversight hearings to develop the basis for committee action to extend and revise, where necessary, the program and the authorizations of appropriations under the Rehabilitation Act of 1973 beyond fiscal year 1977.

Mr. President, I hope that my colleagues will agree to this waiver and the amendment to the House bill we will propose in order that the States may commit the necessary funds to continue a vitally needed program.

[Excerpt from the CONGRESSIONAL RECORD of November 7, 1973]

VOCATIONAL REHABILITATION FUNDING: A LEGALLY ENFORCEABLE ENTITLEMENT

Mr. CRANSTON. Mr. President, on September 26, 1973, the President signed into law, as Public Law 93-112, the Rehabilitation Act of 1973, which I was privileged to manage through committee, Senate floor, and conference committee consideration. The provisions in that act—in section 110—for funding the basic vocational rehabilitation State grant programs are essentially the same as those in section 2 of the Vocational Rehabilitation Act, which the new law superseded.

Mr. President, in the course of the meeting of the conferees on this legislation during September of this year, there was considerable discussion with respect to the legal effect of the statutory language to govern the allotment of funds to each State under the basic program, both in terms of the language in the applicable provisions in the House-passed version and in compromise language proposed as a substitute for that language by Senate conferees.

In order to attempt to resolve these questions, the conferees directed that committee staff submit to the Congressional Research Service of the Library of Congress the following two questions:

First. What is the extent of the entitlement vested in the states to an allotment of funds for vocational rehabilitation services, both under existing law and under proposed amendments to the law?

Second. To what extent would the states be entitled to funding under the law, either if the Secretary of Labor refused to execute the program to the full extent authorized by Congress, or if Congress failed to appropriate for expenditure the full amount authorized to be allotted?

Mr. President, these questions were addressed in a very interesting and thorough manner by the American Law Division of Congressional Research Service in a September 21, 1973, memorandum prepared in response to our request. That memo concluded on page 3 as follows:

"These provisions indicate that the Vocational Rehabilitation Act contemplates a two-stage appropriations process: first, allotment, on which states base their program plans; and second, approval of plans, giving rise to an obligation on the part of the United States to pay the federal share."

The memorandum goes on, Mr. President, to state on page 9:

"Summarizing, with respect to the allotment provisions, it may be stated that the existing Vocational Rehabilitation Act demonstrates the clear intent of Congress that the full amount authorized be allotted among the states. Based upon the still incomplete line of 'impoundment' cases, the language of the Act has adequately translated that intent into a binding legal mandate that the funds be allotted. The proposed compromise amendment, although raising several questions, would also appear to provide for the full allotment if a court construing it can determine a clear congressional intent to that effect. It should be pointed out that the proposed compromise was eventually rejected in favor of single, precise authorization figures agreeable to both the House and Senate, so that the bill finally enacted closely resembled the provisions in the existing Act. If signed into law, the new Rehabilitation Act of 1973 also appears to provide for a legal mandate for full allocation."

And on pages 12 and 13, the memorandum further states:

"The statutory scheme established by the Vocational Rehabilitation Act, and subsequent amendments, provides for approval of plans submitted by states, which approval is apparently intended to give rise to an obligation on the part of the United States. If it does, then litigation would arguably be authorized to require the United States to meet the obligation.

"The crucial questions, then, are whether approval of state plans under the Vocational Rehabilitation Act actually does give rise to a contractual obligation on the part of the United States, and whether the Secretary is granted 'complete and unrestricted' authority to enter such a contract.

"Regarding the first question, it is suggested that pursuant to 31 U.S.C. sec. 200(a)(5) (see *Supra*), approval of a state plan under the Vocational Rehabilitation Act gives rise to a contractual obligation on the part of the Government.

"It may then be argued that the Secretary not only has complete and unrestricted authority to enter a contractual obligation on the part of the United States, he is virtually mandated to do so by the terms of the Vocational Rehabilitation Act. He *shall* approve eligible state plans, and he *shall* pay. Therefore, it would follow that a state, having received approval for its submitted plans, would gain an enforceable right to funding under the Vocational Rehabilitation Act even if Congress declined to appropriate the full amount alloted or authorized."

Mr. President, I should note that the substance of this memorandum was communicated to the conference committee on September 10, 1972, in connection with our deliberations on this legislation and our resolution of the major question of the provisions regarding allotment of funds, by Legislative Attorney Stuart E. Glass of the American Law Division. Thus, the conferees were very well aware of the interpretation set forth in Mr. Glass' memorandum.

Mr. President, I want to thank Mr. Glass and the American Law Division for their care and thoroughness in preparing this memorandum, and I ask unanimous consent that the full text of the September 21, 1973, memorandum, be set forth in the RECORD at this point.

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

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., September 21, 1973.

To: Honorable Alan M. Cranston.
Attention: Mr. Jon Steinberg.
From: American Law Division.
Subject: Legal Effect of Entitlement Provisions Regarding Allotment of Vocational Rehabilitation Funds to States.

On September 10, 1973, pursuant to your request of September 7, I appeared before the House and Senate Conference Committee on H.R. 8070, the Rehabilitation Act of 1973, to discuss the legal effect of certain provisions of that bill, and in the existing law, the Vocational Rehabilitation Act, codified at 29 U.S.C. secs. 31-42b (1970). The questions presented were, basically, two: first, what is the extent of the entitlement vested in the states to an allotment of funds for vocational rehabilitation services, both under existing law and under proposed amendments to the law?; and second, to what extent would the states be entitled to funding under the law, either if the Secretary of H.E.W. refused to execute the program to the full extent authorized by Congress, or if Congress failed to appropriate for expenditure the full amount authorized to be allotted?

To answer either question requires a background understanding of the appropriations process envisioned by the Vocational Rehabilitation Act. The process is a relatively new one, designed to limit the appropriations prerogatives of Congress by authorizing an administrative official to enter the United States into financial obligations, which Congress is pressed to cover by appropriating funds. Briefly stated, the appropriations scheme operates as follows: Funds are authorized to be allotted among the states, according to a statutorily specified formula. The allotment to each state constitutes a figure on which that state bases its plans for the statutory program, be it vocational rehabilitation, federal-aid highways, or water pollution control. Final approval of these plans by the executive official authorized by statute to administer the program is meant to signify that the states may begin effectuating their plans, and to bind the United States contractually for its proportional share of the costs. Only after these costs come due does any necessity arise for Congress to appropriate funds to make payment, but by this time, the moral obligation to appropriate exerts the highest pressure.

In recent court decisions on the so-called "impoundment" issue, regarding whether an administrative officer is required by statute to allot or expend congressionally appropriated funds, courts have acknowledged that where a two-stage appropriations process is found to exist, allotment itself does not give rise to an obligation on the part of the United States to spend money. (See, e.g., *City of New York* v. *Ruckelshaus*, *infra*.)

The existing Vocational Rehabilitation Act, Sec. 2(a) [29 U.S.C. sec. 32(a) (1970)], provides that, "for each fiscal year each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated . . ." Sec. 2(b) of the Act further provides that "For each fiscal year the Secretary [of H.E.W.] *shall pay* to each State an amount equal to the Federal share . . . of the cost of vocational rehabilitation services under the plan of such State approved under section 5. . . ." [29 U.S.C. sec. 32(b) (1970)] [Emphasis added.] Criteria for approval of state plans are contained in Sec. 5(a) of the Act [29 U.S.C. sec. 35(a) (1970)], and Sec. 5(b) [29 U.S.C. sec. 35(b) (1970)], provides that, "The Secretary *shall approve* any plan which the Secretary finds fulfills the conditions specified in subsection (a) of this section." [Emphasis added.] The amount authorized to be appropriated, upon which the allotments to the states are based, appears in Sec. 1(b)(1) [29 U.S.C. sec. 31(b)(1) (1970)].

These provisions indicate that the Vocational Rehabilitation Act contemplates a two-stage appropriations process; first, allotment, on which states base their program plans; and second, approval of plans, giving rise to an obligation on the part of the United States to pay the federal share.

Several cases in the United States District Courts have dealt with the issue of whether such a two-stage appropriations process imposes a statutory requirement upon the administrative official designated to execute the program to allocate the full amount of the authorized allotment. These cases concern the allocation provisions of the Water Pollution Control Act Amendments of 1972 [86 Stat. 816], sec. 207, which authorizes the appropriation of sums "not to exceed" $5 billion in fiscal year 1973, $6 billion in fiscal 1974, and $7 billion in fiscal 1975, to be made available to the states for obligation for

sewage treatment works construction approved by the Administrator of the Environmental Protection Agency. In the case of *City of New York* v. *Ruckelshaus* [C.A. No. 2466–72 (D.D.C., May 8, 1973)], it was held that the language of the Act, providing that "Sums authorized to be appropriated . . . *shall be allotted* by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized . . . " mandated the allotment of the full amount authorized to be appropriated because of the use of the word "shall" instead of "may." [Emphasis added.]

The Administrator argued that the words "not to exceed" permitted him to decrease, upon the construction of the President, the amount of the allotment by $6 billion for fiscal years 1973 and 1974 [37 Fed. Reg. 26282, Sec. 35.910–1(2) (1972)]. Judge Gasch ruled, however, that whatever discretion the Administrator had to refuse to spend water pollution control funds came at the obligation stage, rather than the allotment stage, of the appropriations process. Although the legislative history of the Act reveals that the words "not to exceed" were added by amendment, and another amendment deleted the word "all" from the phrase "Sums authorized to be appropriated . . .," the court instead relied upon colloquy on the floor of the House between the manager of the bill, Rep. William Harsha [R-Ohio] and others, as demonstrating that the express purpose of the amendments was to grant the Administrator discretion only in obligating and expending funds.

The holding in this case was echoed in *Minnesota* v. *Fri.* [No. 4–73 Civ. 133 (D. Minn., June 26, 1973)]; and *Martin-Trigona* v. *Ruckelshaus,* [No. 18–73–R (E.D. Va., June 5, 1973)].

Judge Merhige, in *Campaign Clean Water, Inc.,* v. *Ruckelshaus,* [No. 18–73–R (E.D. Va. June 5, 1973)], regarding the same Act, could not agree with Judge Gasch's interpretation. He found Judge Gasch, the plaintiff, and the defendant in agreement that the legislative history was ". . . in the main, unclear, politically charged, and in the Court's view, to some degree based upon suspect constitutional interpretation of the powers of the President." Consequently he concluded that ". . . Congress did intend for the executive branch to exercise some discretion with respect to allotments . . . " but agreed with the plaintiff's contention that ". . . the Congress could not have intended to give the Administrator the discretion to gut the Act." Judge Merhige thus declared that the announced policy of the Administrator to refuse to allot $6 billion of the designated $11 billion under sec. 205 of the Federal Water Pollution Control Act Amendments of 1972 constituted an abuse of discretion under the authority and powers conferred by the Act, and accordingly, were null and void. It is not clear whether Judge Merhige would have reached the same conclusion had the President withheld part of the funds, but substantially less than $6 billion.

These holdings indicate a sentiment in favor of allotment when the act specifies that ". . . the Secretary shall allot . . .," because such language shows an apparent congressional intent that the statutory program be fully executed. The Vocational Rehabilitation Act might be said to reveal an even stronger congressional intent in favor of full allotment, because it creates an entitlement: ". . . each state shall be entitled to an allotment . . .," instead of authorizing or directing an executive officer to allot. It might be argued that the Secretary of H.E.W. has discretion to withhold allotment, because, whereas the Act directs him to approve state plans meeting statutory criteria, it nowhere directs him to allot. On the other hand, it can be argued equally strongly that the Secretary has no such discretion: because the Act creates an entitlement, the allotment process self-executes when the Act goes into effect, and no executive officer has either the responsibility or the discretion to allot. This precise language has not been litigated in any of the numerous United States District Court decisions regarding the presidential policy of impounding congressional appropriated funds.

Questions have been raised concerning the effect upon the allotment provisions of the Act, which might be brought about by a proposed compromise between the House and Senate versions of the Rehabilitation Act of 1973, amending and superseding parts of the Rehabilitation Act of 1973, amending and superseding parts of the Vocational Rehabilitation Act. Before the proposed compromise, both the House version [H.R. 8070, Title I—Vocational Rehabilitation Services] and the Senate Amendments thereto, retained language to the effect that ". . . each state shall be entitled to an allotment . . ." But there the similarities end in numerous important respects. The House version, in pertinent part, [sec. 110(a)] bases the allotment formula upon the amount *authorized to be appropriated,* and further authorizes the appropriation, [sec. 100(b)(1)], for fiscal 1974 and 1975, respectively of $660 million and $690 million. The Senate amendments thereto relate the allotment formula to the amount *appropriated,* and authorize the appropriation of $610 million and $640 million for fiscal 1974 and 1975, respectively, ". . . and there is further authorized to be appropriated for each such year such additional sums as the Congress may determine to be necessary."

In an effort to retain the House allotment formula based upon the amount authorized to be appropriated, and also retain the language and lower dollar figures in the Senate version for the authorization, the proposed compromise added a new subsection (d) to section 110, wherein it was specified that for the purposes of allotment, the term "amount authorized to be appropriated" would mean $660 million and $690 million for fiscal years 1974 and 1975, respectively. ". . . . or such higher amount as the Congress may appropriate for that year."

The authorization language in the Senate version originally created an open-ended authorization on which to base the allotment formula. Acknowledging that it would be meaningless to base allotment upon an open-ended figure, the Senate designed the compromise not only to establish a specified minimum figure upon which to base allotments, but also retain a figure which the House would accept. In addition, the compromise would, for the purpose of authorizing appropriation, establish a lower figure more to the Senate's liking.

It might be possible to question the use of two definitions for "amount authorized to be appropriated" in a single statute, but it is reasonably clear from the language of the compromise that one definition is to be used exclusively for the purposes of allotment under the Act. A court would have no alternative but to give effect to the express terms of the Act in this instance.

A more serious question concerns whether the amount authorized to be appropriated for the purpose of allotment does not still create an open-ended figure on which it is meaningless to try to base an allotment ration. Under the compromise, for the purpose of appropriation the authorization will be a precise figure, ". . . and there is further authorized to be appropriated for each such year such additional sums as the Congress may determine to be necessary." For the purpose of allotment, there will be a precise figure, ". . . or such higher amount as the Congress may appropriate for that year." It could be argued that although the terms are different in each, both actually create open-ended authorizations. Nevertheless, the compromise expressly establishes a minimum amount on which to base the allotment formula, to be raised only if Congress appropriates more. Courts will look at the intent of Congress to resolve apparent ambiguities, if such intent can be ascertained. [See, e.g., *State Highway Comm. of Missouri* v. *Volpe,* No. 72–1512 (8th Cir., April 2, 1972); *City of New York* v. *Ruckelshaus, supra; Commonwealth of Pennsylvania* v. *Lynn,* No. 990–73 (D.D.C., July 23, 1973)]. The intent of Senators Stafford and Cranston, who offered the compromise, is adequately expressed in their explanation accompanying the proposed compromise:

In order for the Senate to accept the House allotment basis and retain the dollar-amount-plus-such-sums authorization formula (which in effect is an open-ended authorization), it is necessary to fix for FY 1974 and FY 1975 a dollar figure on the basis of which to allot, because the House bill reference to "the amount authorized to be appropriated" has no meaning for those years in the event of such an open-ended ("such sums") authorization.

The compromise would have exactly the same State-by-State allotment effect as the House bill, as long as the authorization amounts permit an appropriation up to $660 million for FY 1974 and $690 million for FY 1975, as *both* the House bill and the Senate amendment presently do.

The net effect of the proposal would be a blend on the two points—with more funds authorized to be appropriated, in fact and law, than under the House bill. [Emphasis in original.]

Summarizing, with respect to the allotment provisions, it may be stated that the existing Vocational Rehabilitation Act demonstrates the clear intent of Congress that the full amount authorized be allotted among the states. Based upon the still incomplete line of "impoundment" cases, the language of the Act has adequately translated that intent into a binding legal mandate that the funds be allotted. The proposed compromise amendment, although raising several questions, would also appear to provide for the full allotment if a court construing it can determine a clear congressional intent to that effect. It should be pointed out that the proposed compromise was eventually rejected in favor of single, precise authorization figures agreeable to both the House and Senate, so that the bill finally enacted closely resembled the provisions in the existing Act. If signed into law, the new Rehabilitation Act of 1973 also appears to provide for a legal mandate for full allocation.

Assuming full allotment under whatever provisions finally become law, the questions arise whether the Vocational Rehabilitation Act funds would have to be spent if either the Secretary declined to obligate the full amount authorized, or Congress failed to appropriate the full amount allotted to the states.

Regarding the first question, the preponderant weight of authority in the still unsettled "impoundment" issue holds that congressional enactments establishing grant programs impose a statutory duty upon the executive branch to execute the programs fully, including accepting and processing grant applications, and paying authorized funds to applicants meeting statutory criteria. [See, e.g., *Berends* v. *Butz,* 357 F. Supp. 143 (D. Minn. 1973); *Local 2677, A.F.G.E.* v. *Phillips,* 358 F. Supp. 60 (D.D.C. 1973); *Commonwealth of Pennsylvania* v. *Lynn, Supra;* but see, *Local 2816, A.F.G.E.* v. *Phillips,* No. 73–C–500 (N.E. Ill., May 21, 1973)]. Following the trend in the above-cited cases, the language in the Vocational Rehabilitation Act: "The Secretary shall approve any plan which

the Secretary finds fulfills the conditions specified . . ." [29 U.S.C. sec. 35(b) (1970)]; "For each fiscal year the Secretary shall pay to each State an amount equal to the Federal share . . . under the plan for such State approved . . ." [29 U.S.C. sec. 32(b) (1970)], and the language in H.R. 8070: "The Commissioner shall approve any plan which he finds fulfills the conditions specified . . ., and he shall disapprove any plan which does not fulfill such conditions . . ." [Sec. 101 (b)]; "From each State's allotment under this part for any fiscal year . . ., the Commissioner shall pay to each State an amount equal to the Federal share . . . under the plan for such State approved . . ." [Sec. 111(a)], is of a sufficiently mandatory nature as to require the designated officer to carry forward with the program and pay grants to eligible applicants.

Where an applicant has fulfilled every statutory criterion for eligibility under a federal grant program, it has been held that the designed office may not prevent payment by withholding final approval for reasons not contained within the statute. [*State Highway Comm. of Missouri* v. *Volpe*, 470 F. 2d 1099 (8th Cir. 1973)]. In that case, the Missouri State Highway Commission had met every criterion for receipt of highway construction funds under the Federal-Aid Highway Act [23 U.S.C. secs. 101 et seq. (1970)], and had received tentative approval from the Secretary of Transportation on several occasions. However, the Secretary withheld final approval for reasons based, not upon the statutory requirements, but upon status of the national economy and the need to control inflation. The court found that he had no statutory authority to do so, and ordered him to release the funds.

Under the existing Vocational Rehabilitation Act, the Secretary has the discretion to withhold funding for certain specified reasons, largely dealing with adherence of state plans to statutory criteria. Moreover, the Secretary may cease payments for approved plans if he finds, after the due hearing, that:

(1) the plan has been so changed that it no longer complies with the requirements of subsection (a) of this section; or

(2) in the administration of the plan there is a failure to comply substantially with any such provisions; [29 U.S.C. sec. 85(c) (1970)].

These provisions give the Secretary adequate discretion to control the rate of spending for reasons pertaining to the efficient management of the vocational rehabilitation program, and present judicial authority would limit the Secretary to the amount of discretion expressly in the statute.

One major distinction between the situation surrounding the Federal-Aid Highway Act and the Vocational Rehabilitation Act is that when final approval comes due for state vocational rehabilitation plans, funds may not yet have been appropriated, whereas funds for approved state highway plans come from the fulsome Highway Trust Fund established by that Act. Where the United States is obligated to spend unappropriated funds, serious questions arise, and there is scant litigation to shed light on a possible solution.

One major provision in the United States Code would seem to permit the obligation of funds, even before appropriation:

No amount shall be recorded as an obligation of the Government of the United States unless it is supported by documentary evidence of—

(5) a grant or subsidy payable (i) from appropriations made for payment of or contributions toward, sums required to be paid in specific amounts fixed by law, or (ii) pursuant to agreement authorized by, or plans approved in accord with and authorized by, law; or

(6) a liability which may result from pending litigation brought under authority of law; . . . [31 U.S.C. sec. 200 (1970)].

The statutory scheme established by the Vocational Rehabilitation Act, and subsequent amendments, provides for approval of plans submitted by states, which approval is apparently intended to give rise to an obligation on the part of the United States. If it does, then litigation would arguably be authorized to require the United States to meet that obligation.

Moreover, federal law provides that "No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law or is under an appropriation adequate to its fulfillment. . . ." [41 U.S.C. sec. 11 (1970)]. It has been held that this act is applied in the alternative so that where authority to make contracts is complete and unrestricted, a liability arising thereunder is not avoided by omission of Congress to provide the money to discharge it. But where an alleged liability rests wholly upon authority of an appropriation, they must stand or fall together [*Shipman* v. *United States*, 18 Ct. Clms. 138, cf. 19 Op. Atty. Gen. 650; 37 Comp. Gen. 199, 201].

The crucial questions, then, are whether approval of state plans under the Vocational Rehabilitation Act actually does give rise to a contractual obligation on the part of the United States, and whether the Secretary is granted "complete and unrestricted" authority to enter such a contract.

Regarding the first question, it is suggested that pursuant to 31 U.S.C. sec. 200(a)(5) (See *Supra*), approval of a state plan under the Vocational Rehabilitation Act gives rise to a contractual obligation on the part of the Government.

It may then be argued that the Secretary not only has complete and unrestricted authority to enter a contractual obligation on the part of the United States, he is virtually mandated to do so by the terms of the Vocational Rehabilitation Act. He *shall* approve eligible state plans, and he *shall* pay. Therefore, it would follow that a state, having received approval for its submitted plans, would gain an enforceable right to funding under the Vocational Rehabilitation Act even if Congress declined to appropriate the full amount allotted or authorized.

STUART E. GLASS,
Legislative Attorney.

AMENDMENTS SUBMITTED FOR PRINTING

UNIFORM REVIEW PROCEDURES UNDER SOCIAL SECURITY—H.R. 10727

AMENDMENT NO. 1304

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

Mr. ROBERT C. BYRD submitted an amendment intended to be proposed by him to the bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles.

PREVAILING FEES OF MEDICARE—H.R. 10284

AMENDMENT NO. 1305

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

Mr. TAFT submitted an amendment intended to be proposed by him to the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal Employees' Health Benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums.

SUSPENSION OF DUTIES ON CERTAIN SILK—H.R. 7727

AMENDMENTS NOS. 1306, 1307, AND 1308

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

Mr. KENNEDY submitted three amendments intended to be proposed by him to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

AMENDMENT NO. 1313

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

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill (H.R. 7727), supra.

AMENDMENTS NOS. 1314 AND 1315

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

Mr. JAVITS submitted two amendments intended to be proposed by him to the bill (H.R. 7727), supra.

PAYMENTS TO THE GOVERNMENT OF THE VIRGIN ISLANDS—H.R. 9432

AMENDMENT NO. 1309

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

Mr. CHURCH (for himself, Mr. RIBICOFF, Mr. KENNEDY, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 9432) to amend the Internal Revenue Code of 1954 in order to provide for quarterly payment, rather than annual payment, to the Government of the Virgin Islands of amounts equal to internal revenue collections made with respect to articles produced in the Virgin Islands and transported to the United States.

AMENDMENT NO. 1310

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

Mr. CHURCH (for himself, Mr. RIBICOFF, Mr. HUDDLESTON, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 9432), supra.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1976—H.R. 9861

AMENDMENT NO. 1312

Mr. JAVITS submitted an amendment intended to be proposed by him to amendment No. 1303 proposed to the House amendment to Senate amendment numbered 75 to the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year 1976, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1075

At his own request, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of amendment No. 1075, intended to be proposed to the bill (H.R. 7727) suspending duties on certain yarns of silk.

Mr. MUSKIE. Mr. President, I join today in cosponsoring an amendment to the Internal Revenue Code to deal with the special problems of Maine fishermen. The statutory changes which this amendment achieves would solve two problems which have troubled Maine fishermen in recent months. Both of the problems result from administrative rulings by Federal officials in the Internal Revenue Service and the Postal Service, but efforts short of legislative action have failed to relieve the problem. Both of these problems were addressed by legislation which I introduced earlier this year with Senator HATHAWAY and I am delighted that the Finance Committee has indicated a willingness to accept the amendment.

This amendment would have a direct impact on the efforts of Fisheries Communications, a Maine organization, which publishes the Maine commercial fisheries newspaper in an effort to make available free to the fishing industry in Maine, educational materials and information relevant to the harvesting, processing and marketing of our marine resources. Tax exempt status under 501(c)(5) is important to this organization to permit the use of favorable postal rates for the distribution of their paper.

A statement of the problem and the relief which this amendment would provide is well stated in a statement on the subject by Fisheries Communications, which publishes the Maine commercial printed in the RECORD at the conclusion of my remarks.

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

[See exhibit 1.]

Mr. MUSKIE. This amendment also addresses the problem of fishermen troubled by recent IRS rulings which have disrupted the traditional working arrangements in that industry. The amendment restores the status of nonremuneration paid to certain workers on fishing boats as self-employment income for purposes of the Federal Insurance Contributions Act and for purposes of Federal income tax withholding requirements.

This amendment is designed to permit the continuation of a traditional working arrangement in the lobster fishing industry which is threatened by recent IRS rulings. Maine lobstermen informally cooperate from time to time with others to overcome hardships resulting from bad weather or other unusual work demands. For example, a lobster boat captain might ask a colleague or clam digger to join him in his rounds and assist him in handling traps during inclement weather. The locus of the duties performed handling traps and gear in the rear of the boat accounts for the designation of these individuals as "sternmen." According to the traditional, informal agreements, the sternmen receive a share of the lobster catch for the day in return for their assistance.

The boatowner makes no guarantee as to how much the sternman will earn. In the case of an unsuccessful trip, the sternman might not receive anything.

There is generally little formality or continuity to these arrangements. There are no written contracts and the sternman usually works with a boatowner for only brief periods. He may own his own boat and join another captain while his own vessel is under repair or he may be a clam digger working on fishing boats while flats are closed or inaccessible.

Until recent IRS rulings altered the practice, both the boat owner and the sternman considered themselves as self-employed and reported their income from the fishing venture on their own return with no withholding required. These arrangements were convenient and logical since each was otherwise filing a return as a self-employed person and because of the occasional nature of the sternman's work. Maine fishermen have always filed returns in the manner which was accepted by the Internal Revenue Service until they began to demand that taxes be withheld.

The situation changed dramatically for Maine fishermen with the application of this Revenue ruling and the beginning of a massive IRS audit of lobstermen under the "Lobster Project." In some cases, boatowners were required to pay withholding taxes retrospectively despite payment of taxes on the same wages as self-employment income by the sternmen. The apparent inequities involved have offended all familiar with the audits and have discouraged cooperation between lobstermen and IRS.

The frustration and expense related to keeping records and withholding taxes for sternmen has discouraged use of these cooperative arrangements and threatens to adversely affect lobstering efforts in areas of rough seas for the individuals and communities involved, an unacceptable cost for the minimal convience afforded the IRS under this ruling, and I am cosponsoring this amendment to correct the situation by treating sternmen as self-employed under the Federal Insurance Contribution Act and withholding provisions of the Federal Income Tax.

[EXHIBIT 1]

STATEMENT OF FISHERIES COMMUNICATIONS IN CONNECTION WITH PROPOSED I.R.C. SECTION 501(g)

Fisheries Communications, a nonprofit corporation organized under the laws of the State of Maine on July 20, 1973, proposes a new Internal Revenue Code section 501(g). A draft of such an amendment is attached. An explanation of the amendment follows.

REASON FOR AMENDMENT

Fisheries Communications publishes the Maine Commercial Fisheries, a publication sent free to all licensed sea food dealers and fishermen in the State of Maine. Its purpose is to provide a free source of educational materials and information to all segments of the fishing industry in Maine.

The Internal Revenue Service has ruled that Fisheries Communications does not qualify as an "agricultural" organization and is not exempt under I.R.C. section 501(c)(5) *solely* on the ground that the fishing industry is not an agricultural industry. (Were it not for this questionable interpretation of the meaning of "agricultural," it is clear that Fisheries would qualify under I.R.C. section 501(c)(5).) This private ruling was subsequently reiterated in a public ruling (Rev. Rul. 74-488, 1974-41 I.R.B. 9). Copies of both rulings are attached.

PURPOSE OF AMENDMENT

The proposed amendment would make it clear that the term "agricultural" in I.R.C. section 501(c)(5) includes the harvesting of acquatic resources.

Such definition should be viewed as merely declaring modern realities—a position by Congress in substitution of the unduly restrictive meaning given the term by the I.R.S. That is, both land and marine activities are concerned with the harvesting of food resources and it is unrealistic not to view fishing in the 1970's as an "agricultural" endeavor.

Congress has enacted comparable legislation in recent years. Congress has recognized that the fish resources of the nation make a material contribution to our national economy and food supply. 16 U.S.C. § 742a. Congress has also recognized that agriculture includes the harvesting of sea resources. 16 U.S.C. § 1085. Provisions of the federal agriculture statutes include fishing within their purview. E.g., 7 U.S.C. §§ 991, 1732.

The case law and I.R.S. rulings indicate that the term "agriculture" is to be liberally construed. *Campbell* v. *Big Spring Cowboy Reunion*, 310 F. 2d 143 (5th Cir. 1954). The term is extremely broad and broader than the term "farming". *Florida Industrial Commission* v. *Growers' Equipment Co.*, 12 So. 2d 887 (S. Ct. Fla. 1943). The term "agricultural" has been ruled by the I.R.S. to include organizations that raise fur-bearing animals and market pelts (Rev. Rul. 56-245, 1956-1C.B. 204), test soil for farmers and non-farmers (Rev. Rul. 54-282, 1954-2 C.B. 126), and are composed of women married to farmers (Rev. Rul. 74-118, 1974-11 I.R.B. 11).

There is no federal tax policy to be advanced by narrowly interpreting the term "agricultural" to exclude the harvesting of marine resources when it clearly encompasses the harvesting of land resources. As one federal court has stated, "agriculture" is defined in a broad sense as "the science or art of the production of plants and animals useful to man". *Sancho* v. *Bowie*, 93 F. 2d 323, 324 (1st Cir. 1937). The raising and trapping of muskrats constitutes an agricultural pursuit for state tax purposes. *Bonham & Young Co.* v. *Martin*, 11 A. 2d 371 (N.J. St. Bd. Tax App. 1940). Consequently, the term "agricultural" warrants a comparably meaningful statutory definition, in view of the I.R.S.' restrictive policies.

Today's facets of ocean harvesting were unknown in 1909 (when I.R.C. section 501(c)(5) originated) but have subsequently been determined by Congress in other contexts to be agricultural. The time has come for this general recognition of the contemporary meaning of the term "agricultural" (as reflected in the proposed amendment) to be reflected in the Internal Revenue Code.

AMENDMENT NO. 1153

At the request of Mr. MONDALE, the Senator from Maryland (Mr. BEALL), the Senator from Arkansas (Mr. BUMPERS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of amendment No. 1153 providing a tax-free rollover for distribu-

tions from a qualified pension plan that result from a plan termination, intended to be proposed to the bill (H.R. 7727), suspending duties on certain yarns of silk.

AMENDMENT NO. 1287

At the request of Mr. CRANSTON, the Senator from Wyoming (Mr. MCGEE) was added as a cosponsor of amendment No. 1287, intended to be proposed to the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal Employees' Health Benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums.

AMENDMENT NO. 1303

At the request of Mr. TUNNEY, the Senator from New Hampshire (Mr. DURKIN), the Senator from Colorado (Mr. GARY HART), the Senator from Illinois (Mr. PERCY), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of amendment No. 1303, intended to be proposed to the amendment of the House to Senate amendment numbered 75 to the bill (H.R. 9861), making appropriations for the Department of Defense for the fiscal year 1976, and for other purposes.

REGULATORY REFORM HEARING DECEMBER 19

Mr. METCALF. Mr. President, on behalf of the distinguished chairman of the Government Operations Committee (Mr. RIBICOFF), I wish to announce that the committee will conduct a hearing on regulatory reform Friday, December 19, at 10 a.m., in 3302 Dirksen Senate Office Building.

The witness will be Dr. David Schwartz, adjunct professor of economics at Michigan State University and former assistant chief of the Bureau of Economics at the Federal Power Commission. Dr. Schwartz had been scheduled to testify at the hearing this week that was postponed because of the Senate's secret session for discussion of the Angola matter.

ADDITIONAL STATEMENTS

UNITED STATES IN THE UNITED NATIONS

Mr. ROBERT C. BYRD. Mr. President, the United States is talking back in the United Nations—and it is about time.

For too long, America sat silent while Third World and Communist countries heaped ridicule and criticism and abuse on the United States, and on the American way of life.

Now the United States is talking back. Our U.N. delegation is telling the third world nations that their problems are of their own making, and that whatever little development has occurred is due, in large measure, to the technology and generosity of America and its people.

And we are using the U.N. forum to expose Russia's expansionist plans in Africa.

The United Nations has proved ineffective over the years in many ways.

But as long as we are a member of the United Nations, our representatives should make it plain that our role is that of a partner in the family of nations—not that of a whipping boy for countries which have contributed little or nothing to the progress of the world.

"SCHOOLMASTER" ASPINALL BACK IN CLASSROOM

Mr. HANSEN. Mr. President, a lucky group of students at the University of Wyoming has had the good fortune this past semester of learning about political science from a distinguished former Member of Congress and good friend. The Honorable Wayne Aspinall, who for 24 years represented Colorado's western slope, has once again assumed a familiar position at the front of a classroom.

Mr. Aspinall was the first of what we hope will be a long series of men in public life who venture to the Laramie campus to teach in the field of government and politics. This exciting concept is made possible by the establishment of the Milward L. Simpson Fund for Political Science, named for our respected former colleague who served as Senator for Wyoming from 1962 to 1967.

As the statement of purposes of the fund says—

Few people have had a greater influence upon the State of Wyoming than Milward Simpson. As a member and President of the University of Wyoming Board of Trustees, as Governor, and later as a U.S. Senator, the name Milward Simpson is synonymous with honest government, loyalty, personal courage, and a progressive and innovative outlook.

Mr. President, as a cochairman of this fund with Senator MCGEE, I say eagerly that we are pleased and honored to inaugurate this series with the outstanding services of Mr. Aspinall, who embodies the high ideals of this new program.

The Denver Post of Denver, Colo., recently paid a visit to the University of Wyoming to witness Mr. Aspinall in action, and I ask unanimous consent that the article which followed that visit be printed in the RECORD.

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

"SCHOOLMASTER" ASPINALL BACK IN CLASSROOM AS WYOMING LECTURER

(By Todd Phipers)

LARAMIE, WYO.—It has been more than four decades since he last taught school, but the return to the classroom this fall has been an easy and enjoyable move for Wayne Aspinall.

Teaching always has been the first love of the former (12-term) Colorado congressman, who is nearing his 80th birthday.

"They say I've never stopped," he said, adding that his schoolmaster approach as chairman of the powerful House Interior Committee made some newer members of Congress "a little provoked" over the years.

There is no argument about that.

HEADMASTER MOOD

One congressional reformer, Rep. Phillip Burton, D-Calif., said earlier this year that Aspinall ran his committee like a "personal fiefdom." After five years as a member, Burton complained, "he still treated me like a rank kindergartner."

"You can only have one captain," Aspinall said matter-of-factly. "I was the captain."

It is that no-nonsense manner, the same he exhibited in Congress from 1949 to 1972, that Aspinall has brought to the University of Wyoming this semester as the first Milward Simpson visiting professor in political science.

Can a man in his 80th year find happiness in an academic world populated by students the age of his grandchildren?

"I've had a wonderful time," he said with a typical big smile. "I've been especially pleased and pleasantly surprised."

NO MOLDY FIG

The university didn't drag Aspinall out of mothballs to become the "guinea pig," as he calls it, for the professorship in the name of Simpson, a former Republican governor and U.S. senator from Wyoming.

Since his defeat in the 1972 Democratic primary—his first in 40 years of politics—Aspinall has kept active as a consultant for the Federation of Rocky Mountain States and American Metal Climax, as a spokesman for the Western Slope's Club 20 and as a sometimes-legal counsel for Indian tribes in southwestern Colorado.

He trimmed back on those activities this fall because "I wanted to give this a full-time operation." But he will gear up on the other work again at the semester's end next week.

Aspinall doesn't want to be one of those people who, he says, grows "old and dingy and useless. I'd just as soon have something ahead of me all the time."

Clearly, he enjoyed his 24 years in Congress. But his defeat in 1972 in a rearranged congressional district seems not to have left any scars of bitterness.

Although he thinks the district stronghold he once enjoyed on the Western Slope was gerrymandered to his disadvantage, Aspinall considers that a political reality—and little more.

"They had a right to try to get me out. All is fair in love and war and politics and business." He doesn't dwell on who "they" were.

"I understood being defeated. I didn't like it, but it was just a little sting. It bothered me for a few hours."

DISTURBING EVENTS

Perhaps it is best that Wayne Aspinall left the Congress when he did. Although he remains dedicated to the nation and its political course, he is quick to admit he is disturbed with some of the events on Capitol Hill today.

Does he keep an eye on Congress?

"I don't think anybody can keep an eye on Congress today. I don't understand some of those people."

Aspinall isn't for the sweeping reforms which would virtually eliminate the seniority system in which he operated—"experience is the best teacher"—and he questions the motives of some members of Congress.

INSTANT EXPERTS

"The tendency in the last decade and a half has been for people to think they know it all as soon as they get out of the university."

That tendency, for a man who received his bachelors degree from the University of

Denver in 1919, and his law degree there in 1925, is understandably hard to accept.

But he keeps his differences on a philosophical plane. Aspinall's enthusiasm for life, and his genuine fondness for people, prohibit it from going further than that.

He can add up all the people he doesn't like who he's met in his 79-plus years, Aspinall said, and not get the total to two dozen.

Is that possible for a veteran of 40 political campaigns?

"I had wonderful opponents. There were only two, in the later days, that I wouldn't have been comfortable sitting down at their dinner table the next day (after the election)."

The same conviviality has carried over to his four months on the University of Wyoming campus.

"There is a discipline here. You can feel it. And there is a friendliness that is most apparent."

Aspinall admitted he was concerned at first about how the faculty would respond to his presence.

After all, "it was kind of a ticklish proposition to bring in a fella who never had taught on this level," especially one "in his 80th year, since he'd been out of the schoolroom since 1933."

But the faculty has been "so cooperative," he added, "I was at ease at the end of the first week."

Being at ease seems to come naturally for the eldest son of a ranching family which came to western Colorado near the turn of the century, a man who corresponds with the President and little children who write him for information, a man who addresses statesmen and students with equal candor.

You may not agree with him that the only way for America to come out of the energy crisis is to explore every energy source, and to use it to its fullest.

You may not agree with him that teachers have no right to strike, because "the kids are their responsibility and you don't strike against an innocent kid."

You may not agree with him that President Ford was correct in vetoing federal strip-mining legislation because it was loaded with provisions resulting from "the obsessions of individuals."

ROLL CALL HABIT

And you may not even agree with him that a roll call should be taken in college classrooms. ("I guess I'm old fashioned," he told a professor who didn't call roll before Aspinall delivered a guest lecture last week.)

But those who have encountered the man from Palisade, Colo., can say what Aspinall says of his "idol of legislative procedures," the late House Speaker Sam Rayburn:

"I didn't always agree with him, but I knew where he stood."

GENOCIDE—TO CONDEMN OR CONDONE

Mr. PROXMIRE. Mr. President, there is no question that the United States condemns, rather than condones, the crime of genocide. And yet in almost a quarter of a century since the Genocide Convention was drawn up, we still have not become a party to this treaty. If we truly desire to prevent genocidal acts from recurring, this Nation must take two steps.

First, the Senate must advise and consent to the ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide. In so doing, we will show the international community that we abhor this crime.

Second, Congress must pass the implementing legislation necessary to put the terms of the Genocide Convention into effect. This provides for the arrest, trial, and punishment within America's borders for our citizens accused and convicted of acts of genocide that took place here in the United States. Of course, those charged will be fully protected by the Constitution.

In the future, the United States may enter into agreements whereby genocide would become one of many crimes for which we will consent to extradition. This has already been done for such crimes as robbery and murder. And like the extradition treaties of which the United States is a signatory, our citizens will be properly protected.

But the first step to demonstrate our condemnation of genocide is to ratify the Genocide Convention. Mr. President, I urge the Senate to take that first step without delay.

EDWARD GALLAGHER'S BOOK ABOUT "THE MOST EXCITING MAN IN AMERICAN PUBLIC LIFE"

Mr. McINTYRE. Mr. President, from now until the 24th of February, the political attention of the Nation will focus on my own State of New Hampshire, quadrenially the site of the first Presidential primary election.

Between now and that fateful day, we can expect analysis after analysis, prediction after prediction, and reams of copy about the wintry New Hampshire countryside and the ordeal of the candidates.

Now, Mr. President, we Granite Staters take pride in our first of the Nation primary, and for the most part we relish this transient attention. But we regret that the frenzy of an election year precludes all but a superficial consideration of our State and its politics by the public and by the media.

Surely there must be those who are intrigued enough by the New Hampshire Presidential primary experience to want to know more about our politics and political history than they can glean from the hasty accounts filed late every fourth winter.

Fortunately, Mr. President, some of that earlier history has now been set down in print by an old friend of mine, a fellow citizen of my hometown of Laconia, N.H.

Edward J. Gallagher, publisher emeritus of the Laconia Evening Citizen and one of the most respected newspapermen in New England, has written a profile of a man who was not only the most colorful personality in New Hampshire politics for 32 years, but was once described as "the most exciting man in American public life."

His subject is the late George Higgins Moses, U.S. Senator from New Hampshire from 1918 to 1933, President Pro Tempore of the Senate for 8 years, and for some 30 years prior to his Senate tenure, editor of the Concord, N.H., Monitor, where the author knew him as a formidable publishing rival.

So colorful was Moses that his many pithy utterances, as one book reviewer notes, tend to overshadow his considerable ability and accomplishments. It was Moses, after all, who coined the phrase "Sons of the Wild Jackass" to characterize several of his Senate colleagues.

But such acrimony ought not to obscure the fact that Moses was an extremely able legislator and a President Pro Tem of vigor and decision, nor that his tour of duty as Ambassador to Greece earlier in the century was so noteworthy that one Washington correspondent of the time was moved to call him "the most popular and influential minister the United States has ever sent to the Balkans."

Mr. President, what is so intriguing about Mr. Gallagher's account of George Moses' public career is the way it points up the essential truth behind the all too familiar cliche: "History repeats itself."

Take the matter of Moses' successful battle to stop President Wilson from bringing the United States into the League of Nations.

Whatever one might think of the merits of Moses' position on this issue, it does give one pause today—considering the affronts we have suffered in the United Nations in more recent times—to recollect Moses' rationale, so acidly expressed in this single sentence:

"Joining the League of Nations," Moses said, "would make the United States an umpire in international disputes and I do not want to see the umpire beaned with a pop bottle."

And Moses' denunciation of Wilson's "gluttony for the limelight" strikes a prescient note in these days of bemoaning the rise of the "imperial Presidency."

Even the contemporary arms supply race is but a replay of history made when George Moses was our Ambassador to Greece.

Mr. Gallagher's book offers a fascinating account of how Moses met the competition in that earlier rivalry.

Greece, at that time, was determined to start its own navy and was in the market for three battleships. Bid invitations were extended to the United States, England, Germany, and Russia. When the bids were opened, the Russian offer was by far the lowest, and ours the highest.

But somehow Moses reportedly learned that the Greek Minister of Defense had been promised $250,000 by the Russians, who planned to cover the payoff by claiming they had made a terrible mistake in calculating costs and would need more contract money to complete this job.

Moses went directly to the Defense Minister's home and so loudly demanded admission that the Minister finally opened his bedroom window to see what the commotion was all about. In no uncertain terms. Moses told him that if he did not sign the order for the United States to build the battleships Moses would expose the whole plot. Realizing exposure would surely result in his trial

and possible execution, the Minister signed the order for the United States to build the ships.

Mr. President, Mr. Gallagher's book is replete with such incidents and anecdotes, but as our long-time friend and colleague, the Honorable Norris Cotton, wisely observes, the book is much more than the profile of one colorful journalist and politician. "It not only presents a real picture of the man and his personality," Senator Cotton says, "but there is a wealth of material concerning the era in which he played a part."

And, Mr. President, it remained for Senator Cotton to flush out the real character of George Moses, for, as the beneficiary of his kindness, Senator Cotton knew another side to the man.

In the preface to the book, Norris Cotton recounts how, penniless and indebted following his graduation from college, he approached Senator Moses and Moses immediately "made a place for me as one of the clerks for this committee and enabled me to get my legal training at George Washington University Law School in Washington while working for him."

Later in the preface, Senator Cotton says:

> To the world, he (Moses) gave the impression of a sarcastic, though brilliant, individual with a biting tongue. I came to suspect that he enjoyed that role, indeed that he almost reveled in it, but I can testify, as can many others, that he was warm and sympathetic to all who needed help and encouragement, and to the last hour of my life, I shall be grateful to him for all that he did for me.

Mr. President, in like manner a good many of us from New Hampshire, will always be grateful to Edward Gallagher for profiling this giant from our political past and chronicling the political history George Moses lived.

A NEW WAVE OF SOVIET EXPANSIONISM?

Mr. FANNIN. Mr. President, all signs point to the fact that despite détente the Soviet Union has not reversed its policy of extending communism throughout the world. U.S. intelligence sources discovered massive Soviet intervention in the domestic affairs of Portugal and Angola. The White House, the State Department, Western European nations, and independent observers all agree that Russian economic and military intervention in these countries is enormous.

In Portugal, Russia is backing the efforts of the Communist party to control the government of that traditionally pro-Western nation. The Portuguese armed forces, which rule that nation, have been factionalized to the point that chaos and anarchy are the norm in the daily operations of the government. Only within the last several weeks, has President Costa Gomes been able to use the power of his office to begin to restore some order to his government. Leftist and Communist interests, supported by Moscow, have kept Portugal in disabling chaos for the past year and a half.

Western European nations, along with the United States, became increasingly concerned about the unmistakably leftward drift of Portugal during the past year. The free world was concerned because a Communist Portuguese Government would be the first Communist government to control a country of Western Europe. The North Atlantic Treaty Organization was another major reason Western nations objected to the Communist influence in Portugal. Portugal is a member of NATO and it is inconceivable that her representation in that Western security organization would be in the person of a Communist. Communist infiltration of NATO is not acceptable to the free world.

Due to the help of Western intelligence-gathering organizations, the United States and Europe received valuable information on the extent and purpose of Soviet intervention in Portugal. Western European countries and the United States, to a lesser degree, were able to use their established intelligence agencies to combat the Soviet presence in Portugal. Thanks to substantial economic assistance from Western Europe, the anti-Communist forces in Portugal were able to combat a preemptory leftist takeover of Portuguese cities, towns and government agencies earlier this year. However, the struggle for Portugal is far from over.

The on-going battle for Portugal makes two things obvious. Despite détente, the Soviet Union is continuing to force its type of government on nations which are remote from the U.S.S.R. and have never shared the Soviet philosophy. Second, intelligence-gathering organizations are essential. Not just because they can ferret out Communist infiltration but because they can provide legitimate governments with information about outside plots and conspiracies dedicated to their downfall.

Angola is another nation which is undergoing rapid political change. Three factions are fighting for control of that country. Angola just became independent on November 11, 1975, and already three separate groups claim to represent the people of that country. The Soviet-backed Popular Movement for the Liberation of Angola has been most successful in the battles raging in that nation. The Popular Movement is supported economically and militarily by the Soviet Union. They have the use of sophisticated Russian weaponry and the help of Cuban soldiers. Clearly, this is Communist interference in the domestic affairs of a sovereign nation. The remaining two Angolan factions have recently joined forces against their common enemy but they are not supplied with the arms and machinery necessary to defeat the Communist attack.

Because of her own chaotic situation, Portugal is in no condition to send economic or military aid to her former colony in Africa. The United States and South Africa are most prominent among nations coming to the aid of the National Front for the Liberation of Angola and the National Union for the Total Independence of Angola. In Angola, as in Portugal, reports from the intelligence community provided the basis for our limited assistance to this African country. The intelligence community discovered the massive covert operations of the Soviet Government and should be commended for diligent surveillance of this situation from the outset of the Russian buildup.

Mr. President, the December 11, 1975, Washington Post carried an article by Victor Zorza, "A New Wave of Soviet Expansionism?" which I found most persuasive. I share Mr. Zorza's concern that massive Russian intervention in Angola could precipitate Russia's deep involvement in Africa even while détente is her official foreign policy. Mr. President, I ask unanimous consent that Mr. Zorza's article be printed in the RECORD at this point.

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

A NEW WAVE OF SOVIET EXPANSIONISM?

(By Victor Zorza)

The Soviet intervention in Angola could be the first step in a new expansionist policy practised under the cover of detente, or it may be a minor incident, unworthy of serious concern. In Washington, there are supporters of both views, but the growing extent of Soviet involvement is giving rise to increasing apprehension about the Kremlin's intentions, and to calls for firm counteraction. The Kremlin, in turn, will have to decide whether to heed Dr. Kissinger's warning that its adventure in Angola is inconsistent with detente, or to press on regardless.

For the Soviet Union, it is argued that its primary interest in Angola, as in the rest of Africa, is to keep out Chinese influence, and that the West therefore need not be unduly concerned about its role there. The Chinese have indeed been active in supporting one of the rival factions in Angola, but they have lately begun to reduce their involvement, which was never as large as Moscow's.

Peking's withdrawal from the fray would make it easier for the Chinese to accuse the Soviet Union of acting as a superpower which intervenes in the affairs of smaller countries, and to claim that China has clean hands. It has also been suggested that the Chinese are pulling out because they know that the Kremlin has backed the stronger horse. Their realism, it is said, should serve as a lesson to the West which is supporting the losing side. An even more Machiavellian suggestion has it that Peking's main purpose throughout has been to cause bad blood between the Soviet Union and the West, and that China can therefore now withdraw from the scene because the West is taking up the good fight.

Washington officials regard these suggestions as excuses for Soviet behavior rather than as an explanation of what is happening. Moscow has now provided its proteges with something like 150 to 200 armored vehicles, thousands of small arms such as rifles and machine-guns, and with 3,000 to 4,000 Cuban troops. The United States has provided a much small number of arms to the opposing faction, which is also being helped by some South African troops.

The Moscow-supported faction, the Popular Movement for the Liberation of Angola which is led by Agostinho Neto, has proclaimed itself the lawful government of the country after the recent withdrawal of the Portuguese colonial authorities. Its forces occupy a coastal strip of which Luanda, the capital, is the center. Its claim is disputed by two rival groups, which previously fought

each other but have now joined forces against the common foe. Of these two, the National Front for the Liberation of Angola, headed by Holden Roberto, now has its main strength in the north of the country, where it receives the support of neighboring Zaire. Its former rival, the National Union for the Total Independence of Angola, has its main strength in the south, where it receives military support from the South Africans.

The geographical and political lines of demarcation coincide, as so often in Africa, with traditional tribal lines of rivalry and hostility which the Western powers exploited so unscrupulously in their drive to colonize the continent. Was it merely a rhetorical flourish when Daniel P. Moynihan, the U.S. Ambassador to the United Nations, warned the U.N. against the Soviet Union's new imperialism? "A new colonial power," he said, "more mighty than any that preceded it, has come with its arms, its armies, its new technology—and the recolonization of Africa commences."

That is not how Moscow sees its role, Its press speaks of the need to complete the "decolonization" process, and it voices the Soviet Union's support for all who take part in it. For Moscow, this is part of the ideological struggle which, it insists, is inseparable from détente. Indeed, there are those in Moscow who argue that détente is good because it has tied the West's arms and has made it more difficult for the Western powers to react forcefully to attempts to expand Soviet influence in the third world.

Something of this is reflected in Pravda's argument that détente has provided "new and favorable opportunities" for what it calls the national liberation movement. The relaxation of international tensions, Pravada says, "has been a powerful force behind the new upsurge in the struggle . . . for the total liberation of peoples." In Kommunist, Soviet Foreign Minister Andrei Gromyko explains that support of national liberation forces is "an extremely important sector of our foreign policy work," and that it will "undoubtedly" retain its significance in the years to come.

These may be the first elements of what could, in the context of Angola, grow into a new Brezhnev doctrine for Africa. The Soviet Union is asserting in Angola its right to build up and to arm a client government whose legitimacy is disputed by its internal rivals. For the time being, the Cubans are performing on Moscow's behalf the role which Soviet forces performed in Czechoslovakia. But if the Kremlin is allowed to get away with it, Angola may prove to be only the beginning of a new drive to expand Soviet power under the cover of détente—and not just in the third world.

There are those in Moscow who would like to use détente in this way, but there are also others who would prefer to use its benefits to develop trade with the West and to modernize the internal workings of the Soviet system. In the continuing Soviet debate, the West's failure to take a firm stand on the issue of Angola will be used by the "hawks" against those Soviet "doves" who might prefer to concentrate on domestic tasks, and to avoid foreign adventures.

Mr. FANNIN. Mr. President, we cannot tolerate the expansion of Soviet influence in Africa. Strong Russian interference is evident in Berbera, Somalia, on the Indian Ocean, in Portugal on the Mediterranean Sea, and in Angola on the west coast of Africa. This is an ominous situation, especially for Africa and also for the Western World. Soviet control of Africa's northern tier has the potential for serious disruption of international sea commerce from the Persian Gulf, and, therefore, for economic blackmail of enemies of Russia. I urge my colleagues to pay close attention to the warnings of our defense establishment and our intelligence community about Soviet expansionism in Africa. Their professional judgment is valuable and it should be used to determine American response to blatant Soviet violations of the spirit of détente, the United Nations Charter, and the Helsinki Agreement.

NUTRITION PROGRAM FOR THE ELDERLY

Mr. CHILES. Mr. President, the nutrition program for the elderly is one of the finest programs implemented by the Federal Government. Thus, it is with great pleasure that I note that the recently passed Labor-HEW appropriations bill makes substantial improvements in the program's funding levels.

Under the conference report, a section has been incorporated that, with only slight modification, was first passed by the Senate. The bill mandates that the elderly nutrition program's "level of operations" be increased to $187.5 million in fiscal year 1976. As a result, local feeding sites throughout the country that serve the elderly will now be told that they should spend $187.5 million, during the course of fiscal year 1976, to provide feeding and ancillary services to needy senior citizens.

The conference bill accomplishes this by taking $62.5 million of funds that were forward funded from previous fiscal years, and adding the $125 million appropriated through the pending legislation, and requires that the combined amounts be spent on the program during fiscal 1976. In order to accomplish this in a timely manner, it is our expectation that the program's annualized expenditure rate be increased immediately to the amount that is needed so that the entire $187.5 million is spent this year.

The need for speedy action on the part of HEW is evident. Currently, more than 116,000 people are on program waiting lists seeking nutrition services. Additional people reside in areas where no feeding program exists at all, and consequently, they have been denied the opportunity to apply for program services. In many areas, disabled elderly people need meals brought to their homes but they cannot obtain them because of the program's inadequate funding.

By requiring that $187.5 million be spent this year by local projects, we hope to expand the program to these needy, but unserved, senior citizens. Making this legislative mandate a local reality will require cooperation by many—particularly quick action by the HEW Secretary to increase and subsequently adjust the program's rate of expenditures. Only through this cooperation will $187.5 million be spent and elderly people properly served.

THE AMERICAN CONSTITUTION

Mr. McGOVERN. Mr. President, Mr. Norman Cousins, the brilliant editor of the Saturday Review, has written a thoughtful editorial on the meaning of the American constitutional system. The editorial appearing in the December 13, 1975, issue of the Saturday Review will be of interest to the Members of the Congress. I therefore ask unanimous consent that it be printed in the RECORD.

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

REFLECTIONS ON A "BIRTHDAY"

The range of America's contribution to history, as detailed in this issue, runs broad and deep, but the idea that ultimately may have the single greatest impact on the world is that human beings are capable of designing a rational future. The specific expression of that capability in this nation was the United States Constitution. This country was not the first in history to devise a representative government, but no other society was more carefully constructed for the express purpose of making representative government work.

The fact that the United States has lived longer under a single continuous form of government than has any other major nation is a tribute to that design. The U.S. Constitution was a piece of political architecture specifically intended to withstand the stresses and flaws that throughout history had caused other governments to become erratic or irresponsible or to turn against their own people. The American idea that government could be constructed as an act of intelligence and free will has inspired countless peoples and has produced more change in the world than any other political or even ideological concept, not excluding Marxism.

The design of the young American Founding Fathers was not struck off overnight. It took two years to hammer out that design and to put it into effect. Each problem and challenge had to be examined in the light of historical experience and common sense. Failures of previous governments became the raw materials for constructing a durable new model. Of all these failures, none was more dramatic, significant, or insistent than the collapse of the American states themselves in their ill-fated experience before federation.

This failure, indeed, was to serve as the impetus for the enduring structure that became the United States; but the fact and implications of that failure are not generally understood today by Americans themselves.

The popular notion about the origin of the United States government is that the Declaration of Independence and the United States Constitution were part of a single historical process. This misconception is reflected in the Bicentennial celebration itself. The United States will not be 200 years old in 1976. The United States was not born until 1789. The nation will not have its Bicentennial until 1989. This is not a historical quibble. There were years of deterioration and disintegration after the end of the Revolution before the U.S. Constitution came into being.

Before the United States could be born, the 13 sovereign American governments had to undergo a collapse of mammoth proportions. John Fiske, in the Critical Period of American History, 1783–1789, has written a sobering account of this collapse. The 13 states thought they could retain predominant sovereignty and still be at peace with one another. After 1783, when the treaty was signed with England, the American states slid into a period of disruption bordering on anarchy. New York and New Jersey shot it out in the harbor over the right to tax incoming ships. Pennsylvania and New Jersey never could agree on a mutually satisfactory border. Connecticut and Massachu-

setts were at odds over the acquisition of western territories. The value of a citizen's currency would shrink 10 percent when he or she crossed a state line. Thus a citizen who started out from New Hampshire with $100 in his pocket would have $20.24 left by the time he arrived in Georgia—without having spent a cent.

Men of reason were convinced that it was a fallacy to suppose that 13 separate sovereign states could exist within a compressed geographic unit. They came together at Philadelphia in 1787 because the situation confronting the states was intolerable. They had no way of knowing whether they could create a new design acceptable to each of the separate states. But they hoped that the results of their efforts might produce a groundswell of popular support that would create an imperative for ratification by the individual legislatures.

The most distinctive feature of the document created at Philadelphia was its federalist principles. The individual states retained jurisdiction over their own territories while yielding authority on all matters concerned with common dangers and common needs. This meant that a central authority spoke and acted for all the states in their collective relationship to the rest of the world.

The main contribution to history of the American Founding Fathers, therefore, was their delineation of the principles by which peace among sovereign units could be created and maintained. They had studied the basic causes of war all the way back to the conflict between Athens and Sparta. They understood the imperatives of geography. They knew that the freedoms of the individual would erode without a structured framework of order for society itself.

The fact that our national Bicentennial birthday is not in 1976 but in 1989 is not so important as our ability to understand the principles that went into the making of this nation. Those principles are no less valid now than they were 200 years ago. The peace of the world today is precarious because many of the sovereign units, especially the major ones, are unwilling to accept, or even to consider, the principles that alone can establish workable world order and thus guarantee their peace and independence. The United States, against the background of its history and traditions, has a natural reason to proclaim these principles. We can perform a great service to ourselves and to the cause of world peace by refuting the notion that the highest value is absolute national sovereignty. We can carry the banner for the idea that world peace cannot be achieved, nor the natural rights of human beings protected and enlarged, without a genuine world order.

It will be said that to draw a parallel between the failure of the American states from 1783 to 1787 and the United Nations' situation today is to overstretch historical analogy. It will be claimed that the hundred or so sovereignties in the present world are too diffuse, too farflung, too complex, to be compared with the 13 states. But one can almost hear James Madison or Alexander Hamilton saying, as they did in The Federalist Papers, that historical principles transcend the size and complexity of the case at hand. The larger the problem, they said, the more pertinent the principle. And the principle that informed their efforts at Philadelphia, and that has meaning for us today, is that the only way to eliminate anarchy is by establishing law. They would say that the only security for Americans today, or for any people, is in the creation of a system of world order that enables nations to retain sovereignty over their cultures and institutions but that creates a workable authority for regulating the behavior of the nations in their relationships with one another. They would recognize the mountainous complexities to be surmounted, but they would also believe that there are nuclear imperatives which dictate the need for world law.

World federalism may seem too remote a goal to serve as the basis for immediate efforts. But a world that is ingenious enough to create the means of nuclear incineration ought to be resourceful enough to devise a way out with a time schedule to match.

COMMON SITUS PICKETING

Mr. THURMOND. Mr. President, Monday the Senate agreed on the conference report on H.R. 5900, the "common situs" picketing bill. I feel this is a terrible piece of legislation. This bill will do nothing but inflate the cost of construction projects in both the public and private sectors. This will result in fewer construction projects and less work for those who work in construction. In short, this bill will hurt, not help, construction workers.

I have urged President Ford to veto this unfortunate piece of legislation. Mr. James J. Kilpatrick has written an article expressing the same sentiment. I ask unanimous consent that an article by Mr. Kilpatrick entitled "'Common Situs' Calls for Presidential Veto" which appeared in the December 13, 1975, edition of the Washington Star, be printed in the RECORD.

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

"'COMMON SITUS' CALLS FOR PRESIDENTIAL VETO"

A showdown is at hand on the "common situs" bill. The bill ought to be vetoed.

In any competition to choose the worst bill of 1975, H.R. 5900 would rank near the top. The purpose of the measure is plain and indeed undenied: It is to force nonunion workers in the construction industry to join the building trades unions.

The legislative mechanism is equally simple. This bill would overturn the famous Denver Building Trades decision of 1951. That Supreme Court decision (341 U.S. 675) upheld a provision of the Taft-Hartley Act making it an unfair labor practice to engage in secondary boycotts.

The Denver case illustrates what this bill is all about. A general contracting company, Doose & Lintner, was erecting a building. A number of subcontractors were engaged on the job. Among them was Gould & Preisner, which had a $2,300 subcontract for electrical work. The firm for 20 years had employed non-union workers. The Denver Building and Construction Trades Council demanded that the contract be canceled, or that Gould & Preisner employ union electricians instead. When the general contractor refused, other unions put out a picket and the entire job closed down. After two weeks Doose & Lintner caved in and ordered Gould & Preisner off the site. The subcontractor took the matter to the NLRB, which found an unfair labor practice. On June 4, 1951, in a 6–3 decision, the Supreme Court affirmed.

The important thing, said the Court, was that the dispute did not involve employes of the general contractor. So far as the record shows, Gould & Preisner had no disagreement whatever with its own workers. The assumption, in a free society, is that the nonunion workers had a right to work, and that the electrical subcontractor had a right to compete for jobs. These rights would be effectively abolished if the pending common situs bill becomes law.

Every consideration of morality, common sense, and practical politics argues in support of the veto.

It is morally wrong—there is no way to make it right—for unions to abuse their power in the fashion here demanded. Of the 4.7 million workers in construction, some 1.8 million belong to no union. They prefer it that way. More than 80 per cent of those involved in small construction are nonunion. These are the carpenters, bricklayers, electricians, plumbers, and manual laborers who work for small companies. They are overwhelmingly opposed to the bill.

His common sense should tell Mr. Ford what enactment of the bill would mean in economic terms: strikes, disruption, violence on building sites, greatly increased costs of construction across the country. It is unbelievable that the President could invite this blow to an economy slowly struggling for recovery.

The political considerations scarcely need to be spelled out. Mr. Ford will not win a single vote from union zealots by signing the bill. Fanatical union members will oppose him willy-nilly. But if the President has nothing politically to gain, he has much politically to lose. Business and industry are solidly opposed to the bill. A survey by the respected Opinion Research Corporation found 68 per cent of the people (including 57 per cent of union members) opposed to the bill. Such liberal newspapers as The New York Times and the Louisville Courier-Journal have made common cause with conservative newspapers in opposition.

Labor bosses defend the measure, of course, as no more than an innocent little bill to give equal treatment to craft and industrial workers. This is a smokescreen. Industrial workers in a given factory, may belong to different unions, but they are all employed by the same employer. The situation in construction is wholly different.

This is a bill to strike at small open shop contractors. It is a bill to dragoon free men, against their will, into joining some of the most violent, vicious, and disruptive unions in the country. A number of cosmetic provisions, intended to encourage peaceful collective bargaining, amount to so much bogus makeweight.

This is the all-around bad bill, as the President himself well knows. During his 25 years in the House he opposed it all the way. Why would he change his mind now?

ZIONISM EXAMINED

Mr. RIBICOFF. Mr. President, much confusion exists over the United Nations General Assembly Resolution equating Zionism and racism. Prof. Nathan Glazer of Harvard University has set out the reasons for the confusion and a very clear explanation.

I ask unanimous consent that his essay appearing in the New York Times of Saturday, December 13, 1975, be printed in the RECORD.

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

[From the New York Times, Dec. 13, 1975]

ZIONISM EXAMINED

(By Nathan Glazer)

CAMBRIDGE, MASS.—Three confusions have been present in the debate over the United Nations General Assembly resolution equat-

ing Zionism and racism. One is the confusion between Zionism and the religion of Judaism; the second, confusion between Zionism and Israel; the third, confusion between Zionism and Jews.

One might add a fourth, that between Zionism and racism, but that is no confusion at all: It is, as Ambassador Daniel P. Moynihan said, simply a lie. But certainly the first three confusions are legitimate.

Is Zionism a political movement, or the religion of Judaism?

The Arabs are right: Zionism is not Judaism. There are many roots of Zionism, as there are to any complex political movement, and among them are the Hebrew Bible; the Jewish prayer book with its repeated pleas to the Eternal to restore Zion; the Jewish religion.

But the Zionism that created the state of Israel is none of these: It was a political movement that arose primarily among the oppressed Jews of Czarist Russia, a movement that promised release from anti-Semitism in this world, not the next.

Against those who argued that the salvation of the Russian Jews lay in socialism, or constitutional liberalism, or in establishing an autonomous socialist Jewish community in Eastern Europe despite the dispersed condition of the Jews, Zionists argued that Jews would continue to suffer from anti-Semitism until they established their own nation on their own territory, as a place of refuge for persecuted Jews and as a defender of Jewish rights. Many religious Jews opposed Zionism, and some still do.

Is Zionism the state of Israel?

To the Arabs, they are identical. By raising the specter of an exotic political movement, they hope to condemn the living and ordinary state of Israel—a state like other states, with the same rights as other states—as the creature of a strange and "racist" ideology.

But whatever the role of the Zionist movement in creating the state of Israel, the living Israel is now a nation and a state that exists independent of any ideology.

Its people have been gathered from Jews everywhere, and only a minority have come from any Zionist political commitment. The Jews of Germany came because they had to get out of Germany. The surviving Jews of post-war Europe came because no other state would have them. The Jews of the Arab countries came because they were forced to live under humiliating conditions or were driven out. The Jews of the Soviet Union come because of an endemic anti-Semitism that the Communist state has encouraged now for three decades.

Zionism is scarcely relevant to the current living reality of Israel.

Does one condemn the Jewish people if one condemns Zionism?

Of course one doesn't, say the Arabs: After all, is it not clear that not all Jews are Zionists? That is true, and one can add, not even the majority of the Israelis are Zionists.

Nevertheless, one does condemn the Jewish people when one condemns Zionism, because the fight is not about, as the Arabs and the Communist countries contend, an outmoded late nineteenth-century ideology, Zionism; otherwise who would care?

It is about the existence of the state of Israel, which the Arab states wish to destroy, by withdrawing from it the respect to which all states are entitled, and which Jews everywhere want to protect.

And further, the fight over Zionism as "racism" is about the people of Israel, Jews, against whom Soviet Russia and some of its satellites continue to bear an unconcealed animus, which can only be understood as anti-Semitism.

It will no longer do to attack Jews as such, even in Communist countries, so the Soviet makes do by attacking Judaism, Zionism, and Israel, in a vulgar and disgusting state propaganda.

That all this is simply Jew-hatred is revealed by the fact that hundreds of thousands of Russian Jews, who know almost nothing about Zionism or Judaism, want to get out and live in a state where as Jews they will not meet prejudice and discrimination. It was also revealed when the remaining Jews—loyal Communists almost without exception—were driven out of Poland after 1967 as "Zionists." When Communist countries say "Zionist," they mean "Jew." By now, when Arab countries say "Zionist"—supporter of Israel—they perforce mean "Jew," too.

Arab spokesmen and Communist spokesmen explain that in attacking Israel they are attacking only an illegitimate ideology. Actually the Arabs are expressing an almost unreduced hatred of the state of Israel, which Jews everywhere, Zionist, non-Zionist or anti-Zionist, support; the Soviet Union is expressing the old hatred of Jews; and the rest of the world has been dragged into the fight.

SENATOR WILLIAM L. SCOTT NEWSLETTER

Mr. WILLIAM L. SCOTT. Mr. President, each year our office makes a survey of constituents to ascertain their views on major issues confronting the Congress and the country. We have prepared the newsletter, including a questionnaire for mailing at the end of the year and I ask unanimous consent that a copy be printed in the RECORD for the information of my colleagues. When responses are received and tabulated, the results will be shared not only with Virginia constituents but with Members of the Senate.

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

YOUR SENATOR BILL SCOTT REPORTS,
JANUARY 1976

SHARING VIEWS

During this Bicentennial year, our attention will be focused upon government even more than usual. Attention will be called to the heritage we enjoy, to the pride we have in our Nation and, of course, this is as it should be. We will, however, have many issues confronting the country as we have in the past and I would like to have the views of constituents on some of the more important ones. Therefore, a questionnaire is included on page 3 of this newsletter, constituting the 10th annual opinion poll since my election to the Congress. As you know, I represented the 8th District of Virginia in the House of Representatives for three terms before being elected to the Senate, and am beginning the second half of a six-year term in this body.

We receive numerous letters from citizens representing various political and philosophical points of view, as well as mail generated by special interest groups and welcome correspondence from any individual or group in our State. The greater the response and the better informed I am regarding the views of citizens of Virginia, the better I can represent you in the United States Senate. The responses to this questionnaire, going as it does to Virginians without regard to their political or philosophical opinions, should, however, provide a better basis for decisions to be made on your behalf than mail generated by specific events or special groups. It will, therefore, be appreciated if you will take a few minutes to answer the questionnaire and mail it back. The results will be tabulated and reported to you in a subsequent newsletter.

Whether or not you respond to this poll, I hope you will continue to share your views on any matter of concern and you can be assured that the opinions of all citizens will be considered. Perhaps I should add that at this time no decision has been made as to whether I will be a candidate for reelection and a decision will be delayed for at least another year. However, after becoming fully informed, I intend to rely upon my own best judgment on issues coming before the Senate as though I had already determined not to become a candidate for reelection. In my opinion, this will permit me to vote independently of political considerations.

VETERANS' CEMETERY

Congress authorized the Veterans Administration to construct four new national cemeteries. One of these is expected to be in Virginia at the Quantico Marine Base near Interstate 95, approximately 32 miles south of Washington. Among the reasons this site is being chosen over the Manassas area are the reluctance of the Interior Department to release any land at the Battlefield Park, the opposition of some citizens to that site, and the fact that access has been impeded by the failure to construct a segment of Interstate 66. It is understood that the Commandant of the Marine Corps will recommend that an approximate 625-acre portion of the Marine Corps Base be made available to the Veterans Administration. After talking with Mr. Roudebush, Administrator of Veterans Affairs, and reviewing the various alternative proposals, I believe this is a suitable location for a national cemetery to supplement the Arlington facility.

Although the Administrator has general authority to select a site and establish a cemetery, I have introduced specific legislation as a precaution against undue delay under the Surplus Property Act and have urged the Administrator to proceed in as expeditious a manner as possible. A new cemetery is desirable because restrictions prevent the average veteran from being buried at Arlington National Cemetery. However, at the Quantico facility most veterans will be eligible for burial, as well as their widows and dependents. It is hoped that there will be no further delay in providing this essential burial space for veterans.

200-MILE FISHING LIMIT

As you may know, the House has passed and the Senate is considering legislation to help prevent depletion of fish in our coastal regions by generally prohibiting foreign fishing within 200 miles of our coastlines. Under this proposal the State Department would be required to initiate negotiations to amend or terminate any agreement to which the U.S. is a party inconsistent with the measure. However, it is hopeful that this will be interim legislation in that it would expire at such time as any comprehensive international treaty with respect to fishing jurisdiction became effective.

It is understood that coastal fishery stocks have been steadily depleted due to vast overfishing off both the Atlantic and Pacific coasts in recent years. In addition, the three Senate committees considering the legislation have been advised that the catch of foreign fishing fleets has been increasing significantly at the expense of U.S. coastal fishermen.

Proponents say the measure is needed to protect vital U.S. fisheries interest while not

interfering or pre-empting pending negotiations regarding a new Law of the Sea treaty. They point out the measure is of limited scope, dealing strictly with fishery practices and conservation, and does not affect other ocean-related interests. Those supporting the legislation also indicate it is consistent with the U.S. negotiating position on an economic zone for fisheries at a recent Law of the Sea Conference.

However, opponents express concern over unilateral action by the United States, as contrary to international law which could undermine efforts to successfully negotiate a comprehensive Law of the Sea treaty. In addition, concern has been voiced over possible claims by foreign nations not only over fishing rights but sovereignty far out into the ocean which some say may pose a potential threat to U.S. defense interests in other parts of the world.

HATCH ACT

A proposal previously passed by the House to permit participation by Federal employees in partisan political activities is under consideration. As you may recall, the merit system for government employees originated prior to the turn of the century after a President had been assassinated by a dissident job applicant. Several decades later, in 1939, the Hatch Act was adopted to prohibit many phases of political activity by Federal employees, including the right to be a candidate for public office or to fully participate in partisan activities. A number of well-known exceptions include the right to seek local office on a nonpartisan basis; the right to discuss your political preferences with friends and neighbors; the right to contribute to the political party of your choice; the right to be an election judge in your precinct to perform nonpartisan duties and, of course, the right to vote in primary or general elections.

Some feel that not permitting full participation in the electoral process by government employees is a reflection upon the rights as citizens. An opposite point of view is that the Hatch Act is the cornerstone of the merit system which has protected the Federal employee from the pressures and threats of political reprisals. Some leaders of government employees' unions appear to prefer the repeal of the Act but I am not sure that this represents the feeling of the majority of employees.

As one who has been a government employee at various levels for more than 35 years, I seriously doubt that the repeal of this Act would be in the interest of either the government or its employees. However, you may want to share your thoughts on this proposal.

YOUR OPINION, PLEASE

1. What do you consider the major issues confronting the country today? (Number several in order of priority): High cost of living, Foreign aid, Moral decay, Government spending, Détente, Excessive paperwork and regulations, Racial busing, Unemployment, Energy, Crime, Soviet military expansion, Other.

2. With regard to Federal employees, would you favor:

a. Collective bargaining rights for all employees.

b. Collective bargaining rights for those not engaged in services vital to health and safety.

c. Continuation of present laws.

d. Other.

3. Do you favor allowing the Supersonic Transport Concorde to land at American airports such as Dulles?

4. Which of the following actions would you favor to improve the national economy?

a. Increase Federal spending to stimulate the economy.

b. Limit Federal spending to reduce inflation.

c. Stimulate the private sector of our economy by reducing Federal taxes.

d. Balance the budget.

e. No change in present law.

f. Other.

5. Do you favor the following foreign policy positions?

a. Establishing normal relations with Cuba.

b. Continuing "détente" with Russia.

c. An evenhanded policy in dealing with Israel and Arab nations.

d. Additional grain sales to communist nations.

e. Additional economic and military aid to Israel.

f. Renegotiating our position in the Panama Canal Zone.

g. Establishing diplomatic relations with Mainland China even if it means severing relations with Taiwan.

6. To deal with the energy shortage do you favor:

a. Higher fuel taxes.

b. Modifying air quality controls to increase energy production.

c. Having supply and demand determine price.

d. Further development of nuclear energy.

e. Rationing.

f. Greater use of coal.

g. Other.

7. Which of the following proposals for Federal health insurance do you favor?

a. A federally administered and tax-supported program for everyone, regardless of income or age.

b. Establish catastrophic health insurance to cover extraordinary medical expenses.

c. Retain private health insurance, with the Federal Government paying the premiums for those unable to pay.

d. Create no new federally funded health insurance programs.

e. Other.

NEW YORK PROBLEM

In recent weeks the committees in both Houses of the Congress have been considering whether or not the Federal Government should assist New York City and, if so, in what manner. As you may know, the city had an indebtedness of approximately $12.5 billion on September 30, 1975 of which $4.75 billion was short-term obligations with a long-term indebtedness of $7.75 billion. The city estimated that about 90% of the debt was held by banks outside of the city, but there is some disagreement as to who holds the various bonds.

As you may remember, the House Banking and Currency Committee recommended guaranteeing loans to the city of not more than $7 billion and the Senate Committee a ceiling of $4 billion. The President indicated opposition to the loan guarantees and my mail was very heavy in opposition to them. However, the President later submitted a different proposal to the Congress which provided for direct loans of not more than $2.3 billion made by the Federal Government, and this measure was enacted into law.

As a separate matter, both the House and the Senate have approved a new chapter to the Federal Bankruptcy law under which a city that is unable to meet its obligations as they mature may file a petition in bankruptcy. A Federal district judge would be substituted for the usual referee in bankruptcy and would have authority under conditions specified in the Act to extend the period within which various obligations would have to be paid. He would also, with the consent of creditors, have authority to adjust claims and to require the city to revise its fiscal policies. Perhaps the most important portion of the Act is that the city could obtain the necessary funds for essential services through the issuance and sale of debt certificates having priority in repayment over all other obligations. This new section of the Bankruptcy Act appears more desirable than either of the measures originally recommended by the banking committees or the loan measure recommended by the President and passed by the Congress.

In other words, under the new chapter of the Bankruptcy Act, the city could sell bonds, having priority of repayment, to the private sector of our economy and the Federal Government would not need to either loan or guarantee loans to the city. My concern is that loans to New York will constitute a precedent for other cities and states at a time when our national debt is between $565 to $570 billion and upon which interest or carrying charge is $70,000 per minute. It seems to me that governments at all levels must learn to live within their incomes even though this may mean that some desirable services will not be available. No individual or government at any level can continue to spend more than it receives in revenue. A copy of my remarks on the Senate floor is available upon request.

SOMETHING TO PONDER

"The question today is whether we have enough of the old spirit which gave us our institutions, to save them from being overwhelmed."—Chief Justice Hughes.

WILLIAM L. SCOTT,
U.S. Senator.

TOURISM

Mr. INOUYE. Mr. President, tourism which is estimated to be a $70 billion a year business, is one of the top 3 industries in 46 of our 50 States.

Despite the industry's significance to our economy, it is no secret that many in official Washington regard tourism as something of lesser importance in terms of Government priorities.

It was only 2 years ago, in fact, that a major segment of the industry was going to be classified as "nonessential" for fuel allocation purposes during the energy crisis. Fortunately, the administration reconsidered its position.

Until recently the many separate industries which make up the tourism industry have rarely united in a combined show of strength.

Failure to do so, I believe, is a major reason why the industry has been lightly regarded in some official quarters.

I have often called this matter to the industry's attention, and urged its leaders to subordinate whatever differences they have to the greater common good.

An excellent example of what I have been advocating is the speech which Mr. Edward T. Hanley, president of the Hotel and Restaurant Employees and Bartenders International Union delivered to the Industry Advisory Council of the American Hotel and Motel Association.

In my judgment Mr. Hanley's statesmanlike remarks deserve the attention of everyone who is interested in the contribution a healthy tourism industry can make to our national welfare.

Mr. President, I ask unanimous con-

sent that his remarks be printed in the RECORD.

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

SPEECH BY EDWARD T. HANLEY

This is a golden opportunity for a bartender from Chicago to appear again before the Industry Advisory Council and invited guests to continue our dialogue regarding the problems of our industry and the opportunity we have to solve these problems by working together in areas of mutual interest. Apparently, my remarks were not too bad the last time, since an invitation was extended to appear before this group again. Actually, I'll let you in on a secret—I was really invited again because the last time half of the group was in a state of shock hearing a representative from organized labor and I talk so fast that the other half missed what I said. Today, you can sit back and relax, secure in the knowledge that the only thing emanating from the podium will be golden pearls of wisdom couched in brilliant oratorical eloquence.

It is altogether appropriate that I begin my remarks in one of the finest cities of the West by quoting Horace Greeley, whom I believe said something about this area that resulted in subsequent migration from all parts of the country. In another context, he said, "The illusion that times that were are better than those that are has probably pervaded all ages." So it is today, in these troubled times, that many are reflecting upon the past and ruminating about the future. in spite of our troubled national economy and the problems affecting our industry, I remain an optimist and am strongly committed to the proposition that a recovery is inevitable. Certainly all the economic barometers even today allude to the excellent prospects for future growth for the overall service trades industry, of which we are a dominant part. But all of the theories and forecasts are meaningless if they cannot be translated into a program of action and accomplishment.

Let's establish one thing right up front—I am not the enemy. We have many common goals, and one of them is to erase the stereotyped image that labor and management are adversaries. Our world, our country, our economy, and our industry are all undergoing massive changes. As a result, our traditional roles must change. We have proven, in my opinion, that our international union is equally as concerned with the health of this industry as is the American Hotel and Motel Association.

Many of you might assume that as a labor leader I am automatically against profitability or think that profit is a dirty word. Nothing could be farther from the truth. Profitable properties afford job security to our members. A proportionate percentage of profits must be used for capital investments to expand and improve our industry, thereby creating more jobs and potentially more members of this international union. On the converse side, any time we hear of a hotel or motel closing, it automatically means we lose members. So we have just as keen an interest and desire to see your operations as profitable as they can be, and have already worked in these areas to help your affiliates here in California by expressing a strong dissent over the enforcement of proposed new fire code regulations which would have cost the industry millions of dollars. Our major reason for involvement in the California situation should be readily apparent. We, too, have a substantial investment in your business, but it concerns people, not dollars, and people are what we are all about.

While touching upon the subject of profitability, I could hardly ignore another aspect which is intrinsically woven into the profit pattern—productivity. This is a fertile area for proving how the cooperative efforts between our organizations can be a benefit to all concerned. As I mentioned to many of you in Memphis, a recent study showed that the United States has the smallest average annual rise in productivity among all industrial countries, and this is an appalling statistic.

Technology and science can only do so much to enhance productivity because we are essentially a people industry. I challenge all of you to explore with us the methods necessary to attract and retain capable people with a commitment to our industry. Unless we reverse the trend of the exorbitant turnover rate in our industry, we will never be in a position to deal effectively with productivity. My challenge to you is a sincere one, and there are people on the staff of our international union ready to cooperate with representatives of your organization to find the solution to our number one problem—transiency in our people. We must make our industry more interesting and provide reasons for people not to leave their jobs so often or to disband the industry altogether. One of the recent steps we took along these lines was to establish jointly administered national pension and welfare plans, a prime example of the kind of benefit we feel is necessary to stabilize employment and provide an incentive to stay in the industry—and what is more vital than that if we sincerely desire to increase productivity.

While mentioning the important areas of profitability and productivity, one cannot ignore another area closely allied with these—courtesy. Service is the most important commodity we have to offer. Courtesy is often a natural attribute, but it can also be an acquired social grace, learned through example, self-improvement, and training. Most of your management people spend 8 hours a day with our members, and I believe that your people would be most effective in implementing a program which could be dealt with in conjunction with an overall productivity program. This becomes especially significant when we generally agree that increased productivity may be a major solution to the problems facing our industry.

Unless travel is an enjoyable experience, the discretionary traveller can become easily discouraged and reduce the number and frequency of trips he takes. This is a problem that obviously affects both of us, for it can mean reduced profits or losses for you and a loss of members for us. Industry standards in these areas have got to be upgraded and the public made aware of our efforts to achieve new standards of excellence.

A major part of courtesy is communication. Lack of proper communication creates untold problems in the operation of any business, especially one which is people oriented. Our international union has endeavored to improve communications with our members through its official publication, the catering industry employee magazine. By improving the content and style of the magazine and making it more member oriented and issue oriented, we have attempted to make our members involved in their jobs, their industry, and their communities. Since your association has recently introduced its new official publication, lodging, why not establish a cooperative program where we would submit articles to be published in lodging magazine and you would have a designated member submit articles for our C.I.E. magazine. This area obviously presents a great challenge, and an even greater need for mutual cooperation.

Before touching upon the important areas of legislative activity, let me touch briefly on a fact which many of you may not be aware of, as recently as 18 months ago, our industry was categorized by the administration in Washington, D.C. "non-essential" in the event gasoline rationing became a reality. Through the combined efforts of some of your representatives and ours, we were able to change that classification to a "commercial" status within 24 hours. This occurred during the energy crisis.

The position of this international union regarding gas rationing is a matter of public record—to us, it is totally unacceptable. We even took a view contrary to that of the AFL–CIO regarding gas rationing because we knew the adverse affect rationing would have on our industry. Even though I have recently been elected a vice-president of the AFL–CIO, my position has not wavered, and will not waver, at all. We all know that exorbitant increases in gasoline prices will have a substantial adverse impact on our industry, and our organization has been very active in support of the Alaska pipeline project, both legislatively and physically. I can think of no more worthy goal than for your organization and ours to establish a cooperative effort to support any approach which will reduce our dependency on foreign oil, increase domestic supplies at reasonable prices, and embark upon major programs to develop alternative means of energy, such as coal.

I want to take this opportunity to commend your leadership for their increased awareness of the importance of becoming deeply involved in legislative and political matters. This interest culminated in the formulation of a new governmental affairs program, a positive step which can only provide increased recognition and benefit for our industry. One of my first duties upon assuming office was to establish an office in Washington, D.C. geared predominantly towards legislative and political activity. Our international union has become one of the most active and strongest in the legislative and political arenas.

You also have a strong legislative arm in Washington in Mr. Al McDermott. Lest you begin to be lulled to complacency, let me quote Sen. Daniel K. Inouye of Hawaii, one of the greatest friends our industry has in Congress, from a speech he made some months ago to a group of your leaders: "Let there be no misunderstanding. Official Washington is not and has not been aware of tourism and its contribution to the economic and mental and social welfare of the American people. And for this you are in large measure responsible.

The executive branch does not regard the tourism industry as important and never has, quite candidly, a major portion of the blame rests with you, the industry leaders over the years who have not made your combined muscle felt at 1600 Pennsylvania Avenue. When the many segments of your industry join together you will present a formidable case. Not only do you number among yourselves leading representatives of the hotel and motel industry, but also the very powerful and effective voice of organized labor. Whatever other differences might exist among various segments of the industry, none should exist on this question. You should all be united and work together to advance the cause of your industry within the government. This is the single message that I bring to you." Powerful words from a good friend and highly effective legis-

lator. Let us examine them more closely in the light of recent events since Sen. Inouye made those comments.

The last time I spoke to this group the President had vetoed the tourism bill. We worked extremely hard to override that veto. When it became apparent that our forces would prevail, the minority leadership indicated the veto might have been a mistake after all. A new bill was drawn up with new language, which amounted to a change of 3 words. The new bill passed the Senate and the House by unanimous consent. The President signed the bill in the Rose Garden on July 9. End of fight? Not hardly.

The bill that was passed contained for the first time ever an authorization to promote domestic tourism. It authorized an appropriation of 2.5 million dollars for the next three fiscal years for the United States travel service. This was separate and distinct from the large amounts of 25, 30, and 35 million for international tourism programs for the next 3 fiscal years. What could be more appropriate than to promote our country to our own citizens especially during the years of our bicentennial. Congress was very explicit in its legislative intent—the moneys for domestic tourism were to be spent for promotion.

Well, the House conferees were ready to eliminate the 2.5 million from the budget and would have except for the oral efforts of Sen. John O. Pastore. Yet, Cong. John Slack, the head of the House conferees, is also a good friend, so we could not understand why the House conferees were wavering. Well, your good friend, Sec. Rogers Morton sent a letter regarding the overall Commerce Department budget to Cong. Slack before the conference started, and the letter recommended the deletion of the entire 2.5 million for domestic tourism. His reason was that the appropriation was premature since a firm program had yet to be developed by the U.S.T.S. That is official Washington language. In our more comfortable jargon, it is commonly known as getting shafted. This is where Sen. Inouye meant you need more muscle.

However, we were able to get an appropriation of $1.25 million, and we just received word that the U.S.T.S. has broken down the appropriation roughly this way: 47% for promotion, 38% for research and 15% for public information. Do you know why more of this was not spent for actual promotion—you guessed it, our good friend Sec. Rogers Morton.

My union has been involved in legislation which recently called for the formation of a national tourism policy. This study will be geared toward determining the role of Federal Government in helping the industry better solve its problems. I might add that the Senate Resolution 347 which created the study passed the Senate by unanimous consent with 71 co-sponsors. The study is now underway and I am confident that Sen. Inouye's subcommittee will be calling on all of us for input. It is imperative that we all cooperate in this venture which will probably be the most important study ever done on our industry.

Recently, I was appointed through the White House to be a member of the Travel Advisory Board which advises the Secretary of Commerce on all matters relating to tourism. Our first meeting was held in October and was a revelation for me to hear many of the disparate comments being proffered by fellow board members at the meeting. The chairman of this meeting did an excellent job even though it was his first meeting as the new head of the U.S. Travel Service

I refer of course, to Creighton Holden, a past president of the American Hotel and Motel Association, who was recently appointed the assistant Secretary of Commerce for Tourism. It was our pleasure to testify on Mr. Holden's behalf when the Senate conducted hearings on his nomination, since his appointment represented the first time that a man with a professional background in our industry is heading the U.S. Travel Service. The American Hotel and Motel Association also testified in his behalf. Again, I must conclude that we have made a significant step in the right direction and for the future laid the ground work for additional support from the U.S. Travel Service and a more meaningful role for our industry in their deliberations. Proof again of the value of working together.

Some of you may be aware of the recent move by the House Ways and Means Committee to eliminate the deduction for foreign travel. There was considerable sentiment that the many abuses that existed in this area had to be eliminated. We concurred and we know all of you would concur with the elimination of such abuses. However, as often is the case in the legislative process, knee-jerk reaction produces a bill which goes further than rectifying an inequity and begins to delve into areas where governmental interference creates havoc. My representative wrestled with this problem for many months. Obviously, we would have preferred their not touching this area at all.

However, we wanted to make absolutely certain that none of the restriction that were imposed would affect the domestic market in any way. Some association people suggested that my union opposed a move to lessen the suggested restriction on foreign travel. Nothing could be farther from the truth. My position is simple. In no way can we afford to have any sort of restrictions of travel within North America and its possessions. Neither should we penalize people who are travelling to foreign countries for legitimate meetings and conventions. I fear that if we convey the impression to our friends throughout the world that we no longer welcome or allow Americans to travel to their countries that those countries may retaliate and suggest to their citizens that they should no longer visit the United States of America. Such retaliation would mean a tremendous loss in revenue and a loss of members.

The final bill passed by the Ways and Means Committee and full House is palatable to all concerned. We were deeply involved in this fight even though there was a split in your ranks about supporting various aspects of the bill. We will work together on the Senate side and in conference to make absolutely certain that the ultimate version is acceptable to all.

The last area that I wish to discuss concerns a bill called the tip credit which I think some of you may have heard of. Obviously, you may be thinking that this is one area where the bartender from Chicago is absolutely in an adversary position with the industry. You are wrong. Let me quote verbatim from testimony which was submitted on my behalf by our legislative representative on October 22, 1975 before Chairman John Dent and his subcommittee on Labor Standards. "We strongly support Chairman Dent in his efforts to rectify the tip credit situation. Our international union is confident that the members of this subcommittee and the members of Congress share the desire to reach an equitable solution.

"It is our desire to see many more new hotels, motels, and restaurants open since that conceivably could lead to a greater growth in our membership. Expansion can be achieved not at the expense of workers, but to their benefit. Thus, we assume the posture that labor and management share the problems of the industry and can mutually benefit from working together on most issues. In fact, our union has probably expended more effort on helping the tourism industry than the industry itself.

"The item which this distinguished subcommittee is presently deliberating is purportedly one which pits labor and management in an adversary position. I view that as a traditional, institutional concept that does not necessarily apply anymore, except to those who are archaic enough to adhere to cherished tradition. In fact, at this time I respectfully challenge the leaders of the hotel, motel and restaurant industry to sit down with us to discuss this problem in an enlightened manner. All we are asking is equitable treatment under the law for our members. We are confident that no enlightened leader in the industry desires anything different for his employees."

I hardly think that you could surmise from this quote that our position is etched in granite. Let us also sit down and discuss these sensitive areas for I am confident that we can reach an equitable solution.

Let me reiterate what a pleasure it is for me to be here today. At the recent special convention of our international union, the theme we adopted was meeting the challenges of the changes in industry. Now I am determined to make our international union more responsive to the needs of its members and more responsive to the industry in which we all work. I firmly believe that unless we are willing to accept these challenges, our industry as with many others will stagnate and the standards of service to the guests we serve will deteriorate. So let us go to work and once again thank you very much.

THE GREAT POTATO CHIP CONTROVERSY

Mr. FANNIN. Mr. President, in line with the comments I have been making recently regarding the ridiculous extent of Government regulation in our country today, I would like to call the attention of my colleagues to the column by George Will which was printed in Monday's Washington Post. The great potato chip controversy shows how far we have strayed from the principles of Jefferson and other sound statesmen who founded our country.

Mr. President, I ask unanimous consent to have this column printed in the RECORD.

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

THE INALIENABLE RIGHTS OF POTATO CHIPS

(By George F. Will)

Jefferson said: That government is best that governs least. After two centuries of progress, our government says:

"Part 102 of Chapter I of Title 21 of the Code of Federal Regulations is amended . . . as follows . . .

"(a) The common or usual name of the food product that resembles and is of the same composition as potato chips, except that it is composed of dehydrated potatoes (buds, flakes, granules, or other form), shall be 'potato chips made from dried potatoes.'

"(b) The words 'made from dried potatoes' shall immediately follow or appear on a line(s) immediately below the words 'potato chips' in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

"(1) Not less than one-sixteenth inch in

height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

"(2) Not less than one-half the height of the largest type used in the words 'potato chips.' "

Ah, the drama of government.

This drama began, sort of, about 100 years ago in a kitchen in Saratoga Springs, N.Y., when an American Indian chef, George Crum, deep-fried thin slices of potatoes, and the potato chip was born. But the drama began in earnest in the mid-1950s when Proctor & Gamble said: "What the nation needs is a better potato chip!"

I will not dwell on the appropriateness of the nation's largest detergent manufacturer undertaking to improve the potato chip, that monument to the American genius for junk food. Suffice it to say that Procter & Gamble's scientists labored mightily and, in 1969, brought forth "Pringles Newfangled Potato Chips."

They are "newfangled" because they are made from dried potato granules which are moistened, rolled into sheets, cut into uniform bits, and fried. Because the chips are uniform, they can be stacked and merchandized in hard cylinders, like tennis balls.

To hear Procter & Gamble tell it, this is a betterment of the human condition comparable to the development of penicillin because, unlike chips sold in bags, few Pringles get broken.

But did a grateful nation heap honors on Procter & Gamble's scientists? No, the scientists learned a bitter truth: Build a better (or, at any rate, newfangled) potato chip and the Food and Drug Administration will beat a path to your door.

The problem is that the lowly little potato chip is big business—about $1.5 billion annually. And most manufacturers are regional firms that do not relish competing with Procter & Gamble, a $4.9 billion a year conglomerate that can effortlessly spend a decade and $70 million developing and marketing Pringles.

Understandably, traditional chip manufacturers are haunted by the specter of Procter & Gamble as the AT&T of chips. But the traditionalists did not incite the Justice Department's antitrust forces to resist Procter & Gamble as an emerging chip monopoly.

Rather, the potato chip traditionalists, who evidently have a metaphysical turn of mind, reacted like scholastic philosophers, and demanded that the Food and Drug Administration answer the question, "What is a potato chip?"

So the government, confronted with a challenge commensurable with its talents, brooded about the traditionalists' argument that the word "chip" is misleading when applied to restructured potato products like Pringles. Finally, the FDA ruled that such products are not unambiguously chips, but are more chippy than non-chippy, and shall be baptised "potato chips made from dried potatoes."

This semantic fiat is a compromise, but it is not pleasing to the anti-Pringles forces. Out in Euclid, Ohio, the Potato Chip Institute International, the Vatican of potato chip orthodoxy, has sounded a dolorous note on its trumpet: Americans reaching for something bearing the noble words "chips" may get something that does not deserve the name.

But I remember that, 199 and a half years ago, Jefferson said that governments are instituted to secure inalienable rights. Presumably that is what our government has done regarding potato chips.

TRIBUTE TO RALPH A. JOHNSON

Mr. CHILES. Mr. President, today I would like to share with my colleagues the many accomplishments of the late Ralph A. Johnson, Department of Florida American Legion adjutant and secretary-treasury of Florida American Legion Boys State. He served almost 20 years actively with Boys Nation in Washington and Boys State in Tallahassee, Fla.

He enlisted in the U.S. Marine Corps in January 1940, saw combat duty in the Pacific, was wounded twice, and later discharged in 1943 with a total disability rating. He joined American Legion Post 24, Alexandria, Va. the day of his discharge.

Ralph was department commander, 1949–50, of the Virginia American Legion, and following his World War II service, was a national field representative with the American Legion before becoming Florida adjutant.

He was claims representative, assistant to five National American Legion commanders, and national field representative serving several Southern States, including Florida. He was also chairman of the National American Legion Internal Affairs Commission and has represented the national commander in Hawaii and 13 European countries on two different occasions.

His many awards over the years would fill numerous pages and his membership on various committees and his background of public speeches regarding our American Legion and our youth, especially Boy Staters, is impressive.

Certainly Ralph Johnson's life was one of contribution to all around him. He will be greatly missed, and I know members of the Senate will join me in recognizing this outstanding American.

COASTAL FISHERIES PROTECTION ZONE

Mr. PACKWOOD. Mr. President, once again in the Senate we turn our attention towards the establishment of a coastal fisheries protection zone. As you recall, last year the Senate passed a 200 mile bill by a margin of 68–27 but similar legislation did not come up for a vote in the House. Now the House has passed 200-mile legislation of their own.

As we resume consideration of this measure in the Senate it might be worth while to examine a few events which have transpired since we passed the bill 1 year ago:

First. Most significantly, the latest session of the Third Law of the Sea Conference held in Geneva adjourned last May without reaching a 200-mile accord. How this brings back memories of State Department officials who have implored Congress over the years not to act unilaterally on a 200-mile limit because a negotiated one was just around the corner. I can recall the litany all too well. We need to go back only a few short months prior to the Caracas session of the Law of the Sea Conference.

The date is February 26, 1974 and Congressman DOWNING is questioning John Norton Moore, Deputy Special Representative for the Interagency Task Force on Law of the Sea, in proceedings before the House Merchant Marine and Fisheries Committee, Subcommittee on Oceanography on the prospect of achieving a negotiated 200-mile treaty at the upcoming Caracas session:

Mr. DOWNING. Now the Caracas conference will probably conclude when, in September?

Mr. MOORE. August 29.

Mr. DOWNING. Do you reasonably expect agreement at Caracas?

Mr. MOORE. The United States will be going to the session fully prepared to reach an international agreement, which we feel will be not only in our interest but one which will be in the interest of all nations. We hope very much that would be the outcome of Caracas. We would particularly expect at Caracas, at the least, that there would be an outline or an agreed parameter of the outlines of the final agreement. For our part, we are going, prepared to reach that agreement at Caracas and will be negotiating accordingly.

Well, Mr. President, by the end of August 1974, the nations meeting in Caracas had not reached agreement on a 200 mile limit so Mr. Moore was back before the House Merchant Marine Committee on September 25, 1974, explaining why. This gave Congressman Kyros an opportunity to ask Mr. Moore about the prospects for a 200 mile treaty at the next Law of the Sea session in Geneva.

Mr. KYROS. Let me ask you one question that you can perhaps answer categorically and it is simply this: By what date and in what year will we have a comprehensive Law of the Sea agreement on fisheries that will encompass every foreign nation fishing off our waters right now?

Just give me a figure—10 years, 15 years, 50 years?

Mr. MOORE. There is no reason that we cannot have that agreement within 1 year, that is on the General Assembly schedule of not later than 1975.

Mr. KYROS. A 200-mile fishing limit included within an economic zone, controlled by America, by the coast States within 1 year?

Mr. MOORE. That is correct. There is no reason we cannot have it on the General Assembly schedule which calls for any additional session or sessions of the Conference to be held no later than 1975 and if we can provisionally apply the treaty then provisional application would go into effect at that point.

Mr. KYROS. When is your meeting in Geneva?

Mr. MOORE. March 17 to May 10.

Mr. KYROS. Of what year?

Mr. MOORE. Next year.

Mr. KYROS. A year from now, 1975 is that right?

Mr. MOORE. This coming year.

Mr. KYROS. You mean to say you will have a treaty that the 37 odd nations that fish off the United States are going to sign?

Mr. MOORE. We very much hope it will be a much larger group than even those fishing off our coasts.

Mr. KYROS. In the whole history of the Law of the Sea Conference this has never happened before. You could not go amiss?

Mr. MOORE. Unlike 1958 and 1960 we genuinely have a unique opportunity because it is being approached in a package treaty. All of the nations of the international community that have an interest are involved in these negotiations. If we lose the opportunity now for a widely agreed treaty it may never return.

Mr. President, Geneva is history, as will soon be 1975, and the 200-mile limit is not among them. Thus even the most optimistic proponents of a negotiated 200-mile limit have turned to face the pessimistic realities. So Mr. Moore returned to the House this year after Geneva to re-

port that 200-mile negotiations "cannot be completed before mid-1976 at the earliest and at this time it is not clear whether or not a treaty can be completed during 1976." At the same time, under Secretary of State Maw announced that he could not say whether the Law of the Sea Conference would conclude negotiation of a 200-mile treaty within 3 to 5 years.

Two. Yet the failure of Geneva to achieve a 200-mile accord is not the only event which has taken place this past year which would increase the burden on Congress to make such a limit a reality through legislation. I would like to call attention to valuable surveillance of foreign fishing carried out on a year round basis by the National Marine Fisheries Service. The Service reports each month the number of foreign fishing vessels it observes operating off a given U.S. coastal area. On the west coast, I receive from NMFS reports covering foreign fishing activity in an area stretching generally from San Francisco north to the United States/Canadian border. In this coastal area of the United States alone, NMFS has observed a dramatic increase in foreign fishing vessels for each of the first 10 months of 1975 over 1974 except September:

Month	No. vessels 1974	No. this year	Percent increase (1975 over 1974)
January	--	7	700
February	--	8	800
March	--	66	560
April	7	94	100
May	72	107	49
June	75	111	48
July	86	114	33
August	75	82	9
September	87	28	[1] 68
October	13	23	76
Average percent increase (1975 over 1974)			60

[1] Decrease.

It is interesting to note that the only month which shows a decrease in foreign fishing activity is September. This decrease is due to the fact that the Soviet hake fishing fleet left the west coast and headed for home earlier this year. National Marine Fisheries Service estimates that the Soviet hake catch was down this year over last giving rise to speculation that the Soviets may have substantially depleted the west coast hake fishery.

Third. Of course, this year as last, the proposed unilateral establishment of a 200-mile zone brings with it fears that other countries will not respect the zone thereby causing a military confrontation. However, while we cannot cavalierly discard such fears, their credibility must be examined in the light of available evidence. For example, the Soviets have been extremely receptive to negotiations by U.S. private industry to a plan which would pay U.S. fishermen to fish for the Russians should a 200-mile zone be created. The existence of such negotiations indicates to me a certain willingness on the part of the Soviets to respect a 200-mile zone.

Fourth. Lastly, Mr. President, we cannot ignore the fact that other countries continue to move ahead on their own to protect their fisheries resources through the establishment of fishery protection zones. In the past year both Iceland and Mexico declared 200-mile zones joining a list of 36 other countries who have zones extending beyond the traditional territorial limits.

We are told by the State Department and others who oppose the unilateral establishment of fisheries protection zones that such actions are ill-considered and not in keeping with "international responsibilities." We are warned that others would not respect our zone if we went ahead on our own. The merits of recent international agreements are extolled as having a significant impact on reducing foreign fishing. And, as always, there is another session of the Law of the Sea Conference just around the corner upon which we can predicate rosy hopes for multilateral accord.

Mr. President, I am tired of indulging in these fantasies. I have taken some length in this statement to attempt to point out their weaknesses. I would prefer to see a 200-mile zone established in accord with the other countries of the world but I am not prepared to defer the matter indefinitely in favor of diplomatic niceties. When the Senate voted last year to approve a 200-mile zone it was our mandate for action—that we put this matter off long enough. It is time now to reaffirm that mandate. The events of the past year serve only to support our reasons for doing so.

MR. MOYNIHAN AND THE THEATER OF THE ABSURD

Mr. McGOVERN. Mr. President, in recent weeks our tempestuous ambassador to the United Nations has been making headlines with his emotion-charged attacks on other member countries in the General Assembly. Some of these attacks have been justified, at least in part, although I question their enduring value to the American interest and the cause of international understanding.

Recently, Mr. Moynihan described the U.N. as a "theater of the absurd" because of the behavior of so-called third world countries. There is indeed a generous share of absurdity in international affairs. But it would be well for Mr. Moynihan to recall from time to time that far and away the most absurd and barbaric behavior in the 30 year history of the United Nations was the American war in Indochina. No other country has equalled that tragedy in absurdity, folly, cruelty and sheer stupidity. Under these circumstances, it might be well for an occasional note of humility and patience to mark the judgment of American spokesmen as they view the follies of others.

Mr. Paul Good has written a critical evaluation of Mr. Moynihan which appears in the December 20, 1975, issue of The Nation. Believing that it might in some small way add a dimension of value in appraising the Moynihan record, I ask unanimous consent that the article be printed in the RECORD.

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

DANIEL PATRICK MOYNIHAN—THE MASK OF LIBERALISM

(By Paul Good)

With the United Nations in turmoil over Zionism and racism, the United States is represented by the wrong man, in the wrong place, at the wrong time. Whatever one feels about the complex, conflicting claims of the Israelis and the Arabs, and of the Western world and the Third World—claims fired by passions as intense as they are threatening to global peace, and by politics alternately crude and subtle—the American position at the world body should not be compromised by the man voicing it.

But the chief U.S. delegate, Daniel Patrick Moynihan, by his performance during the last ten years of racial struggle in his own country, has forfeited any credentials he might once have held as a man committed to an understanding of racism and dedicated to its eradication. A decade ago, he was widely regarded as an intellectual liberal from a working-class background actively engaged in effecting profound social change. This is a blend rarely encountered in American public life and he cultivated the popular estimate of himself to advance a successful academic and governmental career.

Today, he has emerged as a bombastic spokesman for the new, Mr. Clean image of America that Washington is trying to project. It would make our past national mistakes (even those which extend into the present) an irrelevant subject for international discussion. It would equate democracy with morality, despite evidence to the contrary as glaring as recent CIA assassination plots, and label en masse governments that choose other forms as "despotisms" (Moynihan's word). Finally, it would assert that criticisms of Israel or sympathetic consideration of any Arab claim constitute anti-Semitism and reveal a desire to destroy the Jewish state.

In one sense, Moynihan is the ideal man for this slogan mongering which insists on black or white reactions to such vastly complicated issues as the dilemma of the Palestine refugees, and which facilely blames the victims for condemning their victimizers Moynihan is ideal for such work because of a demonstrated ability to make a virtue of his own errors by blaming those he has failed for his failures, while reinforcing his wrong-headedness with sophistries that ingratiate him with the powerful, but never with the powerless. This matching of man and mission may be good for Moynihan, but it is not good for the United Nations or for the United States.

It was not good on October 3, when the debate on Zionism began, for delegate Moynihan, referring to Uganda President Idi Amin's call for extinction of the Israeli state, to say publicly: "It is no accident, I fear, that this racist murderer, as one of our leading newspapers [The New York Times] called him this morning, is head of the Organization of African Unity."

One can abominate Amin's call for the eradication of Israel and still wonder at Moynihan's exercise in vituperation. President Amin is among the least lovable and coherent chiefs of state ever to visit the U.N., but when

it comes to being a racist murderer—i.e., having people killed to further racist government policies—the white leaders of Rhodesia and South Africa have not over the years been under-achievers. Yet Moynihan has never denounced them; in fact, his government provides them with consistent support. And why did Moynihan feel free to level his gross insult not only at Amin but at the entire black membership of the OAU—*many of whose members are not sympathetic either to Amin or to anti-Israeli actions?*

To understand his behavior and to appreciate fully why he should not be speaking for the United States in its relations with Third World countries, which already have ample historic grounds to fear and distrust us, it is necessary to examine the career of this man whom the media helped establish in the role of liberal champion of minority rights, despite a wealth of ambivalent evidence suggesting that he has been something quite different.

The foundation of that career was Moynihan's long association with the Joint Center for Urban Affairs of Harvard and M.I.T., a prestigious, impressive-sounding institution which he eventually headed. He has served under four Presidents—Kennedy, Johnson, Nixon and Ford—and for Johnson and Nixon he prepared secret memoranda that undermined the efforts of black leadership, distorted the shape of racial realities, and created public confusion that played into the hands of racial reactionaries. His opportunistic judgments on current events have curried favor with power sources at the expense of minorities and of the truth. Step by step, Moynihan's career is revealed in the public record and the record should determine his fitness for continued public service.

In 1965, President Johnson made his dramatic "We shall overcome" speech at Howard University, pledging a full national commitment to racial equality and announcing a future White House conference entitled, "To Fulfill These Rights." At the same time, Moynihan was working on his own approach to the black American dilemma in a study called "The Negro Family: The Case for National Action." It focused on the absence of fathers from two out of five black families (the accuracy of the statistic has been debated) and its central theme was that matriarchal black families did not prepare children for a patriarchal society.

Of course, he conceded, there was racial injustice in that society, and America's history of discrimination had produced the black family pathology. To reason otherwise—that paternal absence was a racial trait—Moynihan would have had to demonstrate that Ebo or Zulu tribesmen regularly abandoned their families when, in fact, those societies were more stable than their Western counterparts. But Moynihan was not interested in delineating these distinctions. He was out to prove that family breakdown, not 1965 American race prejudice, was responsible for black powerlessness and despair.

The report, prepared under the aegis of the Labor Department, was kept secret, although President Johnson approved it and planned to tailor the White House conference to its specifications. But blacks, the subjects of the conference, were to be kept ignorant of the "Moynihan Report." Obviously, either he or somebody was nervous over black reaction, so the report was sneaked around in the white-father-knows-best tradition and on this note of duplicity conference planning skulked forward.

However, word of the "Moynihan Report" leaked and almost to a man black leaders denounced it. They saw it as another of white America's ploys to transform an effect of racism into a cause of black failure to progress, when the emphasis, they felt, should be on existing legal, economic and political inequities. The controversy inspired by Moynihan cast a shadow over the conference before it ever got underway in June 1966, and Johnson's attempt to gag conference debate on the war in Vietnam insured its eventual, abject failure.

One would think that Moynihan might have been chastened by the mischief he had caused. But in February 1967, writing in Commentary, a magazine that for years had been lecturing blacks on what was good for them, Moynihan asserted that civil rights leaders themselves were responsible for wrecking the greatest opportunity in America's history to achieve genuine equality. According to Moynihan, when President Johnson made his 1965 Howard University speech, the nation was prepared to make a "total commitment to the cause of Negro equality," but "Negro leaders unable to comprehend their opportunity . . . militants, Negro and white, caught up in a frenzy of arrogance and nihilism," blew it.

This kind of headline-grabbing verbal overkill was to be heard again eight years later at the United Nations. If George Wallace had lashed out at Negro leaders as too dense to recognize that salvation was being handed them on a platter, the attack would have been ascribed to simple racism in the liberal environs of New York and Washington. But Moynihan could characteristically blame blacks for their racial predicament with impunity, even when he went on to assert simplistically that their opposition to his identification of "momism" as a root cause of that predicament had sabotaged the White House conference. Never mind that Vietnam was killing and wounding black draftees far out of proportion to their percentage of the population, while diverting energy and resources from President Johnson's vaunted "War on Poverty." Never mind that Martin Luther King had had the White House door irrevocably slammed shut on him because he insisted that Vietnam must be discussed, that the fighting must end. One need only recall the total social condition in 1965, the year when America allegedly was ready for a "total commitment to the cause of Negro equality," to realize how cruelly Moynihan distorted the facts.

In 1965, John Lewis and dozens of other blacks were beaten insensible on the Selma Bridge by an Alabama posse because they were trying to force a laggard Congress to pass a Voting Rights Act. In that year, Congressmen received the greatest volume of grassroots mail in history, mail opposing any open-housing bills. It was the year when blatant segregation at all levels of life still persisted in the South, despite the 1964 Civil Rights Act, when Northern blacks had to go to court to join volunteer fire departments, when Moynihan himself said that whites in general felt that blacks "have received enough for the time being." And in that year, when thirty-three blacks and four whites died in Watts during what the press liked to call shoot-outs, the nation was prepared, so Moynihan would have us believe, to make a "total commitment to the cause of Negro equality."

Nor had Moynihan yet finished with his obsessive effort to impose his own version of reality on blacks. During the riotous 1967 summer, with Detroit in flames and fifteen blacks dead, The New York Times carried a story with the headline, "Moynihan Blames Low Status, Not Race, for Riots." In a country practicing the most onerous apartheid outside South Africa and Rhodesia, Moynihan found class the cause for the "desperately unhappy and disorganized" ghetto populations. First momism, then classism, although Moynihan conceded that "race interacts with everything in America" as he offered the Times some interesting samples of his analytical processes.

"Curiously," he said, "life patterns among the lower class in East Harlem [where riot was also flaming] and the jet set of the East 50s are almost identical—they like their dances, take existence casually."

One proposal sociologist Moynihan made to improve ghetto economic conditions among the black Lumpen-proletariat, as he called them, was that the Post Office should return to its former practice of delivering residential mail twice a day. This, he estimated, would open up 50,000 jobs to those down-at-the-heels ghetto blacks who were somehow sufficiently well educated to pass civil service examinations and who could somehow vault over long-existing lists of qualified postal applicants, cleansing themselves as they did so of the police records, the addictions and the apathy that afflicts many at the bottom of the ghetto heap and make Post Office recruiters flee at the sight of them.

Still later in that tumultous year, Moynihan was urging liberals in Americans for Democratic Action to form "working partnerships" with conservatives. To make clear what sort of work he was proposing, he said: "Liberals must somehow overcome the curious condescension which takes the form of sticking up for and explaining away anything, howsoever outrageous, which Negroes individually or collectively might do."

How smoothly this Agnew-like indictment of blacks and of their white liberal supporters came from Moynihan's lips. That certain individual whites indiscriminately condoned the "outrageous" black actions that Moynihan had in mind (what precisely he had in mind remaining undefined) was probably true. But here he converted the personal flaw of such individuals into a black-induced mental aberration afflicting liberals in general. And not only were liberals disgracing themselves with blacks but the Civil Rights Act of 1964 was being perverted in favor of blacks! Moynihan complained that "employers are given quotas of the black employees they will hire, records of minority group employment are diligently maintained and censuses are repeatedly taken. . . . That which was specifically forbidden by the Civil Rights Act is now explicitly (albeit covertly) required by the federal government."

What, where, whom was Moynihan talking about? In 1967, flagrant employment racism, in government agencies and private industry, had just been documented by the U.S. Commission on Civil Rights. The Department of Agriculture had been publicly identified as a major agent, because of its pervasive racist practices, of black flight from the rural South. Although the 1964 Civil Rights Act specifically instructed federal agencies to cancel contracts with firms that persisted in discriminatory labor practices and although giant suppliers like U.S. Steel, American Can and McDonnell Douglas, along with thousands of other companies, were not complying, the federal government had never canceled *even one* of 100,000 contracts and myriad subcontracts. In 1967, discrimination on the part of giant unions defied belief, even as Moynihan fulminated about quotas: 915 blacks among 133,904 electrical workers; 320 black plumbers out of 147,862 in the union; 1.7 per cent blacks in the total force of iron workers, .2 per cent of sheet metal workers, etc. Still Moynihan persisted in his peculiar dance around the word "racism," flitting from "mom-ism" to "class-ism" to "quota-ism." Where would he turn next?

As intriguing as the question "where" was the question "why" he had made the fatuous suggestion that liberals should seek a partnership with conservatives whose interests were so inimical to theirs on race and other matters. The answer lay, perhaps, in Moynihan's theatrical nature, a craving for an audience to marvel at his self-conceived uniqueness. All liberals save him were out of step with reality; only he was audacious enough to risk his reputation with feisty in-

dividualistic assaults on the conventional wisdom of lesser thinkers. Liberal? Risk?

His immediate reward came from President Nixon, who liked Moynihan's sociological style and on December 10, 1968, named him to head the newly created Council on Urban Affairs. A New York Times account, headlined "Moynihan, a Liberal Scholar, May Spur Rapid Action on Cities," referred to his "impeccable liberal credentials." But Murray Kempton, both a seasoned liberal and a liberal watcher, wrote in response to an ecstatic New Republic appraisal of Moynihan: ". . . shouldn't there be a body of work to go with the testament that someone is a 'passionate reformer and crusader for the poor?' My only experience with Moynihan in an administrative capacity was when the Labor Department sent him to New York as a mediator when the local plumbers were kicking three colored applicants downstairs. I should have expected a man of passion for reform to be at least distressed about this tableau; but Moynihan came back quite jovial about the plumbers."

In 1968, Moynihan published *Maximum Feasible Misunderstanding*, an evaluation of community action programs in the so-called War Against Poverty. Any doubt about his "impeccable liberal credentials" should have vanished with this book, in which he discoursed on "social theorists" who really didn't understand the mostly black poor people about whom they theorized. It is true that programs of the Office of Economic Opportunity, then in the process of being dismantled by the Nixon administration, were often ill-conceived and superficial in planning and execution. It was also true, as Moynihan noted, that the "issues of Negro poverty in the present time have been defined and analyzed by white social scientists, and the subsequent programs have been administered by white political executives. . . . It does not follow that the presence of influential Negroes at any stage in this process would have led to any greater insights into the problems that were to be encountered, but it might certainly have served to suggest that the enterprise was not going to be an especially simple one."

But even truth, in Moynihan's rhetoric, performs strangely. He seems at first to be condemning the exclusion of blacks from decision making controlled by white experts (like himself), but then he immediately undermines black ability to provide "any greater insights" into its own problems. How strange that the oppressed comprehend as little about their predicament as do their oppressors; how incapable blacks appear.

Moynihan went on in his book to inveigh against militant community organizers (the great majority of these were black, the brainwashed white poor remaining largely inert in the 1960s). "The institutions of representative government have the singular virtue of defining who speaks for the community," he wrote. The struggle of community militants "took the form of denying the legitimacy of these institutions that had developed over the years—indeed, over the centuries—and which nominally did provide community control."

Did he mean the corrupt white regime of Mayor Hugh Addonizio in predominantly black Newark? Or Mayor Daley's institutions of representative government in ghettoized Chicago? Or perhaps Mayor Joe Smitherman speaking for the black community of Selma, Ala.? The press did not pin him down on what he meant, and the "urban scholar" continued on his erratic way.

A memo to President Nixon (intended to be kept secret, as was his earlier report to President Johnson on the Negro family) finally and fully revealed Moynihan's incompetence to speak on race. This was the famous communication urging "benign neglect" of blacks, in view of the "enormous progress" the race had been making. Given Nixon's dismal record on race, and coming at a time when, for all the visible but limited advances, ghettos were expanding instead of diminishing and when infant mortality rates for black babies born in both Northern cities and Southern rural areas were two to four times the white rates, this memo was a pseudo-scientific mismash. Its toadying tone was the perfect accompaniment to its pretensions of objectivity.

"During the past year," wrote Moynihan, "intense efforts have been made by the administration to develop programs that will be of help to blacks. I dare say, as much or more time and attention goes into this effort in this administration than any in history." Some critics might argue that, say, the Coolidge administration was being slighted, given Moynihan's criteria. Two days before the memo surfaced, HEW Civil Rights Director Leon Panetta had quit, charging that "political pressures" were blocking school desegregation. In the same week, Civil Service Commission Chairman Robert Hampton reported that the Nixon administration had stopped efforts to have federal agencies hire more minority group employees. Such facts did not deter Moynihan. Neither did figures—what was most revealing in his awful document was a calculated attempt to mismarshal figures in a way that would justify the renouncing of governmental concern for a black populace which in 1970—despite some middle-class gains—remained in a morbid fix through malignant neglect, past and present. A sample of Moynihan's tactic is contained in this sentence: "Negro college enrollment rose 85 per cent between 1964 and 1968, by which time there were 434,000 Negro college students. (The total full-time university population of Great Britain is 200,000.)" To begin with, government statistics for 1968 from the Census Bureau and the U.S. Office of Civil Rights show approximately 287,000 blacks in institutions of higher education, not "434,000." This represents an enrollment increase over 1964 of barely 21 per cent, not "85 per cent."

Beyond this gross statistical gaffe by Moynihan, why didn't he compare American black enrollment to that of Tasmania or the Isle of Man, as long as he was trying to make it look good? What possible relevance did the total British university population have to the number of black American collegians, unless Moynihan was deliberately mixing unrelated figures to color his rosy thesis? Why didn't Moynihan break down his figures to show that nearly half of black collegians were attending all-black colleges, mainly in the South, which ran on shoestring budgets with facilities and faculties limited by economic need? Why did he not point out that black enrollment at major schools was minuscule—1.7 per cent of the student body at the University of Pennsylvania, 1.9 per cent at Stanford, and at Harvard and M.I.T.—the twin home of Professor Moynihan's Urban Studies Center—3.5 per cent and 0.7 per cent respectively?

Why, in fact, include any education figures without reminding Nixon that the government's own Equal Employment Opportunity Commission, in a survey of 43,000 employers covering 26 million workers, had found that educational lacks "accounted only for about one-third of the difference in occupational ranking between Negro men and majority group men; the inevitable conclusion is that the other two-thirds must be attributed to discrimination, deliberate or inadvertent." To do so, Moynihan would have had to use the word "racism" and, for reasons best known to him, he had been avoiding that word for years.

Instead, he deliberately misinterpreted data to "prove" that blacks were "making extraordinary progress." Hurrying over the South, where half the nation's blacks were living a fewer than 20 per cent of black families made $8,000 a year, he said that "outside the South young husband-wife Negro families have 99 per cent of the income of whites!" (Exclamation point supplied by him for Nixon's benefit.) What this statistic specifically referred to was hard to say and when Moynihan is vague readers do well to be on guard. The previous year, the Census Bureau had reported that black men and women in urban centers earn about 70 per cent of white income. It said that nearly half of white men held white-collar jobs compared to 20 per cent of blacks. Then where did Moynihan's exciting 99 per cent figure come from? It came from comparing apples and oranges, as any good sociologist should have suspected before urging benign neglect on the President. It turned out that the figure applied only to black families in which both husband and wife worked. In black families where only the husband worked, comparative income remained at 75 per cent of white *throughout the entire decade of the 1960s*. Instead of "extraordinary progress," there had been little or no progress.

In light of the facts about jobs, education and income, could a convincing argument be made for Moynihan's benign neglect—i.e., soft-pedaling the talk about discrimination and its effects? Prof. Lester Thurow, from M.I.T., had studied the black labor market in the year of the Moynihan memo and reported to the OEO the reasoning on which administration policy was based: "Discrimination lowers black incomes, but it is difficult to eliminate. Direct attacks on discrimination generate political protest and pressure. Therefore, we will attempt to circumvent the discrimination problem. We will first use other instruments, such as education and training, to equalize black and white incomes, and after this has been accomplished we will worry about discrimination. . . ." But, said Professor Thurow, "Unfortunately, all of my research indicates this strategy will not work."

In his own effort to "circumvent the discrimination problem," Moynihan sent copies of his secret memo to various Nixon officials, among them Vice President Agnew and Attorney General Mitchell. Again, no black official was consulted about or permitted to see a document whose purpose was to alter government policy toward 25 million black Americans.

At this point, a reader may come to his or her own conclusions about Moynihan's racial perceptions and how they qualify him for his role in the United Nations. Since he has been there this year, he has presented himself as the defender of a national faith that is easier to trumpet than to define. He has categorized the U.N. as an organization containing "two dozen democracies." The remaining countries being "despotic, totalitarian and Communist." His vaunted oratorical style, likened to "cowboy behavior" by British delegate Ivor Richard, has earned him few plaudits from any sector of the U.N., but his fierce condemnation of the anti-Zionist resolution has won him an instant American constituency. No one should be surprised to find Moynihan out of the United Nations and running for the U.S. Senate by next fall.

Earlier in 1975, before the President named him to his present post, Moynihan was back in his favorite magazine, Commentary, discoursing on how "liberating" it would be if the United States got tough with Third World countries. (Commentary, by the way, apparently has become a collaborator in Moynihan's U.N. speech making. In an extravagantly favorable article about Moynihan in The New York Times Magazaine (December 7) reporter Tom Buckley describes how, on the eve of the U.N. vote on the Zionism-racism resolution, Commentary editor Norman Podhoretz was in Moynihan's apartment helping him prepare his U.N. speech. Buckley says:

"When it came to the politics of the Middle

East, an area in which he has never set foot, Moynihan was happy to take his direction from the State Department, he had told me, but when it came to Zionism, Jewish history, anti-Semitism and related topics, Podhoretz is Moynihan's maven." (*Commentary* is published by the American Jewish Committee.) Certainly, the United States does not need to accept all criticisms, just and unjust; but neither does it need the kind of intellectual know-nothingism that Moynihan has brought to the chief delegate's position.

Zionism in the Mideast is a profoundly difficult question that should require all sides to exercise personal tact, diplomatic expertise and simple humanity so that every opportunity is given to create conditions in which the Jewish and Arab states can coexist. The job of chief U.S. delegate requires racial sensitivity, the capacity to re-examine and re-evaluate previously held positions and a largeness of spirit, not of ego. Moynihan has demonstrated that he lacks all these qualities and is particularly unfitted to deal with people of color. That he has been able to project a false image for so long is a cautionary tale which the press and that portion of the public committed to truly liberal politics should remember long after Moynihan is only another United Nations' memory, like Khrushchev's thumping shoe.

REPRESENTATIVE GUDE AND THE POTOMAC RIVER

Mr. BEALL. Mr. President, there is no greater friend to the Potomac River than my distinguished colleague from Maryland, Representative GILBERT GUDE. Throughout his congressional career, GIL GUDE has worked tirelessly to protect the Potomac River region from environmentally unsound activities and preserve it for all our people.

Last August, Representative GUDE demonstrated his deep concern for the river by spending the entire month traveling—by foot, bike, and boat—the entire 385 mile length of the Potomac, from its source near Thomas, W. Va. to its mouth at the Chesapeake Bay. Throughout his trip, he saw both the beauties of and threats to the Potomac. On November 17, in an article in the Baltimore Sun, Representative GUDE reported on his journey. I ask unanimous consent that this excellent article, entitled, "The Potomac: Acid, Sewage and Grandeur," be printed in the RECORD, so that my colleagues and others interested might better appreciate this great river.

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

THE POTOMAC: ACID, SEWAGE AND GRANDEUR

(By Congressman GILBERT GUDE)

What is a river?

I had often driven past the Potomac river that flows, slow and filthy, through the nation's capital. I had also camped and boated along stretches of the river that had great beauty. But the whole river, the entire 385 miles from the mountains of West Virginia to the Chesapeake Bay, was hard to conceive.

Talking about the river, I found others, too, who wanted to see and understand the whole river and were ready to spend the time and energy to travel its entire length by foot, boat and bike. No one, as far as we could tell, had made quite such a trip before.

We felt like pioneers one Sunday, August 3, as we drove up a crooked mountain road near Thomas, W. Va., to where the Potomac begins as a trickle from a mountain spring, barely wetting the ground in dry seasons. The 18 of us posed with our gear for a formal portrait and, waving to the friends who were seeing us off, pushed into the brush and woods where deer and raccoon are far more common than people.

The dribble flowed west at first, rather than east, and then bent around upon itself to head toward Chesapeake Bay. As it turned about, the stream became Maryland's southern boundary. We easily jumped from one side of the "river" to the other, landing first in Maryland and then in West Virginia.

However, our first day of hiking soon proved to be our hardest. Beavers had dammed up the little stream so that it spread out into a large marsh. To avoid the marsh we had to walk along an old railroad spur.

But we soon discovered that the tracks were being used as a storage area for rail cars. The brush was so closed in we couldn't go around. Carrying our packs and cameras and other gear, we had to climb up, over and around the seemingly endless stream of cars, one by one—box cars, flat cars and gondolas.

This tough going continued for nearly two miles. Some of the 18 in our group were ready to drop out and head back for air-conditoned Washington—except you had to climb over the darned cars to get out, too.

We covered eight miles, but it felt like 28.

The next few days, as we hiked, we found our clear stream joined by other streams bearing "yellow boy," the brownish-yellow acid that seeps from abandoned coal mines.

As the acid accumulated, the river became an eerie place. No fish could live in the acid. What was more surprising, not even insects would light on this water.

Without fish or insects, the stream was no place for birds to find food, so they were absent, too. We walked fifty miles through Rachel Carson's "Silent Spring."

We visited a deep mine in operation and found no water in the mine. Water would have hampered the operation, so what accumulates is pumped out and, as required by the Environmental Protection Agency, neutralized. The drainage problem is primarily with mines no longer in use. Various experiments are being conducted to find a practical way to stop the deadly acid from reaching the water or to neutralize it.

To low-income areas of West Virginia and western Maryland, solving the acid problem could mean revival of sport fishing and recreation—which could mean money and jobs.

The river continues acid and dead to about Luke, Maryland. Near there, Bloomington Dam is being built. Its reservoir may be too acid to be a good recreational lake.

The Westvaco paper mill at Luke must use special intake pipes and neutralize the water it uses in order to prevent corrosion of its equipment from the acidity.

At Cumberland, second-largest city of the Potomac, we found few remains of the early frontier outpost, but I was tremendously impressed by the later architecture which proud citizens are preserving.

The river, as it left westernmost Garrett county and began winding along the southern border of Allegany county, was still only 35 feet wide or so, but below Cumberland we were able to canoe and bike. We sometimes tipped a canoe, but we were glad for the break from hiking.

We found areas in the upper river to swim, but we also found raw sewage being released by several towns. They aren't proud of it, but officials say the towns need financial help to treat the sewage.

Kitzmiller and Gorman, both in Garrett county, and other towns may find the money in the trash of urban and suburban areas. Montgomery county might pay Garrett county to put the suburbs' trash in landfills.

This might not only provide revenues but help fill up strip-mined areas. After an area is filled, it would be covered with earth and plants, making it attractive again.

Our second day down from Cumberland, we found the South Branch joining the Potomac from West Virginia and making it considerably cleaner. We were told that fishing was good here, and even better up the Southern Branch.

We were hardly Daniel Boones. I nearly stepped into a rattle snake and was warned back just in time. I was also the group "loser." To hear the others tell it, the banks of the Potomac are littered with socks, trousers and shirts I somehow misplaced.

While we were examining the Southern Branch as it entered the Potomac from Virginia, Interstate Commissioner Rockwood (Adam) Foster started down a steep hill—a big man on a small bike. Suddenly, he made signs as if his brakes wouldn't hold. The rest of us couldn't do a thing but watch as he careened, faster and faster, down the road toward the water.

The road turned; Adam couldn't.

He and his bike hit the brush, vaulted upward, separated in the air, and plunged—kerplop, kerplop—into the Southern Branch. He was okay, but the bike needed major surgery.

Our meetings with citizens and officials along the way went well. We were impressed by the interest in improving the river.

However, we ran into some hostility at Williamsport from people who thought the trip was a prelude to a federal land grab. This was the day the Martinsburg (W. Va.) Journal editorialized that I was traveling with "a doughty band of teen-agers and assorted bureaucratic hangers-on to tell us how bad the Potomac is and how a federal takeover would cure all of the problems."

The fears of unwarranted meddling by Big Brother were valuable to us, because we came primarily to listen, not to preach.

Two of our citizen meetings, however, were pure pleasure, thanks to the American-Irish Bicentennial Committee. Irish immigrants, fleeing the potato famine, built much of the C&O Canal used to bypass the rapids and falls in the river from Cumberland down to Washington, so we celebrated their work with harp and pipes and Irish songs, Irish stew and special breads, at both Cumberland and Seneca. At Seneca, we even had co-operation from the weather as a good facsimile of an Irish mist crept up from the river.

We walked next day to Great Falls, just above Washington, which is much as in George Washington's time—a remarkable wild area to be so close to a big city.

After the falls, the river widens and slows, dropping its silt, as many Washington area sailboat owners were eager to tell us. They want some sections dredged.

We hitchhiked out of Washington on the National Capital Parks' Lightship Chesapeake. Once a floating lighthouse outside the mouth of the Chesapeake Bay, it is now used for research and educational programs.

From the ship, we tested the water near the Blue Plains sewage treatment plant on the down-river side of Washington. Our tests showed the river here incompatible with sport fish. Sewage plant improvements are under way, and none too soon.

Ten miles or so below Blue Plains, the natural forces of the river had partially restored the water's quality, so that it was again compatible with some good fish.

There, below Washington, we saw Mount Vernon from the river, as did many of its early visitors.

We headed up a quiet bay to Gunston Hall, the Virginia home of George Mason, author of the Bill of Rights. We had a candlelight tour of the home, cocktails and dinner—feeling like "river rats" brought into a palace.

Some of us would still be camping on peopeople's lawns, but the lawns were now more and more likely to be those of old mansions and that made the ground seem softer, even if the mosquitoes were just as bad.

From a second research ship, the Chesa-

peake Biological Laboratory's Aquarius, we caught perch, striped bass and flounder.

Further along, traveling now on a charter fishing boat, we found little Breton Bay beautiful but, for a seafood lover, sad. The bay is full of oysters, but they can't be harvested because of pollution from Leonardtown.

In addition to this pollution, we found fear that oil spills will hurt the shellfish harvest and sports fishing. St. Mary's County groups are fighting the expansion of Steuart Petroleum's large "tank farm" at Piney Point, which stores oil from ocean-going tankers.

The groups fear Steuart may try to add a refinery, despite Steuart's denials. St. Mary's is not wealthy, but the residents we met want any jobs created there to be in industries compatible with the county's rural, river-oriented ways, and its historic sites—including St. Mary's City, the earliest settlement in Maryland and the capital until 1694.

As our fourth week ended, there were lumps in a few throats at Point Lookout, where the Potomac enters Chesapeake Bay. We looked across a river wider than the Mississippi. What a difference from the trickle where we started four weeks before!

We knew that Point Lookout and the Potomac had been discovered by the Elizabethan seadog Captain John Smith—the chap Pocahontas saved, according to the story. Smith wrote that the river was "6 or 7 myles in breadth" with fish so thick they could hardly keep their heads under water.

On our trip, 367 years after Smith's, we saw a river badly hurt—but not destroyed beyond restoration. Many sections boast tree-lined shores that George Washington, and maybe even Smith, would recognize.

There is, however, an urgency to the task of preserving the best and restoring the damaged areas. As never before, population and industrial pressures are threatening the still-quiet banks of the river.

We must continue the sewage plant construction that will improve the quality of the water in the river. And we must preserve an attractive shoreline so that the river can be fully used for boating, fishing and swimming, and can be the proper setting for the great monumentts of history and democracy.

The Potomac is, of course, Maryland's river, owned by the State to her far shore. But you cannot visit the historic sites along the river without knowing that the Potomac is the nation's river as well.

Early in our history, Maryland and Virginia found the Articles of Confederation inadequate to the needs of commerce along the Potomac. Meetings such as the Mt. Vernon Convention led to the calling of the Constitutional Convention—and thus, ultimately, to our present federal system.

Today's Potomac is beset by different problems, but the same sort of innovative cooperation today can solve them.

(Mr. Gude is United States Representative from Maryland's Eighth district.)

THE ENVIRONMENTAL PROTECTION AGENCY

Mr. PELL. Mr. President, 5 years ago this month, the Environmental Protection Agency was created to wage a coordinated national fight to protect and restore our Nation's environment.

During those 5 years this Agency has achieved an outstanding record. Aided in many cases by strong new laws passed by the Congress, EPA has moved vigorously on many fronts, tackling such massive and threatening problems as water and air pollution, solid waste management, pesticide control, and noise pollution.

In some areas EPA has had striking success. In others, the battle has just begun. But in every area, EPA has emerged as a potent force and a staunch friend of environmental quality.

The qualities that have marked EPA over those 5 years—forcefulness and independence—also characterize the man who has directed the Agency for almost half of its lifetime, Russell E. Train, its Administrator. Particularly in the last year when many were willing to abandon or sacrifice environmental concerns because of the economic problems which afflict us, Russell Train and his agency have continued to remind us that our precious heritage must not be sacrificed.

Mr. President, Administrator Train recently wrote a brief retrospective of EPA's first 5 years which was published on the editorial page of the Providence Journal-Bulletin. I ask unanimous consent that the text of Mr. Train's article be printed in the RECORD.

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

[From the Providence Journal-Bulletin, Nov. 29, 1975]

EPA'S 5 YEARS HAVE BROUGHT SOME IMPRESSIVE RESULTS

(By Russell E. Train)

WASHINGTON.—The U.S. Environmental Protection Agency celebrates its fifth birthday on December 2, 1975. The anniversary is worth noting because it marks the passage of that half-decade during which the United States began its first coordinated federal effort to grapple with environmental pollution.

Over a relatively short period of time—short in comparison to the historic period in which our environmental problems have been accumulating—EPA has made substantial progress in the environmental area. Equally important, the nation has new laws firmly on the books and functioning to protect the American public from the unwanted side-effects of an increasingly complex technology.

The creation of EPA in 1970 pulled together some 15 different units in various federal departments and agencies that had been trying, with uneven results, to cope with mounting environmental problems. At the same time, Congress began enacting, in response to public demand, a number of major new environmental laws in areas such as air, water, pesticides, solid waste, and noise.

The results of this consolidation of environmental efforts, improved funding, and new legal authority have been impressive.

Specifically, some of the environmental improvements over the past half-decade are these:

Emissions by 1975 model cars of two major pollutants, carbon monoxide and hydrocarbons, have been reduced nearly 85 percent from autos made before 1968. Thanks to this and compliance with regulations by other sources of air pollution such as factories and power plants, the nation has made significant progress in cleaning up the air. Concentrations of sulfur dioxides, which can cause lung damage in humans as well as attack plants and buildings, have been reduced by about 25 percent. Dust, soot and smoke declined 14 percent between 1970 and 1974.

The quality of the water in our Great Lakes, as well as numerous rivers and other lakes, is steadily improving, thanks to EPA enforcement activities, state and local efforts, and the federal construction grant programs. This $18 billion program, it should be added, is creating hundreds of thousands of jobs while cleaning up waterways.

After generations of operating as a "throw-away" society, we are taking the first serious steps to convert trash to fuel and to recycle valuable materials. EPA now has several demonstration projects in both energy and materials recovery systems which have stimulated cities to develop their own plans for such conversion. By 1980, at least 25 major American cities will be involved in some sort of resource recovery of municipal trash.

The agency has promulgated new noise regulations for interstate motor carriers, and has proposed other noise standards for air compressors, railroads, commercial jet aircraft and small propeller-driven airplanes. The goal is to achieve by 1992 a reduction of the population exposed to excessive, health-related noise from the present 13 million to less than one million.

More than 34,000 pesticide products made from one or more of 1,200 chemical compounds are now registered by EPA. After lengthy research and hearings, the agency has banned three pesticides—DDT, aldrin and dieldrin—because their damage to human health and the environment were judged to outweigh their benefits to society.

While substantial progress has been made during the past five years, a number of major problems remain. Despite improvements in emission from new cars, auto pollution is still a major problem in our large cities. It will be several more years before the national air quality standards are achieved in many of these areas.

Another problem is the threat posed by the introduction of thousands of new chemicals into the environment each year. A number of these chemicals have been found to cause cancer, and yet the agency still lacks legislative authority to deal with this problem.

Recent studies have also shown that the drinking water supplies in a number of cities are threatened by exotic new organic chemicals which, up to now, have gone uncontrolled. EPA, under the new Safe Drinking Water Act, is just beginning to attack this problem; a great deal of work remains to be done.

None of these problems has an easy solution. Whether EPA is able to solve them during the next five years depends largely on public support for environmental improvement. Fortunately, there is every indication that public support for our efforts remains strong. A recent poll by the Opinion Research Corporation found that "given a choice, most people (over 60%) indicate that they believe it is more important to pay the costs involved in protecting the environment than to keep prices and taxes down and run the risk of more pollution."

Even more important, Opinion Research has reported that "current economic problems facing the nation, despite their distressing effect on so many segments of the population, do not seem to have dispelled the public's basic desire for permanent pollution controls."

What these findings suggest is that even hard economic times have not blunted public support for environmental protection. The environmental movement is emerging from a difficult and trying period. First, the energy crisis and then the recession slowed progress toward achieving critical environmental goals. Now that the economy is improving and steps are being taken to solve our energy problems, it is time to re-emphasize our commitment to cleaning up the nation's air and water.

The goal of clean air and clean water is now within reach. The worst problems have been cleaned up. But a great deal remains to be done in the next five years. In working to solve future problems, we intend to be firm, but fair. We will not be deterred by the delaying tactics of those who refuse to accept their responsibility to comply with the law. On the other hand, we will make every effort to be reasonable. Delays which are beyond the control of industry will be considered.

But the basic commitment will not be allowed to lapse. We must and will move forward.

DOCUMENT FRAUD

Mr. CURTIS. Mr. President, I commend my distinguished colleague from Nebraska (Mr. HRUSKA) for his December 5 remarks on the problem of document fraud, and for his insertion in that day's RECORD of a recent speech on the subect by Miss Frances Knight, Director of the Passport Office.

The problem of document fraud is one of staggering dimensions; the crimes falling within Federal jurisdiction alone cost American taxpayers millions of dollars annually. This year Congress had an opportunity to take a constructive step toward correcting the problem—and, I am sorry to say, rejected it.

On September 11 I introduced an amendment to the Foreign Relations authorization bill granting the Passport Office $1 million for the development of the new travel document and issuance system. TDIS is the product of 5 years of careful study and research, and has been praised by the International Civil Aviation Organization. One of its most significant features is its safeguards against fraud. While presently photos must be glued on, with TDIS they would be inserted in a laminated sheet. Similarly, personal information would be "frozen," and coded for machine reading. These features would make tampering incomparably more difficult; not only would this save us millions every year, but it would also deal a setback to international criminals presently escaping prosecution through the use of false papers.

There are still other advantages to TDIS. This sophisticated computerized system is estimated to increase man-year productivity from the present 3,000 units to 10,000. Additionally, by conservative OMB estimates, TDIS would result in a net saving to American taxpayers of $31 million in its first 10 years of operation.

My amendment, which had the full support of the Foreign Relations Committee, was approved unanimously on the Senate floor. Unfortunately, the House-Senate conference committee on the legislation chose to drop the provision. Why? Members of the House Subcommittee on International Operations stated they had not been briefed on TDIS, and therefore were not convinced of its cost-effectiveness. As a result, funds for TDIS were forbidden, and the Passport Office was given $100,000 for a study of its "desirability and cost implications."

Mr. President, if ever there was a classic example of Government waste, this is surely it; $280,000 has already been spent for contractual work in addition to approximately $300,000 of in-house funds for the original groundwork. The plan has been accepted and approved by the International Civil Aviation Organization, by the Department of State, by the Office of Management and Budget, and by Members of Congress. As a result, $100,000 is being poured down the drain on a useless document—an unneeded duplication of existing reports.

In Congress we are used to dealing with sums in the millions and billions, and by comparison $100,000 seems a small sum. Perhaps that is one of our problems. We forget that squandering $100,000 is no more and no less than wasting the tax revenues of hundreds of families—funds they could have used for their own needs. One can add to this the $3.1 million lost by postponing TDIS by a year and the millions lost through document fraud during that period of time. It is no wonder the American people have lost faith in their Government.

There is a final irony in this situation. The Passport Office is only one of a number of Government agencies which are supposedly self-supporting, but is one of the few actually achieving this goal. Not only does it support its own operations, but in fiscal year 1974 turned back almost $8 million in surplus revenues to the Federal Treasury. This is a tribute to Miss Knight's efficient management and, by inference, a strong endorsement for TDIS, which she has developed. So in essence the Passport Office only requests permission to retain less than 15 percent of its own surplus funds. It does so in order to institute a system which will result in still greater savings. And the request has been denied.

Mr. President, funding for TDIS will be coming up again in a few months. I hope the Members of both Houses will study the issues involved, and in 1976 give approval to TDIS. A country with a deficit such as ours cannot afford to pass up an opportunity to save funds. Neither can we deny our law enforcement agencies the powerful tool which TDIS fraud deterring features would constitute.

PARKS AND OUTDOOR RECREATION AREAS

Mr. JOHNSTON. Mr. President, I was greatly disturbed recently to learn that the Office of Management and Budget recommended that the President's budget request contain less than the full appropriation of $300 million from the land and water conservation fund for the next fiscal year.

As my distinguished colleagues are aware, appropriations from this fund are used to establish Federal parks and outdoor recreations areas and to assist the States through grants to establish State parks and outdoor recreation areas. Already, more than $3 billion in authorized Federal parks and recreation areas located throughout our Nation are awaiting funding. The States have obtained approved plans for parks and recreation areas which will require $45 billion in Federal grants over the next two decades. Any reduction in appropriation from the land and water conservation fund will only force the implementation of our national policy on parks and recreation areas further behind schedule.

The Senate recently indicated its strong commitment to parks and outdoor recreation areas by approving legislation which will increase the fund to $1 billion annually. Such legislation was approved in response to the desire of our constituents that we get on with the business of protecting for posterity the already threatened areas of natural beauty and scenic charm in our great Nation.

I recently wrote to James T. Lynn, Director of the Office of Management and Budget, urging that he cooperate with Congress in our efforts to preserve a healthy and beautiful environment for all future generations of Americans.

Mr. President, each year an area 2½ times the size of the Oakland-San Francisco metropolitan area is lost to urban development. The unjustifiable delay which will be caused by the proposed reduction in allocation from the land and water conservation fund cannot be tolerated. We must not waver from our efforts to preserve the natural beauty of this great land of ours.

I ask unanimous consent that my letter of December 10, 1975, to Mr. Lynn be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., December 10, 1975.

Hon. JAMES T. LYNN,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR JIM: I was extremely disturbed to learn that the Office of Management and Budget apparently opposes inclusion in the President's budget for the next fiscal year the full $300 million allocated to the Land and Water Conservation Fund for the creation of parks and outdoor recreation areas.

As you know, a backlog of $3 billion in Federal projects in parks and outdoor recreation areas have been authorized, but are awaiting funding. Any reduction in appropriations out of the Land and Water Conservation Fund will only further aggravate a presently intolerable situation. While I sympathize with efforts to control the growth of the national budget, reductions in appropriations from the Land and Water Conservation Fund appear to have the least adverse budgetary effect in that at least with respect to the acquisition of Federal parks, and outdoor recreation areas, there is merely a conversion of one Federal asset (cash) to another (land).

I might also note that the Congress has indicated that it believes even the present funding level is inadequate in as much as legislation to increase funding of the Land and Water Conservation Fund has passed one body and is moving ahead in the other.

I strongly urge your careful consideration of this matter.

With kindest personal regards, I am,
Sincerely,

J. BENNETT JOHNSTON,
U.S. Senator.

WHAT MAKES OUR ECONOMY WORK

Mr. GARN. Mr. President, many observers have remarked in recent years that we seem to be losing our sense of what makes our economy work in America. The failure is seen at the basic level, in the education of our children, who receive very little understanding of the forces of economics in their schools.

The result of this lack of basic education can be seen in an experience of Mr. John Prince, as he tells it in his column in the December 10 issue of the National Enterprise, published in Salt

Lake City. I ask unanimous consent that Mr. Prince's column be printed in the RECORD.

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

THERE IS NO FREE LUNCH

(By John Prince)

There is a restaurant by the name of Corey's Kitchen located across the street from my office. Well, I was in the place the other day and noticed some 3 x 5 in. cards on the tables. The cards were to be filled out in advance if you wanted to order a pie for Thanksgiving or for Christmas.

So, just to make conversation I said to my waitress, "Does anyone order a pie at Christmas time?"

And she said, "Unfortunately they order millions." I said "Unfortunately?"

And she said, "Yes, more work for us."

Now in a nutshell—or pie shell—that's what is wrong with America. That girl had no idea that her pay check ultimately comes from people buying pies at Christmas, etc.

In fact, the whole subject of pay is fascinating. I've been told by many a construction worker that his job is harder than the bank officer so ought to be paid more.

Well the truth of it is, he probably is paid more than most bank officers. But he isn't paid more than the bank's senior officers. Many a construction worker will resent this. My only answer of course, is that if your job is so hard and pays so little—and if his job is so easy and pays so well, why don't you get his job? His job ain't so easy.

So, the only way we can decide what a person is really worth, is how hard is it to replace him. Now I can just hear the people saying that I'm too cold blooded—that I'm not concerned about people. Actually I'm getting sick of that line. The simple truth, whether we like it or not, is we aren't worth much if thousands of people can step in and immediately do the same job.

So we can imagine all the garbage we hear every day such as "I work as long as he does," or "I have to lift all this stuff while all those guys do is sit behind a desk." Because when it comes right down to it, society only pays us to the extent to which it can't replace us with people who will do the same work for less.

It's just amazing to me when I look around at the attitude of various people I have contact with throughout the year. I have an afternoon radio program in Salt Lake City. The last secretary (now part of history) was so typical:

"When do I have to come to work? How long do I get for lunch? When do I get to go home? Do I get holidays off?"

I guess that the thing that bothers me the most isn't the person with a job with a bad attitude, it's the person without a job with a good attitude.

If you haven't met any of this flavor, may I suggest a weekend of skiing at Snowbird.

"Single," you say and some scraggly bearded kid lifts his hand.

So, on the lift you get with this chap.

"Where are you from?" you ask.

"California."

"Are you on vacation?

"Na, I'm here for the winter."

"Working up here?"

"Na."

"No? How do you live?"

"Unemployment insurance."

And so it goes. Before we are at the top he will have told me that he "pays into unemployment so he figures he deserves it." He will also tell me about the screwing the poor people are getting. And the last thing he'll tell me about is how crowded it is on the weekends.

"You ought to come up here on the week days."

"Well, I'd love to, fella," I'm thinking, "but I'm too busy supporting you."

As I say, it's this kind of person who has no job and feels great about it that overwhelms me the most.

It sounds corny but a person can still make it big in America. I don't know if we have more or less opportunities today than we did in the old days. But I know we have plenty. And I know that hard work and being dependable still count for something. And I know that our values have slid so far that it's almost embarrassing to admit to such convictions in public. It just seems to me that if more and more people believe that an even smaller minority owe them a living, eventually the whole machine will break down.

It's old and trite to say "there is no free lunch." But it's true. In fact, with service like I get across the street, there is barely enough time for lunch in the first place.

DEFENSIVE DRIVING COURSE FOR THE SPANISH SPEAKING

Mr. MONTOYA. Mr. President, recently I was able to be of assistance to Mr. Duane Lehr, the supervisor of education and training of the District of Columbia Department of Transportation. He sought my assistance in publicizing a course which would be given in Spanish for the Spanish-speaking community of this city. I am pleased that he has now succeeded in starting those classes with a beginning class of 24 students.

The course which the District government is offering is one which I believe is valuable for all residents. It has only been given in English until recently. I want to offer my congratulations to Mr. Lehr and the members of his department for their efforts in making this course available to Spanish-speaking citizens. I ask unanimous consent that the announcement concerning the defensive driving course be printed in the RECORD.

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

DEFENSIVE DRIVING COURSE PLANNED FOR SPANISH SPEAKING

The District of Columbia's Department of Transportation invites members of the Spanish speaking community in the Washington metropolitan area to attend a class in defensive driving planned for the near future in the D.C. Red Cross building auditorium.

More than five million men and women have graduated from the course, which, up to now, has only been presented in English. The National Safety Council developed the eight hour course more than ten years ago.

Although the course has been given in Spanish previously in other large cities, this will be the first time such a course has been offered in Spanish only in the Washington metropolitan area. The lecture, along with student workbooks and film are in the Spanish language.

Registrations are now being accepted for the course, which is free of charge. Those interested in taking the course may telephone 629-3368 or 629-4070, or they may write to the Office of Traffic Safety, Department of Transportation, 301 C St. N.W. Washington, D.C. 20001.

THE HEW POSITION ON H.R. 10727

Mr. HUGH SCOTT. Mr. President, at the request of the administration I ask unanimous consent that a letter to me outlining the HEW position on H.R. 10727, a bill amending the Social Security Act, be printed in the RECORD.

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

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
December 16, 1975.

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

DEAR SENATOR SCOTT: This is to bring to your attention the Department's views with regard to H.R. 10727, a bill ordered reported by the Senate Finance Committee on December 10, 1975, and which may be scheduled for Senate floor action in the near future.

The Department supports this bill as it was passed by the House of Representatives, for reasons set forth in my letter of December 9 to Chairman Long (see the enclosure at Tab A). As passed by the House, the bill would permit, for a period of three years, the Social Security Administration's (SSA's) black lung Administrative Law Judges (ALJ's) and Supplemental Security Income (SSI) hearing examiners to hear cases under all titles of the Social Security Act. Limiting the black lung ALJ's and hearing examiners to hearing cases under the Federal Coal Mine Health and Safety Act and title XVI of the Social Security Act, respectively, has been a primary cause of the dramatic growth in the number of pending requests for hearing in the past few years. We believe that enactment of H.R. 10727 will improve our ability to deal with this backlog on a timely basis.

The request for hearing backlog, which reached a high of 113,225 cases in April 1975, has now been reduced (as of December 6) to 100,163. We anticipate that enactment of H.R. 10727 will enable SSA within one year to reduce the backlog further, so that a claimant's average waiting time for a hearing will not exceed ninety days. Without this bill, we anticipate that such a reduction will require two years.

In addition, we have no objection to two of the four amendments added to the bill by the Finance Committee. (For a summary of each of these amendments, see the enclosure at Tab B.) We do believe unnecessary another Committee amendment, which would require that the States be given at least 1½ years advance notice before regulations could become effective to require more frequent deposits of withheld social security contributions. The Department has already indicated to the States its intention to provide substantial lead time along the lines proposed by this amendment.

We are opposed, however, to the amendment added by the Committee which provides for the annual reporting of wages for social security income tax purposes. We also do not believe that a statutory restriction on the timing of social security deposits is necessary. This amendment is intended to reduce the number of reports employers must submit to Federal agencies. While we applaud this goal, the approach taken by the Finance Committee would only minimally reduce the paperwork burdens of employers and would seriously strain the administrative capacity of the Social Security Administration. In a report on annual wage reporting submitted to the House Ways and Means and Senate Finance Committees by this Department and the Treasury Department on December 31, 1974, both Departments recommended an

alternative approach to annual reporting under which employers would not be required to furnish a quarterly breakdown of wages paid during the year and the States would also be required to report covered wages on an annual basis.

Our recommendation has great potential for reducing the Federal paperwork burden on employers, for improving compliance with the income tax laws, and for bringing about a net savings in Federal Government administrative costs. These benefits to employers and Government alike would be substantially reduced under the approach proposed by the Finance Committee. Also, the Finance Committee approach would increase SSA's administrative costs by $20.2 million in the first year as compared to a $8.6 million increase under our recommended approach. (For a more detailed comparison of our recommendation with the Finance Committee's proposal, see the enclosure at Tab C.)

Since the submittal of our report on annual reporting, the Departments of the Treasury and Health, Education, and Welfare have been drafting legislation to implement our recommendation. Because our recommended approach would involve some very complex changes in the social security program, including changes in the provisions for granting quarters of coverage, drafting this legislation has of necessity been a time-consuming task. However, it is for the most part completed, and the draft bill is now being coordinated with other Federal agencies whose programs would be affected by the program. Because of the great advantages to employers and Government alike of our recommended approach, we urge you and your colleagues to defer action on the Finance Committee's proposal until our work on the draft bill has been completed.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report.

Sincerely,

DAVID MATHEWS,
Secretary.

DEVELOPMENTS IN SOUTH KOREA

Mr. KENNEDY. Mr. President, over the past decade, South Korea has had an impressive rate of economic growth, and is often cited as a singular success story of U.S. foreign assistance.

However, if the findings of a new study by the Institute for International Policy are correct, South Korea is heading for default on its debts and economic difficulties, raising serious questions for American policy.

The Institute's report indicates that to finance its very creditable growth, the South Koreans have accumulated a foreign debt of $6 billion, and Department of State analysts are now worried about an impending debt crisis. The report cites World Bank and U.S. Government figures, not yet made available to Congress, indicating that South Korea's balance-of-payments deficit has widened from $300 million in 1973 to $2.2 billion this year. A confidential International Monetary Fund estimate suggests that this deficit will remain at the $2-billion level for the next few years.

Mr. President, if the figures reported in the Institute's study are accurate, the United States is headed toward a crisis in our relations with South Korea, and in the nature of our assistance program. Not only are there increasingly serious questions over the political repression launched by President Park Chung Hee, but these troubling economic questions demand a fundamental review of our policy toward South Korea.

Mr. President, I would like to draw to the attention of my colleagues the report on South Korea recently published by the Institute for International Policy, and I ask unanimous consent that excerpts be printed at this point in the RECORD.

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

ECONOMIC CRISIS LOOMS FOR SOUTH KOREA

(By Institute for International Policy)

The Republic of Korea is headed for default on her debts abroad and economic chaos at home, if current confidential estimates being circulated at the State and Treasury departments can be believed. The implications of the unpublished reports for American policy are equally alarming.

The new data—final estimates for 1975 and 1976—discredit previous assessments by Treasury, AID officials, World Bank and the Korean government that that country is about to "turn the corner" on its economic problems. Figures coming into government offices now indicate that the Korean balance of payments crisis is chronic. Massive foreign aid—estimated at $1 billion—will be needed for years to come.

This crisis poses a major problem for the Ford Administration, and the American people, who have already committed $189 billion to South Korean survival. If the Administration chooses to go to the rescue of the Koreans, that aid request will run on into the new Human Rights Amendment just passed by Congress. Aid to the repressive Park government will not pass easily, but collapse of the Korean economy endangers a country long thought to be strategic to American defense interests. The debate promises to be heated, long and fundamental to the future American role in Asia.

THE KOREAN CRISIS—HOW?

For two years, South Korea has been caught between rising costs for her vital imports—mainly oil and raw materials—and declining foreign markets for her exports. The result has been $4 billion in trade deficits during the 1974–1975 period. The trade deficits have led to massive borrowing by the Koreans on the assumption that their problems were temporary. In the last three years, Korea has borrowed almost $4 billion net from overseas sources.

This year South Korea's external borrowing increased by 96% over the previous year. Although U.S. officials are not talking about it publicly, this phenomenal increase in South Korean foreign debt has become "a very real worry" within the State and Treasury bureaucracies. The debt outstanding has shot up from $3.3 billion in 1973 to $5.9 billion in 1975. The nature of the debt and Korea's ability to pay is also a matter of concern.

Some $2.2 billion is high-interest, short-term debt outstanding in credits from traders, suppliers, and banks. This short-term level is twice that of Korean net reserves—now at $1.1 billion—and U.S. government analysts consider it "extremely high." Payments of principal and interest on short and long term debt together will run over $1 billion in 1975 alone, and American banks have refused to extend any more long term credit to South Korea.

Even more serious is a confidential estimate by an International Monetary Fund mission led by Joachim Ahrensdorf which visited South Korea from July 26 to August 9, 1975. Whereas most analysts have projected a significant easing of pressure on the Korean balance of payments in 1976, the IMF mission forecasts a continuing deficit at the $2 billion level "for the next few years." This first official estimate that large Korean deficits are becoming chronic means that the bulk of future borrowing—just as in the past three years—will go to cover merchandise trade deficits and rising debt service payments rather than capital projects. If accurate, the new reports spell disaster for Korea, or massive aid from the United States.

ECONOMIC "MIRACLE" DISSOLVES

Only two years ago, South Korea seemed on the verge of achieving the coveted goal of economic self-sufficiency proclaimed as the national goal by President Chung Hee Park on his seizure of power in 1961. Exports rose spectacularly from $175 million in 1965 to $4.5 billion in 1974. South Korea jockeyed herself up into the ranks of "semi-industrialized" or "middle income" countries, closing 1974 with a per capita GNP of $380.

President Park's Fourth Five-Year Plan set the goals of "transforming Korea from a borrowing to a lending country" by 1981, and financing Korean industry "with continued increases in domestic savings without relying on foreign sources." Those goals must now be set aside. Korean exports grew only 6% in 1975, compared with the average annual rate of expansion of 35% in the previous decade. Exports fueled the Korean economic "miracle."

Despite the impressive figures and rhetoric of the past, the hard-working Koreans are now working themselves into debt at a furious pace. The basic structural features of South Korea's export-oriented industry leave it exceptionally exposed to severe deterioration in terms of trade. Her high dependence upon imported raw materials and intermediate products makes Korea vulnerable even among non-oil developing countries. Figures from the International Monetary Fund show a 4% deterioration in terms of trade of all nonoil developing nations in 1974, compared to Korea's 18.5% drop. The South Koreans have to run faster just to stay in place.

To finance the growing deficit and debt service, U.S. government working papers estimate that even assuming future real export growth of 15% a year South Korea will require a gross capital inflow of $14 billion over the period 1976–1980. This is a large amount of capital to mobilize over the next five years, and some U.S. government analysts doubt that South Korea can raise it. Private direct investment on the scale required is out of the question. Paring down imports will only translate into an equal or greater sacrifice of exports, and no improvement in South Korea's trade balance.

Even accepting the optimistic assumption of a 15% yearly rate of real export growth, the Institute for International Policy sees no reason to disagree with current internal U.S. government predictions that increased levels of official assistance will be required to avoid a Korean debt crisis. Should such export growth fail to materialize, and today's unfavorable conditions persist, the Institute estimates foreign aid needs at $1 billion by mid-1976.

DEVELOPMENT OF THE PROBLEM—BALANCE OF PAYMENTS

Until mid-1973 most South Korean borrowing went to build up export industries and other productive projects. Then came the "oil shock" and recession in the U.S. and Japanese markets. Since then, laments one U.S. banker, "Korea has been overborrowing on commercial terms to finance balance-of-payments deficits, loans that don't add to debt service capacity." Several international banks have put South Korea on their monitoring lists. U.S. government analysts are similarly concerned; State Department officials briefly raised, then dropped a proposal for new bilateral aid.

Korean balance of payments suffered the impact of the twin shocks of sharply increased world prices for the fuel, food and raw material Korean industries must import and the deep recession in the U.S. and Japanese markets. The current account deficit widened from $309 million in 1973 to $1.8 billion in 1974 and official U.S. estimates peg the 1975 deficit at a record $2.2 billion.

While the sudden twin shock of declining purchasing power and stagnating exports understandably placed severe pressure on the 1974 balance of payments, it is the further slide in 1975 from a $1.8 billion to a $2.2 billion deficit that raises the most serious questions about South Korea's capacity to control its swelling debt burden. For while South Korea's terms of trade dropped 18.5% from 1973 to 1974 (93.6 to 76.2, 1970=100), no such sharp deterioration in the terms of trade is expected this year, yet external borrowing has increased this year by 96% over 1974. The near-exhaustion of traditional credit sources is illustrated by the extreme reluctance of the traditional foreign commercial capital sources—Chase Manhattan, First National City, Morgan Guaranty, and a score of other international banks—to come to South Korea's rescue with a relatively small $200 mill balance of payment support loan sought by the South Korean government in late 1974. "Basically, we felt the Korean balance-of-payments problem was of such a magnitude that the Government had to take certain measures" before banks could supply major support, said Morgan Guaranty Executive Vice-President Lewis Preston in explaining his bank's initial decision to withdraw from the syndicate. Morgan Guaranty is one of South Korea's major supporters. Only after months of what the Far Eastern Economic Review termed "scrambling," the loan was concluded in March 1975 with the following major participants:

[In millions]

First National City Bank	$25
Chase Manhattan	25
First National Bank of Chicago	25
Bank of America	25
Others (20 banks)	100
Total	200

Interest was set at two percentage points above the London Interbank rate—tough compared with what was available a year and a half ago.

While this was only one loan among many, the total South Korean borrowing program over the past two years has involved "some pretty fancy financial footwork," in the words of one U.S. official in Seoul quoted in Business Week. Sensing hard times ahead, the Korean strategy has been to exhaust the high interest commercial market before turning to last-resort sources such as the IMF and World Bank. As a result, interest payments on long term debt in 1975 will reach $350 million—twice the 1974 level.

SHORT-TERM PROJECTION

Balance of payments difficulties have thus forced South Korea into heavy foreign borrowing which has severely strained its debt-service capability and has increased skepticism about the country's creditworthiness among its traditional private lenders. World Bank, IMF and U.S. government analysts are in agreement that after relying on short-term borrowing to cover its average $2 billion current account deficits over the last two years, South Korea must look to expanded export earnings to improve its balance of payment position in 1976. "Our concern now is recovery in our main export markets," a Korea Trade Promotion Corporation official concurs.

There is no assurance that such recovery will occur. Tidings from Japan are especially dismal:

A just-released Sanwa Bank reports puts the Japanese growth rate March 1975-March 1976 at only 0.4%, lower than the Japanese government projection of over 2%.

August 1975 Japanese imports from the Asian region were down 21.6% from a year ago. September imports were down 5.7% from a year ago.

The Far Eastern Economic Review warns, "Asian countries, many heavily dependent on exports, cannot expect any sharply rising Japanese purchases to pull them out of recession. Increased demand for their products will have to come largely from the U.S."

But the U.S. market is still struggling to recover from recession. The U.S. Commerce Department's Index of Leading Indicators for September slipped by 0.9%, tending to support those forecasters who believe that the current economic upswing in the U.S. will run out of steam next spring. Plywood exports to the U.S. fell from $20.3 million in November 1973 to $7.1 million November 1974 as U.S. housing weakened. Textile sales in the U.S. market are held down by a voluntary sales restraint agreement concluded between South Korea and the U.S. in 1971.

As for Western Europe, the Organization for Economic Cooperation and Development (O.E.C.D.) does not envisage a significant upturn in economic activity until the fourth quarter of next year. The Common Market has imposed severe quotas on Japanese textile and clothing exports. So uncertain are South Korea's export prospects that worried U.S. government analysts in Washington have requested embassy reports of export letters of credit openings on a month-by-month basis.

Three 1976 projections have been prepared to summarize these unknowns. (See the appendix for a discussion of the assumptions underlying these projections.) Realization of the optimistic Korean projection would put South Korea well on the road to recovery. The moderate projection favored by the U.S. government analysts has South Korea barely squeezing through 1976 at the cost of moving heavily into an extremely reluctant and high-interest short-term market for the third straight year. The current trends extended projection, prepared as an alternative by the Institute, leaves an approximate $1 billion capital shortfall in 1976 after currently envisaged new availabilities are exhausted. This is too large a sum to be raised on the short-term market. Either South Korea's debt will have to be renegotiated—disastrous to her future credit rating—or the country will have to get an emergency infusion of quick-disbursing concessional commitments on a scale not now projected by any of South Korea's traditional bilateral or multilateral sources.

TRADE DEFICIT

[In billions of dollars]

				1976 projections		
	1973	1974	1975	Korean	United States	Institute
Exports	3.3	4.5	4.8	6.5	5.8	5.1
Imports	3.8	6.2	6.7	7.9	7.6	7.2
Deficit	−.5	−1.7	−1.9	−1.4	−1.8	−2.1

LONG-TERM PROJECTION

Peering further into the future, U.S. government analysts estimate South Korea's gross foreign capital requirements to cover the current account deficit and debt service at between $11.4 billion and $14.3 billion over the five-year period 1976–1980, with $14.3 billion seen as the more likely figure. This is an optimistic prediction. It uses the official Korean Five-year Plan's projection of a 15% real growth in exports, and assumes alternate projections of 10% and 13% real import growth. Even so, the analysts question whether such large sums can be raised on favorable terms. They wonder out loud whether South Korea's projected needs of new capital over the next years may outdistance its availability. Most significantly, they predict that South Korea will require increased levels of official assistance. They put no dollar figure on this prediction; we may be assured only that it will be substantial.

Another less sanguine if not necessarily less realistic possibility overlooked by the official analysts is simple extrapolation of today's sluggish 6% export growth rate ahead to 1980. The analysts are perhaps to be forgiven for not exploring this possibility since the situation it would reveal would be utter chaos, and such analysts might suffer the usual fate of messengers of bad news. Here we are under no such restraint. Unless South Korea's export demand picture improves, the country is headed for an unmanageable debt crisis.

DEBTS AND DEPENDENCE

In brief, South Korea's pattern of export-oriented growth fueled by foreign capital, the source of her past prosperity, is also the source of her present malaise. South Korean planners are products of the finest U.S. business schools and training programs. They have faithfully followed the favored models of export-led development. In so doing, they have staked all on the vicissitudes of international trade and finance. As long as international markets remained buoyant, the highly geared South Korean economy surged ahead. Today, as export growth becomes a more and more distant memory, the debts incurred to build exports remain.

It is not suggested that there is anything inherently mistaken about emphasizing exports or relying on foreign savings. A developing nation is naturally a debtor nation, and the size of the debt alone does not reflect on the nation's basic creditworthiness. Indeed foreign borrowing and investment has fueled a spectacular development of Korean industry. During 1963–1972 real GNP rose at an average annual rate of nearly 10%; in 1973 GNP grew by a spectacular 17%, and in 1974 still by 8%. Foreign capital financed 45% of investment in the first two five-year plans.

Nevertheless, the basic structural features of South Korea's export-oriented industry concentrated in the light manufacturing sector—high dependence on imported raw materials, energy and intermediate products and low value-added component—leave it relatively little room to maneuver when terms of trade deteriorate. Some economies can ease an external payments crisis through import substitution. South Korea can do little here. Her textile industry spins and weaves imported cotton; her steel mills and shipyards work on imported ore and scrap iron; her sawmills process imported lumber; her electornics industry assembles imported components. All her industries run on imported energy. Buoyant export markets could absorb the passthrough of higher imported factor costs; today's recession-bound markets cannot. The twin blows of falling terms of trade and export depression leave the South Korean economy with diminishing capacity to earn the foreign exchange needed to service the country's growing external debt burden. Yet the South Korean government is obligated under the 1972 Foreign Capital Inducement Law to guarantee repayment of all previously approved foreign borrowing and investment—some 90% of the total. As the situation escapes the South Korean government's control, Koreans may wryly recall an old Chinese saying:

He has so many lice that he doesn't itch anymore;

He has so many debts that he doesn't worry anymore.

EXTERNAL AID: U.S. RESPONSIBILITY?

Should the South Koreans ever reach the point where they give up worrying, then the real headaches for Washington begin. Formally the South Korean government is guarantor of the South Korean debt. Implicitly, the American government is guarantor of the whole South Korean government, lock, stock and barrel. Since 1946 the U.S. has spent or incurred obligations of about $189 billion relating to Korea, more than for any other country except Vietnam (see Table I).

TABLE I.—*Official U.S. expenditures on Korea, 1946–1976*

[Fiscal years; millions of current dollars]

I. Korean war:	
A. Original war cost	54,000
B. Total estimated veterans benefits	99,000
C. Total estimated interest payments	11,000
Estimated ultimate total	164,000
II. U.S. troops in Korea, 1953–74	10,300
III. Payments to Korean troops in Vietnam war (estimate):	
A. 1966–71	1,418
B. 1972	168
C. 1973	124
Total	1,710
IV. Military assistance and credit sales:	
A. Total 1946–1973	6,040
B. 1974 actual	170
C. 1975 estimate	150
D. 1976 proposed	200
Total	6,560
V. Economic assistance—loans and grants:	
A. AID, PL–480, Peace Corps:	
1. Total 1946–1973	5,430
2. 1974 actual	38
3. 1975 estimate	103
4. 1976 proposed	163
B. Export-Import Bank (active credits, July 1975)	380
C. All other bilateral (net)	78
D. Through IFIs *	320
Total	6,512
Grand total	189,082

* Total international financial institution assistance to South Korea divided by U.S. share of paid-in and callable capital contributions.

These spending levels indicate the extent of U.S. official "investment" in Korea. For fiscal 1976 the administration is requesting $200 million in military assistance and credit sales and $163 million in economic assistance, including $158 million in PL 480. These totals are small compared to South Korea's projected capital needs of $3 billion a year, a substantial part of which will have to come as official assistance to avoid the debt crisis discussed above. However, before the U.S. government's ultimate responsibility is invoked, there are several forward lines of defense to be overcome.

THE IMF

Most important of the stopgap measures ought to be the IMF, the agency created at Bretton Woods to help nations over international payments crises. So far, however, the prospects of significant IMF support are not great. South Korea has a small quota of 80 million special drawing rights ($95.3 million) in the IMF General Account, and has received only SDR 20 million ($23.8 million) under the Special Drawing Account. Total South Korean drawing on the Oil Facility reached $188 million in August, 1975, IMF returns show, an amount $5 million short of South Korea's current allocation. (See Appendix.)

In early August the Ahrensdorf mission to South Korea concluded a Standby Agreement running from July 1, 1975 to July 1, 1976, which will make available the second credit tranche of SDR 20 million, although the IMF is dragging its feet on the SDR 112 million ($136 million) Extended Fund Facility requested by South Korea. The new draft standby further envisages $2 billion in 1–15 year non-bank borrowing over the period.

In return, South Korea reluctantly agreed to an IMF austerity program which would force Korean planners to moderate their vigorous expansionary internal policies, cut government spending on domestic programs, and ease the few remaining restrictions on foreign investment. The South Korean planners are extremely reluctant to run the risk of exacerbating domestic recession and unemployment as the price for a balanced budget and improved balance of payments. February 1975 negotiations with the IMF broke down over the Korean unwillingness to abandon their vigorous contracyclical fiscal measures.

Even now, President Park's budget bill for fiscal 1976 submitted October 3, 1975, doubles military spending from this year's $735 million; overall the budget is 28 per cent larger than the current one and earmarks more than $1 billion for development of the petrochemical industry and $675 million for raising the salaries and pensions of government officials, the New York Times reported. There are some financial analysts in the U.S. government who question whether such levels of military spending conflict with the purposes of development lending and prudent balance of payment management.

If implemented, the immediate effect of the IMF Standby Agreement will be to aggravate recession and unemployment in the highly geared South Korean economy, threaten the interests of domestic industry and agriculture, significantly reduce the personal income of all but civil servants and the elite, and feed social unrest. In brief, the price is high, and despite formal conclusion of the Standby Agreement some U.S. government analysts doubt that Park is willing to pay it. And he is not alone. While U.S. officials publicly continue to urge South Korea to maintain tight monetary and fiscal policies, reverse its expansionary policies and reduce its balance of payments deficit, such a draconian solution may provoke major social upheaval and so threaten the larger U.S. strategic interest in maintaining the uneasy status quo on the Korean peninsula. Thus the standard IMF recipe may not apply to the volatile Korean situation.

OTHER MULTILATERAL SOURCES

Next line of defense before greatly increased U.S. bilateral assistance is other international financial institution (IFI) lending, from which South Korea has borrowed a total of $1.6 billion.

WORLD BANK

In 1975 South Korea borrowed heavily from the International Bank for Reconstruction and Development—$352.5 million, a 400% leap from 1974. The 1975 borrowing figure accounted for 41% of all IBRD loans to South Korea. In considering appropriate levels of future IFI support for South Korea, some U.S. government analysts question whether South Korea should receive such a large share of the available capital. During the past World Bank fiscal year (July 1974–June 1975) South Korea received $297.5 million from the IBRD, second only to Indonesia in Asia ($332 million) and highest on a per capita basis ($8.80 per capita for Korea, $2.60 for Indonesia), according to the World Bank 1975 annual report. Other U.S. officials, however, invoke the theory of "rewarding the winners": South Korea has used loans effectively in the past and so should have first claim on new availabilities. In the Institute's judgment, political priorities are likely to resolve this debate in favor of U.S. support of greater World Bank lending to South Korea. A recent Asian precedent is the unsuccessful International Development Association credit to South Vietnam, which was defeated by the opposition of West European delegations at a Paris conference in October 1974. (The IDA is the World Bank's soft loan window.)

However, World Bank loans are of limited usefulness in combating a balance-of-payments crisis. They are project loans to finance new capital goods imports; they cannot be diverted to offset other parts of the import bill. Some IBRD projects in South Korea, e.g. agricultural investment, are import-substituting, and as they come into operation they will help relieve the crisis. Overall the total expected level of $300 to $500 million annual IBRD loans, while substantial, will be insufficient to pull South Korea through.

ADB AND OTHER

In 1974–1975 South Korea's borrowing from the Asian Development Bank increased by $150 million, or 40% of all ADB loans to South Korea which is the largest single borrower from this institution:

Main recipients of ADB loans

As of December 31, 1974; millions of dollars:

South Korea	336
Philippines	242
Pakistan	238
Malaysia	204

SOURCE.—House Foreign Operations Subcommittee hearings, 94th Cong., First session, part 1, pg. 778.

The ADB has two projects in the pipeline totaling $54 million. The International Finance Corporation has extended $40.7 million in credits. The United Nations Development Program has contributed $25.2 million, and other UN programs $9.0 million. While a complete accounting of future IFI support of South Korea is difficult to project at this time, the IMF's target of $2 billion in non-bank borrowing by July 1976 is well beyond the reach of all the IFIs put together, even in the unlikely event of complete South Korean compliance with the IMF Standby Agreement.

OTHER BILATERAL AID

Last line of defense before the U.S. Treasury is other Development Assistance Council (D.A.C.) countries whose contributions totaled $1.6 billion at the end of 1974, distributed as follows:

TABLE II.—D.A.C. COUNTRIES (EXCLUDING UNITED STATES) OFFICIAL BILATERAL GROSS EXPENDITURES ON SOUTH KOREA

[In millions of dollars; calendar years]

Donor	1972	1973	1974 est.	1960–74
Japan	171.5	180.3	200.0	1,282.2
Germany	21.0	23.2	20.0	141.8
Italy	.9	.2	.2	20.9
Canada	3.9	5.8	5.0	20.3
Other [1]	3.6	3.6	4.5	11.7
Total	200.9	213.2	229.7	1,476.9

[1] Australia, Belgium, Denmark, Netherlands, New Zealand, Norway, Sweden, United Kingdom.

Source: A.I.D., East Asia Fiscal Year 1976 Congressional Presentation Document, p. 40–A.

The State Department estimates 1975 Japanese aid to South Korea at $78 million. South Korean-Japanese relations have been

going downhill since 1973 when the Korean CIA abducted a leading opposition politician from a Tokyo hotel. Last spring South Korean officials were reported meeting with the Japanese in hopes of reopening the flow of aid.

In addition, foreign corporations, chiefly Japanese, have invested some $700 million in South Korean export industries. During 1975 the South Korean government hopes to attract $130 million in new foreign investment, the same as in 1974 but only half the 1973 rate—a telling indicator of foreign confidence in the prospects of the Korean manufacturing sector.

In brief, third country bilateral aid ran at the $200 million level in the years 1972–1974, dropped to $100 million 1975, and holds out no promise of suddenly multiplying to a level sufficient to cover South Korea's projected foreign exchange shortfall given currently projected new availabilities of other capital.

U.S. BILATERAL ASSISTANCE

Apart from the $164 billion ultimate cost of the Korean war and billions more in other military expenditures, the U.S. has provided South Korea with $5.6 billion in economic assistance since 1946, according to A.I.D. documents.

Turning to the aid program itself, A.I.D. Assistant Administrator Arthur Gardiner in his budget justification to the House Foreign Operations subcommittee June 19, 1975, defined current aid operations in South Korea as a "transition program" from concessional to nonconcessional forms of assistance. As the A.I.D. Congressional Presentation Document for FY 1976 expressed it:

"While Korea finds itself vulnerable to economic dislocations affecting all industrialized countries, its problems are not those to which the A.I.D. development assistance program is now addressed. Korea must turn for needed balance of payments support to other international and commercial facilities for the capital * * * petroleum and raw materials. In line with the transition strategy, FY 1976 will be the final year of bilateral concessional funding of AID loans and grants."

However, Gardiner was careful not to close the door entirely on the possibility of resumed A.I.D. activity:

"Should there be unanticipated requirements in connection with the transition program in Korea, these will be presented to Congress under separate requests and notifications as provided by the legislation."

Indeed, as mentioned earlier the State Department recently aired the notion of revived concessional assistance to South Korea. Following is an inventory of various U.S. forms of economic assistance to South Korea:

PL–480. The major form of bilateral U.S. economic aid still going to South Korea is "Food for Peace" shipments under PL–480. During FY 1975 South Korea received $74 million in PL–480, and for FY 1976 the Administration has requested $158 million. South Korea is to receive 57% of the worldwide political use allotment—an eloquent statement of South Korea's political priority to the Administration. The bill has emerged from conference with the Korean allocation substantially intact.

Ex-Im Bank. The Export-Import Bank has $380 million in active credits to South Korea.

CCC Cotton credits. South Korea gets Commodity Credit Corporation cotton credits, Housing Investment Guaranties, and other credits totaling $259.6 million from 1946 to 1974; of which repayments and interest have come to $181.1 million, leaving $78.5 million in unpaid balance. South Korea seeks $200 million more in CCC cotton credits by July 1976.

U.S. private direct investment. Book value of privately held U.S. assets was $313 million as of December 31, 1973. During 1973 $29 million had been invested, and in 1974 a further $49 million was invested. In resource-poor South Korea, U.S. investors tend to avoid involvement in joint U.S.-Korean enterprises and prefer the putative security and fixed return of lending to the South Korean government who then makes the capital available to South Korean private entrepreneurs or government development agencies. A recent decision by U.S. Steel illustrates U.S. investor wariness. Last April, according to the Far Eastern Economic Review, U.S. Steel torpedoed the new $2.7 billion Asian integrated steel mill project, championed by the South Korean government in order to make South Korea a net steel exporter by 1980. U.S. Steel was to have taken a 20% interest in the mill and provide technical assistance. After considering South Korea's deteriorating trade and investment position, U.S. Steel insisted on a guaranteed return of 20% on investment and delay of expansion at the state-run Pohang Iron and Steel works to avoid overproduction. Other projects dependent on U.S. investment, especially in the petrochemical industry, are still hanging fire.

OPIC. The Overseas Private Investment Corporation insures nearly all U.S. private equity capital invested in South Korea. This year OPIC insurance outstanding is for $332.8 million maximum coverage (war, revolution, insurrection coverage).

U.S. bilateral aid: Overall assessment, Given the limited size of currently proposed FY 76 assistance, persistence of current two-year economic trends in South Korea will create the need for as high as $1 billion in supplemental U.S. bilateral assistance in FY 76 which Congress will be most reluctant to approve. The near-exhaustion of traditional commercial credit sources, overborrowing on the short-term market, difficulties in IMF negotiations, heavy drawing on IBRD and ADB, and poor prospects of significant bilateral Japanese support combine to throw the burden on bilateral U.S. support, the ultimate guarantor of a non-Communist South Korea. Any renegotiation of the South Korean commercial loans and service payments would further damage the country's already threadbare credit standing. Yet U.S. aid has in recent years been flowing into South Korea at entirely inadequate levels to affect the eventuality of default. Anything less than a major resumption of border hostilities will fail to pry loose the required sums from Congress.

FOOD FOR THOUGHT

Mr. BROCK. Mr. President, I recently held hearings in my home State of Tennessee and received testimony from small businessmen. Some of the problems created by too much Government were beyond description. Shortly after returning, I read an article by Meg Greenfield, entitled "Food for Thought." It certainly is. I ask unanimous consent that the article be printed in the RECORD as food for thought.

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

FOOD FOR THOUGHT

(By Meg Greenfield)

"SEC. 18. The Secretary is authorized to carry out a study to determine how States are utilizing Federal funds provided to them for the administration of the child nutrition programs authorized by this Act . . . As part of this study, the Secretary shall also examine the degree and cause of plate waste in the school lunch program . . . The Secretary . . . shall report his findings together with any recommendations he may have with respect to additional legislation, to the Congress no later than March 1, 1976."

This week you and I are going to draft some legislation. It will be called the National Plate Waste Act of 1978. We will be taking our cue from the language cited above. It comes from the recently enacted school-lunch and child-nutrition statute, and if it means anything, it means that there is Federal anti-plate-waste legislation in our future.

The reason we are postdating our bill to 1978 is that it will take time for the Secretary to complete and the Congress to consider the newly mandated study of the "cause" of lunchroom plate waste. It is, of course, true that anyone who has had occasion to eat a school lunch at any time in the past 50 years will know what the cause of plate waste is—it is what the scientifically minded would call the Yecch! Factor. But never mind: while the Federal government will not move hastily, there is no question that in time it will move. Who pays the piper, as the fellow said, ends up buying an awful lot of plate waste; and Washington can hardly be expected to sit still for this forever.

A WASHINGTON BREAKTHROUGH?

I will confess that for a fleeting moment in my reading of the school-lunch act, I thought a libertarian solution was at hand. "Students in senior high schools which participate in the school-lunch program under this Act," it says at one point, "shall not be required to accept offered foods which they do not intend to consume."

This struck me as something of a Washington breakthrough—ceding back to the people the right not to have a ladleful of creamed carrots dropped down over their Spam croquette. But I am afraid the tone and thrust of the act on this point go in another direction; and especially as the mountain of plate waste gets higher and we find that we can't burn it for fuel, I expect we shall see a bipartisan consensus develop. On the right, plate waste can surely be construed as just one more form of welfare profligacy, ingratitude and cheating. And on the left the issue should have great appeal for those humanitarian, if coercive, guardians of our well-being, whose message of concern for the citizen can best be summed up: eat your spinach or else . . .

Actually, we shouldn't be too hard on these propositions, since they will be the basis of our legislative "findings." All legislation should arise out of "findings." The Plate Waste Act's findings will read like this: "The Congress of the United States, finding that 2.3 cents of every Federal dollar is currently being expended on uneaten consumable food products furnished to certain disadvantaged public-school children; further finding that the result is gravely detrimental to the physical health of the children and the financial health of the Nation; and further finding that State and parental authority are inadequate to act in this matter—does hereby declare School Lunch Plate Waste to be a threat to the general welfare."

OUTLAWING PLATE WASTE

Once we have done that, we can do almost anything, and I would suggest that we be forthright about it and simply outlaw plate waste. It's no trick. Thus: "(A) It shall be unlawful for any person dispensing foodstuffs paid for in full or in part by public monies to knowingly dispense such foodstuffs in amounts which he has reason to believe are more than 33⅓ per centum in excess of what the dispensee can be expected to consume without suffering ill effects.

"(B) It shall be unlawful for any person receiving foodstuffs paid for in full or in part by public monies (*provided that* these are dispensed in accord with the provisions of subsection (A) above) to refuse to consume within a reasonable period of time more than 33⅓ per centum of such foodstuffs.

"(C) The standard for determining the appropriate amount of foodstuffs to be dispensed in the first instance and in each case shall be: the age, weight and height of the schoolchild; divided by the change in the Consumer Price Index for the preceding fiscal year; times two."

That last formula may sound a little arbitary to you, but I have been studying these legislative formulas, and you will have to take it from me that ours is in the ball park. We do want to provide some flexibility, however, for unusual circumstance, and for special cases. To this end, we can borrow a phrase from the school-lunch act just passed and allow for certain exceptions based on "cultural eating patterns"—which I figure covers ethnic habits, religious proscriptions and whether or not forks are used in the home. We will also make provision for due process in contested cases. Adjudication should be fairly simple, since we shall naturally require that records of the amounts of foodstuffs dispensed and returned on individual plates be kept for no less than five years and filed quarterly with HEW.

ENFORCING THE ACT

That leaves us only the matter of definitions to tidy up. There should be no problems here: "As used in this Act, the term (a) 'plate' shall mean any container no wider than 8¼ inches and no deeper than 1¼ inches on a graduated depression from rim to center; (b) 'waste' shall mean any normally consumable foodstuffs dispensed upon plates in accord with subsection (A) of this Act and excluding 'refuse'; (c) 'refuse' shall include, but not be limited to, fruit pits, egg shells, bones, and such foreign matter as may from time to time be included in the serving. For the purposes of this Act, bread crusts shall be considered 'waste' and not 'refuse.' Apple cores shall be considered 'refuse' and not "waste' *provided that* such apple cores have been consumed to within one-half inch of the fibrous membrane."

I will grant that enforcement of all this could pose a problem in normal times. But these are not normal times, and we are in luck. For by the time the National Plate Waste Act goes into effect, there should be at least two Federal affirmative-action officers stationed in every public-school yard and gymnasium in America to look after the recently promulgated sex-discrimination regulations. And I see no reason why they should not double as plate-waste officers at lunchtime. It would represent a terrific saving and probably bring our act in at a modest half billion dollars for its first full years of operation.

The spoilsports will tell you, of course, that you could buy kids a lot of edible food for that much money—like hamburgers and peanut-butter sandwiches. But pay them no mind. They're living in another world.

HOLLYWOOD-BURBANK AIRPORT

Mr. TUNNEY. Mr. President, Hollywood Burbank Airport serves a vital need to growing numbers of Californians, but before Federal funds are committed to its purchase by the city of Burbank, I believe a thorough environmental impact statement should be prepared.

I believe funds under the airport development aid program should be withheld until the impact statement has been prepared and until Burbank and other jurisdictions have reached consensus on purchase of the airport from its current owner, Lockheed Air Terminal, Inc.

The airport should not be sold for non-airport uses, and I urged the subcommittee to include in its report language stating the subcommittee's willingness to reconsider a public purchase plan provided the above issues are satisfactorily resolved. The subcommittee has agreed on that course of action, and I believe it will help preserve the public purchase option.

My position on this matter is more fully explained in two letters which I ask unanimous consent to have printed in the RECORD at the conclusion of these remarks. The first is my letter to the mayor of Burbank, the Honorable William Rudell. The second is my letter to the chairman of the subcommittee, Senator CANNON. I also ask unanimous consent that Senator CANNON's response be printed.

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

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., October 31, 1975.

Hon. WILLIAM B. RUDELL,
Mayor, City of Burbank,
Burbank, Calif.

DEAR MAYOR RUDELL: Thank you for your letter of September 23, 1975 regarding the future of Hollywood-Burbank Airport. After a lengthy and thorough review of the matter, I have decided to oppose the inclusion of statutory language providing for the purchase of Hollywood-Burbank Airport in the Airport Development Aid Program (ADAP) bill. In light of several unanswered questions regarding the purchase of the airport, to include such language would be premature.

My objections to including the language center upon two points. First, I could not consider supporting such language without studying the necessary environmental impact statements. As you know, numerous questions have been raised concerning noise and air pollution, and ground access congestion resulting from the airport. The environmental impact statement will address these questions.

Second, the respective roles of the Cities of Burbank and Los Angeles, as well as other affected jurisdictions, must be clarified. Since the use and operations of the airport involve and affect jurisdictions other than Burbank, some consensus as to the purchase and future operation of the airport must be achieved.

I am opposed to language in this bill for these reasons, but since many people use and depend upon the airport in its current configuration, I am very concerned over recent reports that Lockheed Air Terminal, Inc. may well sell the airport for non-airport uses before the unresolved questions noted above can be addressed, even though the airport is a profit-making operation for them.

Such sale would be premature. If and when the questions surrounding the purchase of the airport are satisfactorily answered, the City of Burbank or another public entity could resubmit a request for ADAP language to the Commerce Committee, as I expect the Committee, in its report to the full Senate on the ADAP bill, will clearly state its willingness to reconsider the request if the issues are indeed resolved.

Until those questions are answered, however, I will oppose any ADAP language with regard to the purchase of Hollywood-Burbank Airport.

Sincerely,

JOHN V. TUNNEY,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., October 31, 1975.

Hon. HOWARD CANNON,
Chairman, Aviation Subcommittee, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR CANNON: I do not believe that language providing for the purchase of Hollywood-Burbank Airport through ADAP should be included in the bill currently before the subcommittee. Too many issues remain unresolved.

The local jurisdictions involved have not determined their respective roles in the purchase, nor has an environmental impact statement assessing the impact of the airport's purchase and future use upon the area been prepared.

However, as Hollywood-Burbank Airport has been named in both national and state airport plans, and since many people make use of the airport in its current configuration, I would hope that it would not be sold for uses other than an airport until these issues can be fully investigated.

The Committee cannot be certain that the current owner of Hollywood-Burbank will not sell the airport for alternative use before the local jurisdictions resolve the outstanding issues. However, I believe the Committee can help preserve the purchase option by stating in the Committee's report on the bill our reasons for not including statutory language at this time, making clear that if the issues involved in the purchase of the airport are resolved satisfactorily, the Committee would reconsider the issue.

Sincerely,

JOHN V. TUNNEY,
United States Senator.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., December 2, 1975.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: In response to your letter of October 31, 1975, I share your view that no language providing for the purchase of Hollywood-Burbank Airport should be included in the ADAP bill currently before the Aviation Subcommittee. As you know, the draft on which we have been working contains no such language.

I share your concern over recent reports that the airport may be sold for non-airport uses before a final decision on public purchase can be made. Thus, I concur with your suggestion that the Subcommittee's report on the bill include the Subcommittee's rationale for not providing ADAP funds for purchase of the airport at this time. I will recommend that the report state that if and when an environmental impact statement is prepared and evaluated, and the local jurisdictions arrive at a consensus on the airport's purchase and future use, the Subcommittee would be willing to reconsider the possibility of amending ADAP to allow for public purchase of Hollywood-Burbank.

Sincerely,

HOWARD W. CANNON,
Chairman, Subcommittee on Aviation.

ECONOMIC FREEDOM IN AMERICA

Mr. BROCK. Mr. President, I recently read an article by Rogers C. B. Morton, Secretary of Commerce which appeared in NAM Reports—National Association of Manufacturers—volume 20, No. 23, November 17, 1975. I found the article very interesting and well considered. It clearly points out the necessity for economic freedom in America. I ask unanimous consent that the article be printed in the RECORD.

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

FREE ENTERPRISE AS A CATALYST
(By Rogers C. B. Morton, Secretary of Commerce)

"America was conceived in the search for a better economic life," M.I.T. Economics

Professor Paul Samuelson once noted. For every family coming here seeking religious freedom and relief from despotism, there were a hundred settlers coming to our shores in search of jobs, he observed.

If the motivations of these disparate early Americans varied in some respects, however, they shared a common vision—a dream of freedom.

Economic freedom—freedom from want, the right to a choice of jobs—has been a magnetic field equal in force to the attractions of political and religious freedom.

The spirit of free choice and egalitarianism that has breathed life into our political, social and religious institutions has been no less an influence on our economic establishments. Free enterprise is a democratized economic arrangement which offers opportunities commensurate with ambition and ability. It offers anyone a chance—to start a company, patent products, make and sell goods. The ultimate success of such undertakings is not as important, really, as the opportunity to undertake them. For free choice has been the catalyst for the ideas, inventions, innovations, and daring that swept a continent and pushed the frontiers to outer space.

"America had to be made before it could be lived in," D. W. Brogan reflected in "The American Character" in 1944. The making of the country was the forge that fashioned the American character, one that Brogan saw stamped with the spirit of the pioneer, the gambler, the booster, the discounter of the future "who is to some extent bound to be a disparager of the past."

These qualities emerged in the search for the better economic life, in the search for freedom from want, in a fusing of national wealth, science and technology, and democratic ideals, in which business and industry played a principal, dominant role.

The making of America began with an idea; it was shaped by the American character whose qualities were marked by a willingness to take risks, to experiment, to seek the far horizon. Originality, optimism, initiative became national traits. As President Ford has said: "No nation has taken greater risks or experimented as much for progress."

He also observed, "The explosion of American ideas began 200 years ago with our Declaration of Independence. A century ago a tide of industrial progress started to sweep over America."

The tide set in motion a revolution in living standards. Electricity brightened and made more prosperous all the corners of the nation; sewing machines created a giant clothing industry; mechanization, along with the opening of vast new tracts of land, lifted American farm production in the mid-1800s to unprecedented outputs; automobile assembly lines turned us into a mobile America, and the telegraph and telephone, and later movies, radio and television, communicated ideas, information and even life styles from coast to coast. The tide continued to run in our generation as we split the atom and probed space.

Of course, the history of business and industry cannot be portrayed as a sugar-coated tale of sweetness and virtue, a saccharine flavored story of unbroken successes. It is a history that has had its share of strife, ethical indifference, the surrender of integrity to avarice. Corrupting alliances of business and politics, "robber barons," labor violence and slavery are a part of that history.

But America was the first nation to dedicate itself consciously to the ideal that all men—not just an elite—should be free of the degrading effects of poverty. It has always been part of the American dream that material security could free the human spirit from the material needs that held its potential in check. The goal of our society, which gives meaning to the continuing efforts of our economic system to increase our material abundance, is to free man from want and poverty and all the debasing and debilitating effects that accompany them.

In the early days of the Republic, achieving material security was for the most part hard and agonizing physical labor, as it is now in the underdeveloped countries of the world. But as science, machines, and technology unleashed undreamed of productive powers, we began to realize, for the first time in history, that we could produce the quantities needed to achieve our material needs.

At the country's first centennial celebration in Philadelphia in 1876, an English reporter, after viewing acres of inventions and machines, wrote, "The American mechanizes as the old Greeks sculptured and as the Venetians painted."

But an organizing principle was required to weld the machines, raw materials, labor skills and needed capital investment together to build the nation's industrial complex. That principle came to fruition in the modern business organization, the heart of an economic system that supplies the goods which have freed men and women for higher aspirations and attainments.

As French writer Jean-Jacques Servan-Schreiber comments on our economic system in "The American Challenge": "The American challenge is not ruthless, like so many Europe has known in her history, but it may be more dramatic . . . Its weapons are the use and systematic perfection of all the instruments of reason. Not simply in the field of science, where it is the only tool, but also in organization and management . . ."

It was such an approach that started a multibillion-dollar industry and revolutionized the marketing of food in America, although the author of this particular revolution, Clarence Birdseye, put it another way when he said, "Go around asking a lot of damfool questions and taking chances." Birdseye added, "Only through curiosity can we discover opportunities, and only by gambling can we take advantage of them."

In 1912, working as a U.S. government purchasing agent and fur trader among the Eskimos in Labrador, Birdseye became interested in the way the natives preserved their food supplies. Cold storage was already used to keep food, but the methods seemed to rob thawed frozen meats and vegetables of their flavor. Slow freezing took up to 18 hours, but Birdseye had an idea that faster freezing, as occurred in the North, would seal in the freshness. With $7 worth of brine, ice and an electric fan, he experimented with quick freezing and achieved his goal.

At the nation's 100th birthday celebration in Philadelphia, crowds were intrigued by the velocipede, a two-wheeled English contraption kept in equilibrium by the skill of the rider. Colonel Albert A. Pope, a Boston manufacturer, after seeing the device went home and converted his air pistol factory into a bicycle works, redesigning the vehicle so that the rider could "avoid falling on his face." Within eight years there were 50,000 cyclists in the United States and Pope had made a fortune.

But in the amassing of these personal fortunes, many of these entrepreneurs never forgot their beginnings, nor were they immune to the country's democratic traditions. Andrew Carnegie, who at 12 got a $1.20 a week job as a bobbin boy in a cotton mill near Pittsburgh on the way to building an annual personal income exceeding $25 million by 1900, never forgot his past. In 1886, the steel magnate published a book, "Triumphant Democracy," whose cover showed a crown and a pyramid, both upside down. He believed the bottom of the social order could rise to the top, as he had so amply demonstrated could be done. Carnegie also spoke volumes about American managerial skills when he suggested his epitaph should read, "Here lies the man who was able to surround himself with men far cleverer than himself."

Then there was A. P. (Amadeo Peter) Giannini, a boy fruit peddler who built the biggest non-government bank in the world, beginning with the Bank of Italy to serve the "little man." Pioneering in branch banking and consumer loans, its assets multiplied 60 times in 10 years. In 1930 it became the Bank of America. Toward the end of his life, Giannini noticed that he had almost a million dollars and gave half of it away, explaining that he would rather give the money away than leave it for somebody else to spend.

Cyrus H. McCormick's career began when he and his father began tinkering with machinery on their Shenandoah Valley farm. His reaper was not the first patented nor perhaps the best made. But his guarantee of money back to unsatisfied customers made it preeminent in its field. McCormick's business outlook was formed from the viewpoint of the farmer, whom he saw as hard-pressed for cash and manpower. He introduced installment selling, with so much down and the rest to be paid in six months, or longer if the harvest was poor.

These were some of the men who were a part of, and gave substance and direction to our economic system. They were not driven by greed, an obsession with power, a godless materialism. Profit was not an obscene word to them. It was one of the instruments needed to achieve their ends. The word "profit" derives from a Latin root that means to advance, to progress, or to go forward. That is what it meant to them. That is what the free enterprise system is founded upon. Many of the same challenges we encountered in the past we face today and we must overcome them if we are to go forward. In so doing, it is not a few who will profit but many who wil prosper in jobs, incomes, conveniences, and everything else that gives us the economic freedom needed to make our other freedoms more meaningful and secure.

President Ford has put the challenge this way: "Today, America is again called upon to invest, to risk, to experiment in the name of progress. But unfortunately, we have reached a watershed. A decision must be made. The question, put simply is precisely this: How do we finance both the investment needed for economic growth and essential programs needed to solve our human problems?"

The history of this country, of business and industry, suggests that we can do both. America needs the expertise of business in every field of endeavor. We need its proven ability to bring together the material resources, the necessary capital, the science and the innovative technology in enterprises of all kinds that add to the well being of our people. We need its organizational and managerial skills. We need its creative spirit, its willingness to take risks. Yes, we need its ability to make profits—reasonable profits to refuel the great engines of the American economy.

Who can doubt that we can do it? As a production man once said, describing his company's approach to some of the demands made by the government during World War II, "The difficult we do immediately. The impossible takes a little longer."

SOME PRACTICAL SUGGESTIONS FOR REDUCING PAPERWORK

Mr. MOSS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement I submitted to a pubic hearing in Salt Lake City on December 9, 1975, conducted by the U.S.

Department of Commerce on the general topic of regulatory reform. My comments focused on what we can do now to relieve the regulatory burden, especially on small businesses, while we begin the necessarily arduous task of examining the myriad of rules and regulations to determine if all that regulation is necessary.

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

REGULATORY AND PAPERWORK REFORM

We are in a period of resurgence in interest in what has been generally called "regulatory reform" and "deregulation". Criticism is directed at what I see as two different aspects of the regulatory process—the merits of various kinds of regulation and the burdens they impose on citizens and businesses. I want to address my remarks at this second aspect because I believe that there are practical and specific steps which can be taken now to control and contain unnecessary recordkeeping and reporting while we begin the lengthy process of examining the purpose and effects of each regulatory program.

I think it is important to keep this distinction clearly before us because the general distress with Federally required recordkeeping and reporting could lead to an unreasoning attack on all forms of recordkeeping and reporting and confuse two basic types of recordkeeping and reporting.

The first type are those where there is an absolute necessity for accurate and orderly recordkeeping and reporting to protect the public interest, such as when an employer acts on behalf of the Federal, state or local government in tax collection; when an employer acts as trustee for his employees such as when an employee had authorized the employer to act as his agent to withhold money for U.S. Savings Bonds and the requirements that businesses keep accurate and orderly information to substantiate their tax returns just as every other taxpayer is required to do.

The second type has been called "rate and route" regulation. "Rate and route" regulations typically have extensive recordkeeping and reporting requirements but their function is entirely distinct. These recordkeeping and reporting requirements come about to enable business itself to gather data to be used by the business itself to obtain or continue a benefit, such as a particular route for an airline or to substantiate a claim to continue or increase a publicly regulated rate, such as air fares or other user charges.

It is this latter type of regulation and the recordkeeping and reporting which grows out of it which I testified against recently in hearings held before the Oversight Procedures Subcommittee and the Subcommittee on Reports, Accounting and Management of the Government Operations Committee (October 10, 1975).

In this testimony I explained the purposes behind my introduction of S. 2443, the Government Forms Justification Amendments of 1975, introduced in October 1975, which is to place a positive requirement on the Office of Management and Budget to conduct an annual review of the continuing justification for all government forms and to make a positive determination that the forms continuation and the regulation behind it is still required. At present OMB makes no general judgment as to whether or not a form is justified—this is left to the Agency which proposes the form. OMB's review extends only to determine if the form duplicates another which is already in existence. This sort of approach is too shortsighted. What of forms which do not duplicate any current requirement but simply add to the bewildering proliferation we have seen in recent years or when two pre-existent forms are simply combined into a new monstrosity? The second and equally serious shortcoming of the current approach is that there is no independent review of the necessity for the form beyond the judgment of the Agency which proposes the form.

It is within this general framework that I have 5 specific suggestions to offer to reduce excessive and unnecessary reporting. I have already acted on some of these suggestions as you will see.

1. The Congress itself needs to be more sensitive to the reporting and recordkeeping implication of legislation it passes. Horrible examples abound in this area but suffice to point to the Pension Reform Act which intended to protect workers pension rights especially when they contributed to pension systems operated by their employers or third parties. The principal problem had been that employees lacked adequate information in a form useful to them about their entitlements under company or union operated pension plans. As a result of this lack of information, many workers were deprived of benefits to which they were legitimately entitled by virtue of their contribution over their working life. From this simple premise has grown a nightmare of bureaucratic bungling and new reporting requirements have grown like weeds threatening to choke the vitality of this much needed reform. In some extreme instances, it may have even had the opposite effect intended by forcing some small businessmen to drop a major job benefit that they had previously offered willingly rather than cope with the additional costs associated with completing the required paperwork.

The most controversial piece of such paperwork was the infamous "EBS–1" issued by the Labor Department in April 1975 which required employers offering pension plans to describe their terms and the kinds of employees covered, among other things. Including the instructions the forms are 31 pages long! Bruce G. Fielding, a California accountant and a member of the Commission on Federal Paperwork, estimated that it would have cost employers an average of $700 for each employee—just to do the paperwork! Secondly, and this is a particularly regrettable aspect of the problem, is that most of the new forms require specialists, either lawyers or accountants, to complete accurately. Fortunately, as a result of effective Congressional action, the Labor Department was called to task this spring. As a result of hearing and the department's own review, employers as of August 1 will only be required to complete the first two pages of EBS–1 while the Labor Department prepares a revised six-page form for use after May 31, 1976.

I pledge myself to examine carefully before acting the recordkeeping and reporting requirements which may arise from any legislation which I sponsor or support.

2. The EBS–1 example calls to mind the need for a more careful examination by the Federal Agencies of their true information requirement. In this instance what had been a 31-page requirement magically reduced itself to 2 pages—and the role Congress must play to ensure that legislation it passes does not create conditions for the Federal agency mischief such as that described above.

A more comprehensive examination of the true information requirements of various agencies could lead to more use of scientifically selected sampling or annualization of certain reporting forms. This could be accomplished and still serve the legitimate information requirements of federal agencies. My bill, S. 2443, the Government Forms Justification Amendments of 1975, would, I believe, begin to force Federal agencies to examine its information requirements at regular intervals under the guidance of the Office of Management and Budget rather than engaging in self-justification exercises, as is currently the case.

3. Examine in greater detail what the proper source of certain information should be—To use a simplistic example: If there is a legitimate need to know the amount of gasoline sold, governments should seek the information from the taxing authority rather than from the buyer or seller. This suggestion coupled with the following one for better coordination among local, state and Federal agencies could go a long way to substantially reduce duplicate recordkeeping and reporting without depriving any level of government of information it legitimately needs to accomplish its programs.

4. Better Coordination of local, state and Federal requirement especially in the area of tax reporting and similar areas which rely on the same records to eliminate the need to keep duplicate records in different formats to serve the same purpose.

5. A closer examination of the manner in which records and forms are managed by the Federal government—To this end I introduced S. 998 "The Records Management Act" in March 1975 which would strengthen the role of the National Archives and Records Service in the General Services Administration by amending the Federal Records Act of 1950. The current legislation has three major weaknesses which the Records Management Act would correct. First there is no practical and comprehensive definition of the records management function. Second, National Archives Records Service does not now have authority to compel Agency heads to improve their records management and third, the inspections and studies done by the National Archives and Records Service which contain constructive suggestions rarely come to the attention of Congress and the public. No one knows the potential savings to be realized by more effective records management but it appears that most agencies can reduce their paperwork costs by 10 percent and achieve $10 savings for every $1 spent on records management personnel salaries. If the Federal agencies manage their recordkeeping properly, the savings could be enormous.

As a follow up, I have written to the head of the National Aeronautics and Space Administration, Dr. James C. Fletcher, in my capacity as the Chairman of the Senate Aeronautical and Space Sciences Committee asking him to review the procedures used throughout that agency with the objective of reducing both the amount of required paperwork and the amount of time taken to prepare it. (October 8, 1975) Other Congressmen and Senators could do likewise and include paperwork reduction as a regular item in exercising their oversight responsibilities as I have in this instance, and as the House did on EBS–1.

These suggestions can be applied now without waiting for lengthy investigations of whether the regulations which require the recordkeeping and reporting are themselves justified. If conscientiously followed, I believe they can serve as a logical beginning and put us on a better footing to consider the merits of the regulations themselves.

NATION'S CAPITAL SEEMS PREOCCUPIED WITH PAST

Mr. BROCK. Mr. President, our Nation faces enormous difficulties. I fear we are not addressing them or even admitting the seriousness of them. Instead, we have chosen to look over our shoulders rather than to our future. James Reston recently wrote a very perceptive column in this regard, 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:

NATION'S CAPITAL SEEMS PREOCCUPIED WITH PAST

(By James Reston)

The practical question in most American minds these days is probably the present condition of their private lives—their families, their economic and spiritual security, and beyond this, their anxieties and hopes for the future.

But while the political prize of power in the next few years in Washington will undoubtedly go to the people who seem to understand these vague wonderings in the night about where we are, where our children are going, Washington seems almost hopelessly lost in the tangles, personalities, and controversies of the past.

This capital is backing into the future. It is starting new investigations into the murders of President Kennedy and the Rev. Dr. Martin Luther King Jr. It is determined to know what role Henry Kissinger played years ago, not only in the invasion of Cambodia, but in the tragedies of Chile and Cyprus. In short, Washington seems to be lost in the past.

It is not satisfied that President Ford finally came around to the aid of New York City, but wants to know why he switched and why it took him so long. It is fascinated by the riddle of the President's Cabinet changes—who "got" Schlesinger at Defense, and Colby at the Central Intelligence Agency—and why Pat Moynihan almost quit as ambassador to the United Nations, and then was given a phony vote of confidence by Ford and Kissinger, who didn't think the issue was worth another political flap.

All these things are interesting and good journalism, and even worth pursuing—on Santayana's theory that people who don't pay attention to the blunders of the past are fated to relive them.

Nobody here would mind much if these investigation impulses about past events were a minor theme leading to remedies in the future, but they are now the dominant theme in Washington.

The Democrats, in control of Congress, are blaming the President for high prices, unemployment, and interest rates. The President is blaming the Democrats for the inflation and most other disasters. George McGovern is harking back to his spectacular ideological defeat in the Presidential campaign of 1972 and urging this party to be faithful above all else to busing kids to school against the experience and even the will of blacks and whites alike.

It is interesting in this struggle how many men, for various reasons, have decided to give up. The resignation rate in the House and Senate in recent years is much higher than ever before. Serious members of both Houses, even in middle age, have decided to go home, and the leaders of Congress, and the executive Cabinet, are now looking gloomily to the future after the election of 1976.

Nelson Rockefeller's withdrawal from the race for the vice presidency next year is only the most prominent case in point. The Republican leader of the Senate, Hugh Scott of Pennsylvania, is pulling out. Mike Mansfield of Montana, the majority leader and conscience of the Senate, will probably not run again.

So when you look to the future in this town, you have to think about a different set of questions and a different cast of characters. The majority leader of the Senate at the end of next year will probably not be Mike Mansfield of Montana but Robert Byrd of West Virginia. The Speaker of the House will probably not be Carl Albert of Oklahoma, but Tip O'Neill of Massachusetts.

So for the moment, everything is the same here but everything is in the process of change. In the next few days, the Senate will consider a new appointee to the Supreme Court of the United States to replace William O. Douglas. This, maybe more than anything else, may change the balance of power on all executive, legislative, and judicial decisions in American life.

Fortunately, outside the political struggle of this capital, some people and institutions are thinking about the problems of the coming age. For example, Kingman Brewster, the President of Yale, made a remarkable speech, in the name of Winston Churchill, before the English-speaking Union of the British Commonwealth in London on Thanksgiving Day.

He raised the sort of questions for the future that probably should replace the dreary debates of the past in this town. Are we capable of the discipline necessary for the survival of Western civilization, he asked. And is that discipline consistent with our ideals of individual freedom?

Should we not be thinking about the graduated tax on expenditures rather than on income? What are we to do about congressmen who have to run every two years and vote outrageous expenditures because they are thinking primarily about re-election?

"We have not lost our global mission," he said. "It will best be fulfilled by proving that most ancient liberal art—the art of having it both ways. It is still our task to prove to the world that we can have both liberty and an order which is perceived as fair."

But Washington is not talking about this eternal dilemma, or thinking like Brewster about practical tax reform to assure capital investment, jobs, health and education. It is thinking about the future only in terms of arguments that might win the next presidential election. And this is the present dilemma and tragedy of this town.

THE PRICE-ANDERSON ACT

Mr. MONTOYA. Mr. President, yesterday, the Senate passed the extension of the Price-Anderson Act, providing governmental indemnity in the case of a nuclear accident. Mr. President, let me briefly relay my reasons for voting in favor of this important legislation.

Mr. President, I support S. 2568, a bill which would provide for the phaseout of governmental indemnity in the unlikely event of a very serious nuclear accident and which would continue the financial protection provided by the act until 1987.

The Price-Anderson system has been in effect now for more than 18 years. During that time, the system has served well its dual purpose of providing financial protection to the public and of eliminating a potential deterrent to the establishment of a nuclear industry.

For as long as the Price-Anderson system has been in existence, the public has been absolutely assured that if a catastrophic nuclear accident were ever to occur, there would be a substantial sum of money available immediately to swiftly compensate the victims with a minimum of administrative and/or legal redtape. Moreover, this assurance of financial protection for claims arising in the commercial nuclear industry has been provided at no cost to the Federal Government whatsoever.

Yet, there are those who persist in arguing that the Price-Anderson system represents some kind of special subsidy to the nuclear industry. That argument should be rejected for the following reasons:

First. First of all it should be understood that the Price-Anderson Act is not a substitute for the maximum amount of liability insurance which would be underwritten by the private insurance industry. The Price-Anderson Act does not impede the development of or in any way act as a substitute for the insurance which can be provided wholly from the resources of the private insurance industry. Utilities are required by the act to purchase the maximum amount of insurance available, for which they pay substantial premiums averaging around $20 million or more per year.

Second. The utilities' investment in the reactor, some one-half to three-fourths of a billion dollars, is not covered by the Price-Anderson insurance system but is covered only by property insurance underwritten by the private insurance industries. At the present time, $175 million of insurance is provided for each reactor site—a fraction of the total value of the plant—and each utility pays up to $2 million per year in premiums for this protection.

Third. The Government indemnity which is provided under the present Price-Anderson Act is needed simply because the amount of liability insurance from the private insurance industry is not sufficient to provide the amount of coverage up to the limitation of liability level. This indemnity is provided by the Government at an annual fee. It bears repeating that over the years not one cent of money has ever been paid from the Federal Treasury for claims arising in the commercial nuclear industry. At the same time, the Government has collected and brought into the U.S. Treasury over $10½ million in indemnity fees.

Fourth. Even without the Price-Anderson system, the private insurance industry would not provide any additional amount of liability insurance. In view of the foregoing, Price-Anderson does not constitute a subsidy in any commonly accepted sense of that term. It could be properly viewed as a subsidy only by those who do not agree with either or both of its two objectives: Public protection and giving assurance to those who are engaged in the nuclear energy industry that their assets would not be completely wiped out by unlimited liability in the highly unlikely event of a catastrophic accident having consequences of great magnitude. In this regard, the following excerpt from the Joint Committee on Atomic Energy's report—House Report 883, August 26, 1975, at page 8—on the bill which extended the Price-Anderson Act to its present expiration date is pertinent:

Although the committee regards the Price-Anderson legislation as a necessary building block for a healthy, progressive nuclear industry, the committee does not consider the legislaton to be a subsidy for that industry, as this term is commonly understood. To date, no Government money has ever been expended under a Price-Anderson indemnity agreement with an AEC licensee. The costs of administration of this program have been nominal, and have been more than repaid through indemnity fees paid by

AEC licensees. In fact through June 30, 1965, the AEC has already received almost $343,000 in indemnity fees and these fees are expected to increase substantially in the future.

This legislation is also consistent with the basic principles underlying other Federal programs such as, for example, reclamation projects and improvement of the inland waterways of our Nation. In determining the value of these programs, the costs to the Federal Government of the improvements must be measured against the savings to the American people which the improvements must produce. As has already been stated, the savings to the American taxpayer resulting from the nuclear power program have been estimated at $1 billion per year, and the Price-Anderson indemnity legislation has thus far cost the Government nothing.

It is true that the Government's indemnity is valuable and is provided at a charge which is presumably much lower than the charge which would be assessed for "commercial" insurance if such insurance were available. However, the fundamental reason why the indemnity is necessary is that there is yet not enough experience on which to base a firm judgment on the likelihood of the indemnity ever being utilized. Expert opinion holds this indemnity almost certainly will never be utilized. If this opinion eventually is proven correct, then there surely is no Government subsidy involved here, and in fact power reactor operators would have been paying for protection above that which is necessary.

Moreover, the basic financial protection for which these reactor operators are paying—nuclear liability insurance—involves no Government subsidy. Under the Price-Anderson Act, operators of large power reactors must carry the maximum amount of such insurance from private sources. The premiums for this insurance are currently much higher than for conventional liability insurance. For example, according to testimony presented to the committee the annual liability insurance premiums plus indemnity fees for a 450,000-electrical kilowatt nuclear plant amount to over $361,000, versus about $6,500 for a conventional plant of the same capacity, without taking into consideration that partial refund of premiums for nuclear liability insurance which is expected to be made under the nuclear insurance pools' industry credit rating plant.

Fifth. Even if the Price-Anderson Act were viewed as some kind of subsidy for the nuclear energy industry, it does not follow that it should be abandoned. As in the case of any legislation which either does or could involve the expenditure of Government funds, the benefits of the legislation have to be considered along with the cost to the American public.

As has been stated, to date no Government money has ever been spent under a Price-Anderson indemnity agreement with an AEC licensee. Over $10 million has been received by the U.S. Treasury. On the other hand, at the same time, the American public has been assured that in the event a catastrophic accident does occur, their interests would be protected by the Price-Anderson system which assures a readily available source of funds and arrangements for the prompt payment of legitimate public liability claims.

Moreover, those who are involved in the nuclear energy industry, including anyone involved in the construction of the nuclear plant, the suppliers of materials for that plant and the banks which finance a large part of the money needed to construct the plant, would be assured that they would not be forced into bankruptcy in the event of a catastrophic nuclear accident.

Sixth. Finally, I want to stress that one of the principal purposes of the bill now before the Senate is to phase out the need for governmental indemnity of licensees in the commercial nuclear power industry. The bill provides for the gradual replacement of governmental indemnity by a workable system of self insurance on the part of the electric utility companies. Through this orderly phaseout of governmental indemnity, private industry will gradually assume full responsibility for providing the compensation required under the act and the dual purposes of the Price-Anderson system will continue to be met. I urge passage of the bill as reported.

THE QUESTIONS ABOUT ECONOMIC GROWTH

Mr. BROCK. Mr. President, there appeared in the Washington Post an editorial entitled "The Questions About Economic Growth." This editorial is well considered and provocative. I ask unanimous consent that it be printed in the RECORD.

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

THE QUESTIONS ABOUT ECONOMIC GROWTH

As the United States contemplates the last quarter of the century, the questions about economic growth keep coming up with unexpected force. Part of the reason is certainly the growing environmental movement. Another is probably the misbehavior of the economy in the past several years. More important, a large and influential part of the American public has evidently decided that it is living comfortably enough, and it is not prepared to make large sacrifices for further increases in production.

But ever since World War II governments here and in all of the industrial countries have taken it for granted that steady and rapid growth is essential to social and political stability. As the country now comes out of its second recession in five years, the Ford administration is struggling to recover steady progress along the American economy's accustomed trend line of about 4 per cent annual growth in the Gross National Product. That growth rate is now under challenge from two directions. Ecologists and conservationists put it as a moral issue: It is wrong to push for endless growth. But a group of systems analysts and management specialists, centered around Jay W. Forrester of MIT and Dennis Meadows of Dartmouth, warn that it is not a choice at all. The limits on growth are inherent, they conclude, and the only question is how advanced societies can adapt to them.

It is very much a matter of debate whether the first point of view will ever command a solid majority in America politics, or whether the second will be proved accurate. But both have already acquired a substantial influence on public policy, and will certainly have an effect as the present recovery picks up momentum. The questions here are fundamental to the way that this country runs. The best approach to them is to consider the nature of growth, and what it has meant to Americans over the past generation.

In 1950, GNP per capita—computed in today's dollars, to keep inflation from distorting the comparison—was $4370. Currently it is just over $7000, although in the same period the American population grew from 152 to 214 million. That represents a staggering increase in national wealth. As husbands and wives say to each other: Where did all that money go? What difference did it make? Did it all go into pop-top aluminum cans and electric lawn-mowers?

The biggest change produced by this enormous wave of prosperity has unquestionably been in the level of education. In 1950, half of all adult Americans had no more than a ninth-grade education. Today, half of all adults have finished high school and have done at least some college work. Among young adults in their late twenties in 1950, one out of every 13 had finished four years of college. Today, it is approaching one out of every four. These numbers explain much of the transformation of this country's culture and politics. If a wise man had been asked a generation ago how this country might best use its coming wealth, he probably would have answered first: Education. But the costs have been formidable. The country was spending about $9 billion on education, including the universities, in 1950. Today the total is $119 billion. It was 3.4 per cent of GNP in 1950; it is nearly 8 per cent now.

Another immense rise in expenditure came, of course, in health care. The country spent $12 billion on it in 1950, and spends around 10 times as much now. Here again, its share of GNP has almost doubled. What have we bought for this huge sum? First of all, a significant reduction in the infant mortality rate. It was 29 per thousand in 1950, and it's around 18 per thousand now. For the population as a whole, life expectancy at birth was 68 years in 1950 and is 71 now—although not all of that gain is owed directly to better medical care. The death rates for several large groups of disease, most notably cardiovascular diseases, have hardly changed at all over the past generation. Doctors increasingly admonish the country that there is a clear pattern of self-destructiveness in the way a great many Americans live, and any further large improvements in Americans' health is going to require changes in our behavior. We are rich enough, for example, to afford a diet that is not as good for us as the food we ate when we were poorer. As for drinking, the death rates for cirrhosis of the liver are up sharply. Medical care can do wonders—but it appears that the greatest single contribution to the health and longevity of Americans in the past couple of years was not any great scientific breakthrough but simply the 55 mph speed limit on the highways.

Greater wealth has meant vastly broadened protection of the elderly. In 1950, 3.5 million people were getting federal Social Security checks. Currently 32 million get them and the purchasing power of the average check has doubled. The fear of destitution in old age has always been one of the darkest shadows on human hopes and, although it persists, at least a part of the new national wealth has gone into alleviating it.

There is more to growth than waste, rising crime rates (the homicide rate has also gone up 150 per cent over the past 25 years) and hypertension. An expanding economy has given massive support to genuinely civilized values during the long ride upward since World War II. Ought that ride to continue? As Herman Kahn recently observed, "the moral case for growth is the poor"—the poor in this country and around the world. Will it continue? Dr. Forrester and his colleagues have developed a provocative and interesting analysis arguing that it cannot. Theirs is very much a minority view, but there is a real possibility that this country may now be coming into a period of substantially lower growth than it is accustomed to. The great public achievements of the past generation have been financed out of expand-

ing wealth. It is now necessary to begin considering how to protect and enhance those achievements in a period when there may not be much new money to pay for them.

RIGHTS OF WOMEN

Mr. HUMPHREY. Mr. President, on Saturday, December 13, I had the privilege to speak at a holiday fundraiser sponsored by the Feminist Caucus of the Democratic Party in Minnesota, the DFL.

The caucus has a membership of some 1,000, approximately one-third of whom are men. They have provided—and continue to provide leadership to insure that the needs of women are addressed in the context of DFL Party operations in Minnesota. Indeed, as I have pointed out in this address, the Feminist Caucus has offered its leadership not only to Minnesotans but to Democrats all over the country through the efforts of its outstanding leaders.

In this address, I attempted to scan some of the issues which are of special concern to women, many of which are outlined in the National Women's Agenda for 1976. I urge my colleagues in the Congress to study this agenda and to give serious consideration to the goals it includes.

Of special importance in the coming months, and in the course of development of the issue agenda which both political parties will place before the American people, is the need for ratification of the Equal Rights Amendment. I addressed this issue in the context of the struggle for civil rights for all Americans. It is my hope that my colleagues will note the need for renewed emphasis on ratification of this important constitutional guarantee.

Mr. President, I ask unanimous consent that the text of my remarks be printed in the RECORD.

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

REMARKS OF SENATOR HUBERT H. HUMPHREY

I am honored to be able to join you for this holiday party—to celebrate your victories and to look ahead to the goals on which we should focus our attention.

The Feminist Caucus continues to be a strong, clear voice working within our Party to address the needs and wishes of women in Minnesota.

And that voice has echoed all the way to Washington, because the leadership in Minnesota under the capable hand of Koryne Horbal has become a visible and undeniable force in our national Party.

You have expanded the awareness of the Democratic Party. You have prodded our Party out of its intransigence. You have lifted the spirits and pricked at the conscience of Democrats everywhere. I salute you!

With your sustained and forward-looking activity, you have helped the DFL Party to maintain its position of progressive leadership in the Nation.

I get around the country a good deal, and I am repeatedly struck by the farsightedness of our State Party—by the quality of life that is available to Minnesotans—and by the irrepressible spirit of our people. You have helped to build our DFL party into one of the best organized, most progressive political organizations in the country.

Tonight I want to talk to you about the directions we must take in the area of women's rights over the coming months and years. But first, I'm going to challenge you.

In less than 11 months, the Democratic Party will face its ultimate battle. We will attempt to recapture the White House for the American people.

We must—and we will—end this reign of chaos and turmoil.

These last 7 years of Republican siege have featured:

An unprecedented and unscrupulous assault on the political system;

Economic mismanagement characterized by inflation and recession;

Retrenchment and equivocation on our hard-won battles in civil rights;

A sustained attack on the First Amendment;

Constant and insidious attacks on the rights of organized labor;

And a whole laundry list that adds up to just one thing—*bad government.*

Our people deserve better. They *demand* better. And we're going to make it better for them.

So I want you to gird yourselves for some tough battles. 1976 is going to be the year for Democrats, and the DFL will be right out front leading the way:

But the Republicans will be ready for the attack. They will accuse the Democratic Congress of everything in the book. Nevertheless, we will be ready. We Democrats will have a good, sound program and we will prove to the American people that their trust is safe with us.

But we must work together to develop this program. And high on the list of our priorities must be the role of women in our political and economic systems.

As we work on our Democratic action agenda, we must give the most serious consideration to goals outlined in the National Women's Agenda for 1976.

I want to commend the Caucus leaders on the development of this Agenda, a program supported by some 80 national women's organizations.

This is a far-reaching agenda, and one which attempts to strike at those remaining obstacles which impede our progress toward realization of true equality for all Americans.

This represents the first major statement of goals which we Democrats have to help us build our platform for 1976, and I applaud your initiative.

In the last 10 years, we have come far down the road toward equal treatment of men and women in our society. We have enacted landmark legislation:

The Equal Pay Act;

Title VII of the 1964 Civil Rights Act, prohibiting discrimination in employment;

Title IX of the Higher Education Amendments of 1972, banning discrimination in education on the basis of sex.

Through law and regulation, we have seen a good deal of progress in assuring women equal access to education, employment, credit and other services of financial institutions.

We should not underestimate this progress. But we all know that there is much more work to be done. And it is our responsibility to get it done.

But we must view women's issues in the context of our over-all national policy questions.

The economic troubles which plague us are of special significance to women.

For example, the overall unemployment rate published last month was 8.3 percent. Among adult men, the rate was 6.9 percent, while for adult women it was 7.8 percent.

If we don't act, this high unemployment is likely to become even higher as more and more women seek to enter the work force.

Between 1962 and 1974, the number of working women increased by 10 million. And this trend is certain to continue, while the number of men in the job market remains fairly stable.

Because we have expanded educational opportunities, the percentage of women students in the professions is growing. In 1960, only six percent of medical students were women, while in 1974, they constituted 18 percent.

In pharmacy, the percentage of women students enrolled increased from 12 to 32 percent in this period. In law, the comparable percentages were four percent in 1960, 19 percent in 1974.

This increased access by women to professional training is long overdue, and was made possible by our efforts to broaden the educational experience of women.

But the question remains: How will we assure fairness and equal opportunity to these women when they prepare to enter the labor force?

How can we guarantee that they will be equally compensated for their efforts when we know that equal pay for equal work still is not a reality?

Figures for 1974 reveal that full-time adult women employees still can expect to earn less than adult male workers. This is grossly unfair!

Women managers and administrators earn 60 percent of what their male counterparts earn.

Women in a production-line factory job earn 64 percent of what the men doing the same job earn.

Female sales workers earn less than half—42 percent—of the men's earnings.

This is just an example of the problems that working women face.

We still don't have an adequate system of day care and child development centers. And Social Security and pension laws don't accurately reflect the fact of life that most women work because of economic necessity, either to support a family or to supplement the family income.

We also must pursue the development of programs and services which are necessary to make the transition of women into the work force a smooth process.

We must press for more part-time job opportunities in the Federal government.

We need to pass the Displaced Homemakers Act, which would provide services to women who are thrust unprepared into the working world.

We need to expedite enactment of the Child and Family Services Act, to assure that the children of working families receive the care they need and which low- and moderate-income families cannot always afford.

I have joined in sponsoring these and other important proposals, and I will continue to work for their enactment.

In addition, we need to reassess the provisions of the Social Security program which affect women and their survivors. And pension plans need to be looked at to assure that they meet the retirement needs of women who work.

We must take a hard look at our public assistance programs to ensure that sufficient incentives exist to assist poor women who want to work, and provide the support services they and their children must have to exist.

We must look at the needs of women in every walk of life—to homemakers as well as those in the professions. I am pleased to see that the Feminist Caucus is representing the interests of all women in the development of Democratic policy.

But more than anything else—our agenda must have as its first priority ratification of the Equal Rights Amendments. The Congress will continue to make statutory changes in the law which are deemed necessary to assure fairness to women. But this is not enough

We must press for the fundamental affirmation of equality of the sexes which this constitutional amendment will grant.

Some people have been subjected to a campaign which evokes fears that somehow the ERA will completely alter the concept of marriage and family.

That just is not true. Whatever interpretation is given to changing social patterns, it is irrelevant to the central issue of this constitutional amendment. Simply put, that issue is whether at long last we are going to guarantee equal rights and justice to *all* our citizens—the majority of whom are women.

The Equal Rights Amendment is very straightforward. It simply states:

"Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

This means that the government cannot pursue policies which arbitrarily discriminate between citizens of the United States because they are male or female.

It does not deal with private individuals or companies.

It does not deal with matters which are the private concerns of husbands and wives.

It simply states what already should be understood.

The controversy over the ERA reminds me a good deal of the battles which raged when we were trying to enact the landmark civil rights laws of the 1960's. You heard every excuse in the world why we shouldn't pass these simple laws of justice and equity.

But the fear-mongers didn't deter us then, and those who misrepresent the facts shouldn't deter us now.

In the 1960s, we had to *educate* our people. We had to address their fears and lay them aside. We had to demonstrate the justice of our cause. And then, after we had talked and preached and persuaded, we had to have the courage to do what we knew was right—simply because it *was* right.

So that is what must be done today. We must *educate* our people—those in our own State who have misgivings and especially those in other parts of the country whose ratification vote is essential.

We must address ourselves to their fears, using a little friendly persuasion and good gospel sense—and then we must have the strength of our convictions.

I am confident we will succeed. The beauty of the Constitution is the capacity it gives us to bring to fruition those ideals which are expressed so eloquently in it.

The Founders gave us the means—and indeed, the responsibility—to right those wrongs which come to light. And that is what we are doing now.

What better way exists to celebrate the Bicentennial of our Nation's founding than to reaffirm the Constitutional promise of the establishment of justice for all!

There can be no freedom in America unless all are free. And there can be no civil rights without women's rights. Until we affirm, once and for all, the inalienable rights of women, the blessings of liberty will not be secure.

THE FUTURE OF THE RETREATING AMERICAN PRESIDENCY

Mr. BROCK. Mr. President, an excellent article has been written by David Broder of the Washington Post about a most remarkable collection of essays concerning the Presidency of our Nation. I ask unanimous consent that Mr. Broder's article be printed in the RECORD.

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

THE FUTURE OF THE RETREATING AMERICAN PRESIDENCY

In the remarkable collection of essays that constitutes the current tenth anniversary issue of The Public Interest magazine, one essay makes particularly compelling reading at the start of an election year. It is called "The Past and Future Presidency" and is written by Aaron Wildavsky, dean of the graduate school of public policy at the University of California-Berkeley.

The heart of Wildavsky's argument is that, whoever is elected President in 1976, there is great risk of a growing breach between the people and the presidency. The office that is at the peak of our politics and government, he predicts, will continue to grow more powerful. But the occupant, unable to maintain popularity, will "change the rules of the game" to put more distance between himself and the predatory public.

That is a very different forecast than the one which has been outlined here before. It poses a different sort of danger to the health of our democracy. This reporter's fear has been that a frustrated public might well turn in 1976, or 1980, to an anti-politics politician—a demagogue of the right or left, probably running outside the two-party system. Once installed in the White House, he could rally his mass constituency to curb the power of Congress, the bureaucracy, the press or any other institution which attempted to check his exercise of power.

But Wildavsky argues that "the failure of demagogues, parties or mass governments to take advantage of the national disarray" of the past ten years suggests the unlikelihood of any great change in today's basic political arrangements.

And so he raises the question of how the next Presidents are likely to adapt to a situation in which their power is increased but their popularity continues to decline.

He assumes that their power will grow because the role and responsibility of the central government will grow. "In the backlash of Watergate," he writes, "it has become all too easy to imagine a weakening of the presidency.

"Not so. Does anyone imagine fewer groups will be interested in influencing a President's position in their own behalf or that his actions will matter less to people in the future? The question answers itself. The weakening of the presidency is about as likely as the withering away of the state."

In fact, he is almost certainly right. But there is some reason to question his next assumption—that the next Presidents will also be as unpopular as recent ones have become.

Wildavsky notes that all recent Presidents have suffered severe erosion in their reputations, Lyndon Johnson, Richard Nixon and Gerald Ford during their terms, and John Kennedy at the hands of more recent historians. He also notes there is a monumental lack of the enthusiasm for their potential 1976 replacements. "When one or two leaders fail," he says, "that may well be their fault. When all fail . . . and when, moreover, all known replacements are expected to fail, the difficulty is not individual but systemic."

The systemic problems are twofold: The substantive policy questions, whether of energy conservation or urban education, are becoming more intractable. And, since political party membership, which provides the hard-core of support for any President, is declining, future Presidents will have less of a stable constituency to get them over the inevitable rough places on the road.

It is this latter point that seems most questionable in his analysis. Politicians who disdain their own parties, or have no party affiliation, like Govs. George Wallace, Edmund G. Brown, Jr., and James Langley, are extraordinarily popular. They create their own constituency by their confrontations with legislatures, bureaucracy or the press. Their success suggests to me the pattern by which a future independent President could maintain his popularity and his powerbase.

But Wildavsky may be right, and his forecast is worth pondering. What he sees is a retreat of the presidency from its intimate relationship with the people. It might take the form of a continued growth of the White House bureaucracy, a device he sees as "a means of insulating Presidents from the shocks of a society with which they can no longer cope."

But, he says, I might also take the form of a real devotion of responsibility—to the Cabinet, to the agenices, to states and cities. "When Presidents wanted to keep the credit, they keep their Cabinet quiet," he says. "But they will welcome Cabinet notoriety now that they want to spread the blame."

Similarly, "This is the rationale behind wholesaling instead of retailing domestic policies; behind revenue sharing instead of endless numbers of categorical grants . . . behind a transfer to state and local government of as much responsibility (though not necessarily as much money) as they can absorb. 'Here is a lot of trouble and a little money,' these presidential policies seem to say, 'so remember the trauma is all yours and none of mine.'"

Wildavsky doesn't think the process of lowering the expectations of what a President can do is at all bad for the country. But he says that unless it's stabilized at some point, by the revival of parties and Congress, a retreating presidency could become as costly as the aggrandizing presidency we have known.

THE WORLD FOOD COUNCIL

Mr. McGEE. Mr. President, very little publicity is given to the day-to-day operations of the United Nations and its various organs. I suppose this is due to the fact that these activities, although vital and important to the international community, are not of a controversial nature and therefore not deemed to be front-page news.

The world food crisis is something which touches each and every one of us. It means that millions of people in the less developed nations face death by starvation, or mental and physical impairment for the rest of their lives due to malnutrition. From the standpoint of the American consumer, global food shortages and poor harvests mean higher prices in the marketplace. Higher prices in turn mean a lowering of our own quality of life.

What are we doing to meet the global food needs of mankind? It is evident that one nation cannot accomplish the resolution of this unconscionable set of circumstances, despite what efforts we make on a unilateral effort. A truly international effort is required if we are to come to grips with this problem. An international effort has been underway, under the aegis of the United Nations' World Food Council. Quietly, and without much fanfare, a mobilization of global resources to meet the world food problem is developing coherence. It is an impressive effort and one which demonstrates that global cooperation is taking place in the U.N. organs whose responsibilities are to deal with specific problem areas.

The World Food Council has not captured the headlines as has the United Nations General Assembly, which, I might add, is a 3-month operation. The World Food Council and the global assault on world hunger is a year-round operation.

Since I believe the world food problem is one of the most important issues confronting the international community, I would urge my colleagues to study the four background documents on the World Food Council which I am making available for the RECORD today. I am confident if Members of this body are as concerned as I am about starvation and malnutrition threatening the existence of millions of the world's population, they, too, will be impressed with the work of the World Food Council.

I ask unanimous consent that the four background documents be printed in the RECORD.

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

THE WORLD FOOD COUNCIL

NOVEMBER 1975.

Why: The world food crisis in 1972/73 stimulated the world community to show political will to solve the world food problem.

The Non-Aligned countries meeting in Algiers in September 1973 called for an international conference on food, and the General Assembly at its 28th session decided to convene a United Nations World Food Conference.

When: The World Food Council was created at the proposal of the United Nations World Food Conference held in Rome from 5 to 16 November 1974. This proposal was endorsed by the 29th Session of the General Assembly.

What: The World Food Council has been established by the General Assembly as a *United Nations organ established at a ministerial or plenipotentiary level to function as an organ of the United Nations* reporting to the General Assembly through the Economic and Social Council. It will follow-up on the recommendations of the World Food Conference.

The Council is to function "as a coordinating mechanism to provide overall, integrated and continuing attention for the successful coordination and follow-up of policies concerning food production, nutrition, food security, food trade and food aid, as well as other related matters, by all the agencies of the United Nations system".

At the first session of the World Food Council held in *Rome from 23 to 27 June 1975*, the Council agreed that, as the world's highest political body dealing exclusively with food, its main functions would be:

(a) to monitor the world food situation in all its aspects, including what international organizations and governments were doing to develop short-term and long-term solutions to food problems;

(b) to look at the total food picture and determine in its co-ordinating role whether the world food strategy as a whole made sense;

(c) to identify malfunctions, gaps and problem areas;

(d) to exert its influence, through moral persuasion, to get any necessary improvements made.

The World Food Council secretariat has also been entrusted by the Secretary-General of the United Nations to facilitate the arrangements for the creation of the *International Fund for Agricultural Development (IFAD)* requested by the World Food Conference and the General Assembly.

Who: The Council consists of 36 *Member States* elected by the General Assembly on the basis of nominations by the Economic and Social Council for a term of three years.

The current States Members of the Council are:

Argentina, Australia, Bangladesh, Canada, Chad, Colombia, Cuba, Egypt, France, Gabon, Federal Republic of Germany, Guatemala,

Guinea, Hungary, India, Indonesia, Iran, Iraq, Italy, Japan, Kenya, Libyan Arab Republic, Mali, Mexico,

Pakistan, Romania, Sri Lanka, Sweden, Togo, Trinidad and Tobago, USSR, United Kingdom, USA, Venezuela, Yugoslavia, Zambia.

The President of the World Food Council is H. E. Mr. Sayed A. Marei, who is the President of the People's Assembly of Egypt, and who was the Secretary-General of the World Food Conference.

The Executive Director is Dr. John A. Hannah who was formerly Administrator of USAID.

Where: The World Food Council headquarters are located in Rome, within the Headquarters of the Food and Agriculture Organization of the United Nations.

More information can be obtained by writing to the Executive Director, World Food Council, Viale delle Torme di Caracalla, Rome, Italy. Telephone: 5797 (extensions 4522/4518) or the Liaison Office within the United Nations Headquarters in New York (Telephone: 755–1234, extension 3388).

THE WORLD FOOD COUNCIL: ORIGINS AND OBJECTIVES

The World Food Council represents the culmination of efforts over more than three decades to create an authority with international force to tackle mankind's most basic need.

The Council's task can be simply stated: to supervise and improve the way men grow their food and the way they share it among themselves.

Created by decision of the United Nations General Assembly in December 1974, the World Food Council has a membership of 36 countries elected on a rotational basis with one-third retiring each year. It will meet at ministerial or ambassadorial level and report to the General Assembly through the Economic and Social Council (ECOSOC).

Resolution XXII of the World Food Conference declared that the WFC should function "as a coordinating mechanism to provide overall, integrated and continuing attention for the successful coordination and follow-up of policies concerning food production, nutrition, food security, food trade and food aid, as well as other related matters, by all the agencies of the United Nations system." Under the same resolution the World Food Council should:

"Review periodically major problems and policy issues affecting the world food situation and the action proposed by governments, the United Nations system and its regional organizations to resolve these problems. The Council will recommend remedial action as appropriate. The scope of the Council's review will extend to all aspects of world food problems in order to adopt an integrated approach towards their solution.

"Coordinate all relevant United Nations bodies and agencies, giving special attention to the problems of the least developed countries and those most seriously affected.

"Maintain contact with, receive reports from, give advice to, and make recommendations to United Nations bodies and agencies with regard to formulating and following-up world food policies.

"Cooperate with regional bodies to formulate and follow-up policies approved by the Council."

Secretariat and supporting bodies

In January 1975 Dr. John A. Hannah, Deputy Secretary-General of the World Food Conference and former Administrator of the United States Agency for International Development, was appointed by the United Nations Secretary-General as the Council's first Executive Director to head a small Secretariat headquartered in Rome.

The World Food Conference proposed that the World Food Council be supported in its work by a number of bodies, some constituted specially for the purpose. These should include:

1. *FAO,* which is specifically requested to provide reports from the Global Information and Early Warning System set up by the FAO Council immediately following the World Food Conference.

2. *International Fund for Agricultural Development* (IFAD), which is intended to generate a massive new flow of resources for increasing food production in the developing countries. The initial target has been fixed at 1 billion SDR's and a plenipotentiary Conference will be called by the Secretary-General early in 1976.

3. *Committee on Food Aid Policies and Programmes* (CFA). The purpose of this Committee will be to help evolve and coordinate the food aid policies recommended by the World Food Conference. Proposals for reconstituting the Intergovernmental Committee of the World Food Programme to form this Committee have been drawn up by an intersecretariat group of UN, FAO and WFP representatives.

4. *Committee on World Food Security,* which the World Food Conference recommended to be established as a standing committee of the FAO Council. Its functions, as described in Conference Resolution XXII, would be to maintain a continuous review of the demand, stock and supply position for basic foodstuffs; to evaluate the adequacy of stock levels to meet actual or prospective requirements on domestic and world markets, to review action by governments to implement the International Undertaking on World Food Security; and to recommend action considered necessary to assure adequate cereal supplies for minimum world food security. An *Ad Hoc* consultation on World Food Security was held in June, 1975, pending action by the FAO Conference in November to establish the Committee.

5. *Consultative Group on International Agricultural Research* (CGIAR), which is aimed at mobilizing substantially increased funds for the research efforts proposed by the World Food Conference.

6. *Consultative Group on Food Production and Investment* (CGFPI), organized by the World Bank, FAO and the United Nations Development Programme (UNDP) to coordinate and improve the effectiveness of multilateral and bilateral financial and technical assistance. The CGFPI held its first session in July 1975.

7. *FAO Commission on Fertilizers,* which held its second session in June 1975 to consider measures for the improvement and stabilization of the fertilizer situation in developing countries.

8. *The United Nations Conference on Trade and Development* (UNCTAD), which should supply the WFC with reports and take account of its advice and recommendations.

Through these bodies and other international agencies and governments, the World Food Council is charged with carrying forward an integrated world food strategy, seeking both the financial resources and the political commitment to see it implemented.

In the 30 years since World War II several initiatives have been undertaken to try to set up international machinery that would oversee the production and distribution of food supplies. Most of these initiatives have achieved little result.

As long ago as 1946, shortly after creation of the Food and Agriculture Organization, proposals were submitted to it for setting up a World Food Board "to ensure that sufficient food is produced and distributed to bring the consumption of all peoples up to a health

standard." Among other things, it was proposed that the Board should buy and hold an international buffer stock of food to stabilize prices and provide security against bad harvests.

Eight years later, in 1954, the General Assembly passed a resolution in the establishment of a World Food Reserve to raise food production and standards of consumption, counteract excessive price fluctuating and promote the rational disposal of agricultural surpluses. Again, nothing happened.

The first World Food Congress was called by FAO in Washington in 1963 and was followed by creation of the World Food Programme, a body whose main activity is making food available for development projects. A second World Food Congress held in The Hague in 1970 produced an impressive list of recommendations and proposals but little in the way of direct action.

Despite this history of disappointments, the food crisis which gathered momentum in 1972–73 stimulated the world community to take a fresh look at its policies. The Non-Aligned Countries, meeting in Algiers in September 1973, called for an emergency conference on the shortage of food and other commodities, and this was followed by a United States proposal for a world food conference under United Nations auspices.

The World Food Conference, held in Rome 5–16 November 1974, was a landmark in the fight against hunger. Its principal achievements were to lay the foundations of the International Fund for Agricultural Development and the establishment of the World Food Council to implement its recommendations and provide continuing surveillance of the world food scene.

The Conference also mapped out in detail a strategy for increased food production in the developing countries, improvement of food aid programmes and measures to achieve food security through stockpiling and a global early-warning information system. Pursuit of action on these matters, along with the recommendations concerning fertilizers, pesticides, land and water, research and nutrition, is now brought together for the first time under the aegis of the World Food Council.

IMPLEMENTATION OF THE RESOLUTIONS OF THE WORLD FOOD CONFERENCE

1. The World Food Conference adopted twenty-two resolutions laying the groundwork for an overall strategy to attack the world food problem. The resolutions of the Conference were endorsed by the General Assembly in resolution 3348 (XXIX), December 1974, which requested the Secretary-General to submit a report to the General Assembly, at its thirtieth session, on the implementation of the resolutions of the World Food Conference.

2. In the year that has elapsed since the World Food Conference, the overall food situation has shown some improvement reflecting a recovery of output and an expansion in food aid programmes during 1975. World food production in 1975 is expected to be 3% or more above 1974 and rice production 5% higher. Good rice crops in Asia this year are encouraging and large grain crops in North America are increasing export availabilities. But production difficulties in some other countries and regions are resulting in large grain imports this year, especially by the Soviet Union and Eastern Europe. With world grain stocks in 1974/75 at their lowest level in twenty years, these recent adverse developments make it unlikely that world food grain stocks will be significantly replenished in the present season.

3. Little satisfaction can therefore be taken from the production results one year after the World Food Conference. The conditions of the most seriously affected developing countries (MSA's) have further deteriorated. Continuing and increasingly heavier foreign exchange burdens are resulting from high energy, food, fertilizer and pesticide costs. World food security is still precariously balanced on extremely low world food stocks. The numbers and conditions of the malnourished have not improved. Of particular concern is the persistence of the adverse trends in food production which were the fundamental concern of the Conference.

In the first five years of this Decade (1970–75), food production in the developing countries increased by only 1.7 percent per year compared with 2.7 percent annually during 1961–70. This is well below the rate of population growth in the developing countries and only half the increase of 3.6 percent needed to keep up with their effective demand for food. The target growth rate of 4 percent called for in DD II seems distanct indeed.

Major institutional developments

4. In the face of this serious and continuing challenge, positive steps have been taken to bring into being the new institutions called for by the Conference to implement its resolutions and recommendations. The World Food Council has been organized and held its first session in Rome, June 23–27, 1975.

(a) The Secretary-General convened a Meeting of interested countries and organizations on the new International Fund for Agricultural Development at Geneva on 5 and 6 May 1975 and set up a Working Group to work out details for the Fund. The Working Group held its first meeting in Rome, June 30–July 4, 1975, and its second meeting in Geneva, September 22–27, 1975. Many organizational and operating details have been resolved and draft articles of agreement have been prepared. A second meeting of interested governments took place in Rome, 27/10–1/11 and a third one is planned early in 1976 in Rome. A plenipotentiary conference and the Pledging Conference should follow immediately to resolve final issues. The recommendations of this meeting on final steps required to set up the Fund will be presented to the current session of the General Assembly.

(b) The Consultative Group of Food Production and Investment in developing countries (CGFPI) held its first session in Washington, July 21–23, 1975.

(c) The FAO Council has begun action on the establishment of a Committee on World Food Security and on the reconstitution of the Intergovernmental Committee of the World Food Programme as a Committee on Food Aid Policies and Programmes. Action on both of these will be finalized at the next FAO Conference which meets in Rome from 8 to 27 November 1975.

5. The rapid creation of these new institutions demonstrates that the momentum created by the World Food Conference has not been lost. Understandably, these new institutions are still in their formative stages. Meanwhile the existing agencies of the United Nations system have responded in an encouraging way with many new initiatives undertaken on a wide front for the implementation of the various Resolutions. It is clear that a concerted effort has been mounted by the agencies to make a good beginning toward pursuing the mandate given them by the World Food Conference either individually or in cooperation with others.

6. At the first session of the World Food Council, the agencies of the United Nations system repsonsible for follow-up to World Food Conference resolutions submitted a detailed report on their actions with respect to specific resolutions.

The World Food Council is initiating a second updated and expanded report from the agencies to be submitted to its second session. A summary of follow-up actions under major activities follows.

Food production in developing countries

7. The major element of the strategy of the World Food Conference is to increase food production in the developing countries to at least 3.6 percent per year and hopefully 4.0 percent during the next decade. This depends on an increased flow of resources for food production in the developing countries. Progress toward the establishment of the International Fund for Agricultural Development, expanded operations in international lending by existing international financial institutions and larger bilateral aid efforts during 1975 are hopeful developments. But the goal of $5 billion annually in external financial assistance is still far from being reached. Major additional efforts will be required in future years. The immediate aim should be the establishment of the Fund to seek contributions aimed at reaching the initial target of one billion SDR's of support by some governments in October were encouraging.

Food aid and assistance for agricultural inputs

8. Food aid in cereals increased to 8.6 million tons in 1974/75 from the dangerously low level of 5.4 million tons to which it had fallen in 1973/74. Commitments for 9 million tons are expected for 1975/76. This is still short of the 10 million ton target established by the World Food Conference and much below the 12.7 million level of 1970/71. While this modest recovery of food aid is encouraging, the still low and uncertain level of food aid is a significant failure of governments to respond to the resolution of the World Food Conference on food aid policies and programmes. The proposed Committee on Food Aid Policies and Programmes can be expected to bring about improvements, but governments must act now to raise their contributions so that the 10 million ton target can be reached this year and established on a three year planning basis.

9. The worsened balance of payments of the MSA's and the still limited assistance for food and fertilizers impose a heavy burden on the ability of the developing countries to augment their own agricultural production efforts. Fertilizer prices have declined and supplies are more plentiful than a year ago, but unless bilateral and multilateral assistance is increased over that of 1974/75, the most seriously affected countries will face a gap of 0.8 million tons of fertilizer which will not be covered by commercial imports or their own production.

10. At the Second Session of the FAO Commission on fertilizers, 3–7 June 1975, the main elements of a world fertilizer policy were identified which include increasing bilateral fertilizer aid, strengthening multilateral assistance through the International Fertilizer Supply Scheme, improving the efficiency of fertilizer plants in developing countries, expanding the fertilizer intelligence system, action on price instability, and developing new production capacity in developing countries. These recommendations were endorsed by the World Food Council at its first session and it recommended that the FAO/UNIDO/World Bank Working Group on Fertilizers should accelerate efforts to improve utilization of fertilizer plant capacity in developing countries and that the CGFPI should investigate the feasibility of expanding fertilizer production in developing countries.

World food security

11. The FAO Council at its November 1974 Session adopted the International Undertaking on World Food Security which was transmitted to all Member Nations of FAO and to members of the United Nations with a substantial interest in world production, consumption and trade of food, primarily cereals, inviting their cooperation in meet-

ing the common objectives. By August 1975, 56 governments had responded positively to the International Undertaking; the European Economic Community has also subscribed to it. The countries concerned account for over 85 percent of world cereal exports and for more than half of world imports. But a number of governments, including some of the major food producing, consuming and trading countries, have not yet subscribed to the International Undertaking, and two have stated that they are not able to adopt it at this stage.

12. A key element in establishing a sound programme for effective world food security is agreement on a minimum level of world grain stocks and the management of such stocks. Discussions during the first half of 1975 showed little promise toward reaching agreement on these issues and this lack of agreement will seriously affect the ability of governments to implement the International Undertaking on Food Security. The Seventh Special Session of the General Assembly, in its resolution on Food and Agriculture has asked for intensive work on a priority basis in the World Food Council and other appropriate forums on the size of the reserve including the proposal made at the current session that the components of wheat and rice be 30 million tons. This, together with some new initiatives by governments should lend a new impetus to progress on this crucial issue.

Nutrition

13. The World Food Conference recommended in Resolution V that all governments and the international community as a whole take actions to develop plans and programmes to improve nutrition. The agencies of the United Nations system have responded with a number of actions in 1975. An interagency meeting at FAO in March 1975 discussed a new Nutrition Planning Scheme which the FAO Council in June recommended proceed without delay.

An interagency Cooperative Committee of FAO, WHO, UNICEF, UNFPA, WFP, bilateral agencies and NGO's was established to expand feeding programmes. The WFP, FAO, WHO and UNICEF have been in close consultation on joint efforts to support emergency programmes for supplementary feeding in 1975–76 and have established an Inter-Agency Working Group to respond quickly with nutrition assistance upon government request. UNICEF has prepared the first place of a special assistance programme for 1975–76 for 13 MSA countries.

14. These initatives are encouraging, but the magnitude of the nutrition problem—over 430 million undernourished in developing countries, of which almost half are children—means that we have scarcely begun to face up the task ahead. Special assistance programmes for emergency feeding and actions taken to alleviate vitamin and other deficiencies have thus far been more in the direction of improving the method of operation of such programmes rather than new programmes which will be on a scale large enough to reduce malnutrition substantially. Funds are extremely limited at present. The World Food Council intends to initiate, in cooperation with the international agencies concerned, consideration of the main elements of an overall plan of action on nutrition, stressing the five main areas addressed to international agencies by the World Food Conference in Resolution V—special feeding programmes for children and other vulnerable groups, a world-wide control programme to substantially reduce nutrition deficiencies as quickly as possible, a Nutrition Surveillance System to monitor the food and nutrition conditions of disadvantaged groups, programmes for assisting governments to develop intersectoral food and nutrition plans, and an internationally coordinated programme of applied nutrition research. This effort can be expected to crystalize the main priority areas where funds and policy actions are urgently needed.

Rural development

15. Follow-up action on Rural Development so far has focused on establishing a programme to access the effectiveness of existing rural development projects and programmes to determine whether the United Nations system can evolve a more meaningful and effective approach in this vital sector. This would set the stage for a larger effort to deal with the problems associated with small farmers and the rural poor. Meanwhile substantial increases in external financing for such projects is planned by existing international agencies.

International trade

16. International discussions of agricultural trade issues in including food trade problems have greatly intensified in recent months in UNCTAD, GATT and other forums. There have also been some promising recent moves toward a more constructive approach to the commodity and trade problems experienced by the developing countries. In accordance with paragraph 8 of Resolution XXII, UNCTAD will submit a report to the next session of the World Food Council on the world food trade situation and on progress made toward trade liberalization.

17. It is clear from this brief review that a great deal has been done on follow-up actions to the resolutions of the World Food Conference. It was to be expected that much of this would initially take the form of setting the stage for future programmes and policies. We can be encouraged by the efforts of agencies and governments and by the fact that the momentum of the World Food Conference has not been dissipated. But we can also see that the larger issues of additional resources, larger and stable levels of food aid, a viable system of world food security, a significant improvement in world nutrition, and a higher priority for food production have not yet been broached in a manner that will generate substantial additional commitments of real resources or mobilize adequate policy support for the proposals and action programmes. A major test of this real commitment is before us with the new International Fund for Agricultural Development. Decisive and rapid establishment of that fund in the next few months with its full initial commitment of resources will be an unequivocal measure of progress in the follow-up to the resolutions of the World Food Conference. Completion of this report will therefore be determined by actions of governments with respect to the Fund and some key proposals during the remaining months of this session of the General Assembly.

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

November 1974—The creation of an International Fund for Agricultural Development (IFAD) was one of the most important resolutions adopted by the *World Food Conference* last November in Rome. Originally proposed to the Conference by its Secretary-General Mr. Sayed A. Marei (presently President of the People's Assembly of Egypt and since last June President of the World Food Council) this resolution was sponsored initially by 34 countries including members of the Organization of Petroleum Exporting Countries (OPEC), developing countries and a few developed countries.

There was broad agreement at the World Food Conference that a large increase in investment in agriculture in developing countries was required to achieve a major improvement in their food production. Estimates presented at the Conference indicated the need in this direction. As a step to increase the flow of development assistance to agriculture in developing countries from about US $1.5 billion to at least US $5 billion during 1975–80, the Conference resolved that an International Fund for Agricultural Development (IFAD) should be established to help finance agricultural development projects primarily for food production in developing countries.

After adoption of the resolution by the General Assembly at its 29th session, the Secretary-General of the United Nations entrusted the Executive Director of the World Food Council—Dr. John A. Hannah—to consult with all interested parties to determine whether there was sufficient interest and probability of attracting substantially greater resources to warrant the creation of such a Fund.

May 1975—After a series of preliminary consultations, a first meeting of *Interested Countries* was called in Geneva on 5 and 6 May 1975 and was opened by the Secretary-General of the United Nations, Mr. Kurt Waldheim. Sixty-six countries attended the meeting and endorsed the proposal made by Saudi Arabia that the initial target for the Fund should be 1 billion SDRs (or approximately US $1.2 billion. At this meeting many traditional donors joined in expressing their willingness to participate in the Fund's creation.

July /September 1975—A *Working Group* of representatives from developing countries and potential donor developed and developing countries was set up to work out the details of the Fund and held two sessions, one in Rome 30 June–4, the other in Geneva 22–27 September 1975.

October 1975—At a second meeting of Interested Countries held in Rome from 27–31 October 1975, representatives of 67 countries have completed another important stage in setting up this new financing institution.

Developed countries as well as developing contributing countries (OPEC) attending the meeting confirmed or re-affirmed their firm intention to meet the initial target of 1 billion SDRs originally proposed by Saudi Arabia, Iran and other OPEC countries.

Some countries indicated the level of the contributions they would intend to pledge next year to the Fund (United Kingdom, £15 million; Norway, 10 million SDRs; the Netherlands, 32 million EDRs). The USA restated their intention—as expressed in September at the Special Session of the General Assembly—to seek congressional approval for a contribution of US $200 million to IFAD, provided other countries would contribute in such a way that the one billion target would be met. The European Community is considering the possibility of contributing to the Fund pending final agreement between the nine European countries.

Other developed countries and some OPEC countries and in particular Saudi Arabia, Kuwait, Iran, Libya, Venezuela, stated their intention to contribute to the Fund. Their contributions would be announced formally at a pledging conference to be convened in Rome early next year.

In the text adopted by the delegates to be transmitted to the Secretary-General of the United Nations, Mr. Kurt Waldheim, it was recommended:

(a) that the Fund be established as a specialized agency within the UN system with autonomy for policy formulation and operations;

(b) that the General Assembly authorize the Secretary-General of the United Nations to convene in Rome a plenipotentiary conference to complete arrangements for the creation of the Fund to adopt and open for signature an agreement for establishing the Fund as a specialized agency, to receive pledges to the Fund and to establish a Preparatory Commission to make all arrangements necessary to enable the Fund

to commence its operations at the earliest possible date.

It is planned that another meeting of Interested Countries will meet before the Plenipotentiary Conference to finalize a few remaining questions in the text of the draft agreement.

REGULATORY REFORM

Mr. BROCK. Mr. President, during the second session of the 93d Congress, the genesis of the regulatory reform study began during the consideration of the need for an Agency for Consumer Protection. The emergence of the need for the study as a matter of national priority has, in the intervening year, gained in recognition. Attempts have been made to quantify the costs attributable to regulation and arguments have been advanced which cover the spectrum of solutions from doing away with all governmental intervention to expanding and increasing government involvement into previously unregulated sectors.

Throughout all this, little thought had been given to problems of government which extended even beyond regulatory agencies and of which regulation was only a symptom. Former Secretary of HEW, Caspar Weinberger, has identified as crucial the problems that accompany big government. The problem which plagues our house is how to say "no." Mr. Weinberger cogently has warned that government's "unplanned, uncoordinated and spasmodic responses" of "yes" to nearly every demand for societal assistance "is quite literally threatening to bring us to national insolvency." This propensity to say yes has brought about government regulatory agencies with millions of regulations and which add annually another 25,000 new ones. In its October 1975 issue, the Government Executive magazine published its first in a continuing series of articles on how private industry views government and governmental interferences within what now remains of our private enterprise system.

For the first time, I think, Congress is exposed as an all too willing accomplice in this "unmanageable tyranny" of Government over the private sector, as it, by its acquiescence, permits Federal agencies to extend their congressionally mandated powers beyond the intent of Congress. Agency extension of power leads them into countless fights over "mission pre-eminence" between the Environmental Protection Agency and the Energy Research and Development Agency, between the Federal Energy Agency and ERDA, and between the Environmental Protection Agency and the Department of the Interior, and so forth.

As a member of the Senate Government Operations Committee, and a participant in the regulatory reform study, I will seek to bring these problems into daylight in the coming hearings so that a resolution which would benefit all Americans could be hammered out.

I ask unanimous consent that the article which appeared in the October 1975 issue of the Government Executive be printed at the end of my remarks.

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

SURVEY SHOWS GOVERNMENT "WRECKING" FREE ENTERPRISE SYSTEM

(By C. W. Borklund)

In 1960, Robert Lovett, former Under Secretary of State and one-time Secretary of Defense, warned a Senate Government Operations Subcommittee of the dangers he saw in a deliberately built-in "head wind to government decision-making efficiency." Said he, in part:

"This 'foul-up factor' in our equation of performance must have worked very well when government was small; when government became large, it probably worked fairly well. But government has now become gigantic at the very moment in history when time itself is not merely a measure or a dimension, but perhaps the difference between life and death.

"The Federal Government is by far the largest and most complicated operation in this country. This huge organization would be hard enough to run if authority were given where responsibility was placed. Yet, that frequently is not the case."

The checks-and-balances philosophy, he added, when applied to the Executive Branch, "is really a method of requiring power to be shared—even though responsibility may not be—and of introducing rival claimants from another department with a different mission into the policy-making or decision-taking process.

"This is the 'foul-up factor' in our methods and it needs some careful examination because there is, I think, a discernible and constantly increasing tendency to try to expand the intent of the system to the point where mere curiosity on the part of someone or some agency . . . can be used as a ticket of admission to the merry-go-round of 'concurrences.' This doctrine, unless carefully and boldly policed, can become so fertile a spawner of committees as to blanket the whole Executive Branch with an embalmed atmosphere.

UNLIMITED ACCESS

"Whether or not this itch to get into the act is a form of status-seeking, the idea seems to have got around that just because some decision may affect your activities, you automatically have a right to take part in making it . . . It would be well to look into (this 'foul-up' factor) because there is some reason to feel that the doctrine may be getting out of hand and that what was designed to act as a policeman may, in fact, become a jailor."

He said he'd felt the same way, though not as strongly, eight years earlier when he was Secretary of Defense. Looked at today, not only in terms of internal agency-to-agency governmental relations, but of pulling-and-tugging communication and influence among Executive, Legislative and Judicial branches, among Federal and State and local government, among government, industry and the consumer-taxpayer Public, is worse today.

The Federal Government alone already has counted in excess of 8,000 record systems kept by more than 75 of its agencies—files covering everything from World War I decoration receivers in the Army to HEW records of Kentucky toll booth operators' "behavioral performance."

The full listing, required by the Privacy Act passed last year, is still incomplete and adds up currently to some 92 billion pages worth. Federal officials fear the deluge that may soon hit them when private citizens ask, as is now their right, to see the file on themselves.

Government regulatory agencies already have literally trillions of regulations, which impose some kind of control or other on U.S. industry, and are adding an estimated 25,000 new ones to the pile each year. Nearly all of them are neither catalogued nor cross-referenced. They are symptoms of the growing numbers of fights for "mission pre-eminence" between Federal agencies and among Federal, State and local governments.

In short, Government, at least in its accountability to the People as envisioned by the United States' forefathers, may today be close to being an unmanageable tyranny. In his last major speech as HEW (Health, Education, and Welfare) Secretary, Caspar Weinberger warned that "Federal programs to solve social ills are leading the Nation toward egalitarian tyranny and fiscal bankruptcy."

Citing as one example, the "mountain of paperwork" required not only by HEW but by the Labor Department and the courts of school systems at local levels, he decried "the futility of a distant government to concentrate on narrow, statistical, mechanistic goals (such as busing and 'affirmative action' hiring) and thereby lose sight of the real goals—equality of opportunity and better schools for all."

He warned further that government's "unplanned, uncoordinated and spasmodic responses" of "yes" to nearly every demand for societal assistance "is quite literally threatening to bring us to national insolvency." Moreover, sums up industry—in response to a *Government Executive* questionnaire sent to 570 leading industrialists—government seems bent on crippling the sources of revenue for those social programs, i.e. the free enterprise system.

Summed up one respondent, "Federal regulation alone is estimated to cost the consumer $130 billion a year. Need I say more?"

Added another, "We frequently find government moving in the international trade and domestic regulation areas without advance consultation with business . . . As long as government and industry continue to bicker without recognizing that the excellence of each is essential to the other, we will continue to suffer declines in productivity rates and growth." Concluded Weinberger, if the U.S. fails to change course, "we risk delivering our destinies over to the cold and lifeless grip of a distant egalitarian government whose sole purpose is to ensure an equally mediocre existence for everyone."

Government Executive's survey results claim, in effect, that government's awareness of that is well short of encouraging. Out of a 27.7% return, more than enough according to survey experts to qualify as comprehensive, a dozen companies, e.g. Mobil, Phillips Petroleum, General Signal, Carnation, Hershey Foods, Coca Cola, Borden, DuPont, Textron, sent the survey back unanswered, with apologies.

Though the words differed, the message was the same: "The sheer volume lately of information requests from Federal and State agencies and foreign governments has increased to such an extent, we have adopted a policy of not answering questionnaires except when required by law."

That amounts to commentary all by itself, tending as it does to corroborate a persistent complaint by the Small Business Administration specifically (see story, this issue) and small business generally that "Government regulations and paperwork are killing us." (Small business claims it spends 130 million man hours a year, filling out some 5,175 Federal forms—not counting tax forms.

Though for 9.2 million small businesses in the country that may not seem like much, and isn't for the guy who gets only a handful, it can lead to bankruptcy for the little company that gets 1,000 of them.

Highlights from the useable 24% questionnaires returned to *Government Executive:*

86% said government does not appre-

ciate the intrinsic merits to the Public of the profit motive;

75% said government seems unaware that its mandates on industry add to operating costs and, in turn (including corporate taxes) are passed onto the consumer.

86% said government regulations on how industry conducts business, e.g. hiring practices, environmental controls, worker health and safety rules etc., add more to industry product and/or service costs than the benefits they supposedly provide are worth;

57% said the cost and complexity of government procurement regulations, themselves, discourage industry from competing for government business.

Several respondents said, in brief, that such questions are difficult to answer "yes" or "no." Said one, for instance: "Some regulations add more to the cost of our products and services than the benefits they are intended to provide—and some do not.

"In some cases, government adequately evaluates the cost vs. the value of a regulation it is imposing; in too many cases, it does not—particularly their impact on small business.

"In many ways the current Administration appreciates and communicates the intrinsic merits of the profit motive; but there are exceptions, especially in the Legislative Branch."

But, even allowing for the fact that many questionnaire replies pointed out some regulations are sounder than others and some officials better informed than others, the results still add up to a strong indictment.

Concluded one: "There can be little question that regulation is required in our society, on the sound basis that freedom cannot exist without order. The problem is that as a Nation we seem to be of the opinion that the 'more order the more freedom.' We should all know it does not work that way. Government increasingly is deciding what kinds of products and services should be offered for sale which in a very fundamental way takes decision-making away from the consumer, thus directly limiting his economic freedom."

Added another: "I would not want to leave an overall impression of being anti-government. The real key to the future is more effective relationships between government and business—and I might add, other major interests of society such as labor. Government appropriately has become involved in areas which would have been unthinkable 20, 30, 40 years ago . . .

". . . But if there is one overall criticism, it is that government doesn't know where to stop when it becomes involved in a social or economic problem. Cutting back on excesses—retrenching on over-regulation as the President has put it—should have high priority."

The President agrees. Said he, in part, at a White House meeting of Regulatory agency heads last July:

"I do not suggest that the problems reside exclusively in your agencies or commissions. Regulations that impose costs on consumers can also be found in Cabinet departments and in the intricate, sometimes invisible web of laws and regulations at State and local levels."

Still, he added, "I think it is quite obvious that I feel very deeply that we must seriously consider the costs to the American consumers of all government activities, and this, of course, includes regulatory agencies.

"Regulatory reform is a theme that arose repeatedly in the course of last Fall's Economic Summit meeting. It is a theme that is finding, as I travel around the country, growing Public attention and support, both in popular and economic literature, in the Executive Branch, in the Congress, and, I am pleased to note, among the Government regulators themselves."

It is personal with President Gerald Ford, too. Noted Paul MacAvoy, one of his economic advisers, at an American Enterprise Institute/Hoover Institution seminar on regulatory reform:

"Make no mistake. He doesn't need any prompting sheets to tell him what to say when he's addressing a group on regulatory reform, including on some of our specific proposals to Congress. He knows these things better than the prompting sheets."

Ford asked the group for attention to four major areas:

1.—"A constant effort to improve each Commission's ability to identify the costs and the benefits of current and proposed regulations;"

2.—"Make every possible step to make sure that the backlog and the delays in regulatory proceedings do not weaken the public belief in an equitable and efficient regulatory system;"

3.—"The Public can rightfully expect that you will be the leaders" in asking legislative changes in agency authorizing statutes;"

4.—"I have asked all departments and all agencies to reexamine their present procedures for assuring that the consumer interests prevail . . . It is my strong conviction that the consumer is best able to signal his wants and needs through the marketplace. The government should not dictate what his economic needs should be."

(Next month: who won the "unpopularity contest" in *Government Executive's* survey and some "war stories" on the millions consumers are paying for benefits that aren't there.)

RCA Chairman Robert Sarnoff, whose company spent $110 million on research and development last year, points to "the alarming erosion in the U.S. position as the world's leader in science and technology." Some of his statistics:

Total national expenditure—Federal and private—for basic research has declined 10% in the period 1970–74, with Federal outlays dropping 15%.

U.S. spending for non-military and space research and development "is only 80% of Japanese or Common Market undertakings and only 60% of the British."

Measured in terms of people doing R&D, the U.S. effort is "almost 30% smaller than the commitment of the Common Market countries, less than half the British, and only about 35% of the comparable effort in Japan."

The share of U.S. patents awarded to foreign investors has climbed steadily from 17% in 1961 to 30% in 1973.

Ironically, the U.S. is the nation which showed the rest of the world that investment in technology advance lads inevitably to increasd national security, economic growth, a cleaner and healthier environment and a better quality of life.

It also can lead to political interdependence and thus a lessened likelihood of wars.

PERMANENT BENEFITS

A second irony which compounds the first: technology advance is a much more permanent, plausible way to achieve economic growth, i.e. "help the poor and underprivileged," and clean up the environment at the same time than simply shovelling money into welfare and writing Clean Air regulations.

In short, engineers and environmentalists should be working together instead of working as adversaries (One Montana State Senator told *Government Executive* his State is stagnant and dying because the industrialists—who would level the whole State if there's a dollar to made from it—and the environmentalists—who don't wait a mountain or a tree or a blade of grass touched—won't give an inch to the other's point of view.")

Points out Dr. Edward David, who runs a $23 million-a-year product development effort for Gould Inc., "Life today certainly isn't ideal. We don't have all the things we feel we need, e.g. creature comforts, equal rights. But to say the economic system hasn't worked well and then abandon what made us great is a key mistake.

HISTORICAL IGNORANCE

His concern: "Technology innovation is the critical item in our economy, our society. Those who haven't taken part in it (which includes college students and much of Government) don't understand very well that in the past the innovation which made life better here than anywhere else has come from the private sector."

Though it is a very multi-faceted, complex phenomenon, at the base of it innovation has been strongly individual, done mainly by "small groups with the courage to use the tools at hand to make life better for ourselves. They are the ones who find a way to put ideas to the real test—in the public marketplace."

Among the ways: their own venture company; attracting outside capital; becoming part of a larger business and gaining its support; or selling their ideas to one of the big corporations. "Which one you choose is very snarled, not monolithic, but one thing is certain—the mistakes of one approach can be corrected by another."

Government, the Nation's largest purchaser, could encourage innovation through its buying practices "such as ETIP," (See July, *Government Executive* cover story) he believes. Instead, in too many instances, he sees Government discouraging, even crippling, innovation.

Among the ways: creating double-digit interest rates, through money management and competition with private industry for capital, which threaten to "manage innovation right out the window;" anti-trust attacks against "the great R&D industries (Bell Labs, IBM, etc.) without recognizing that the problems we face are so large a large critical mass is essential to meet the size of the problem involved."

Adds Sarnoff, "Our crucial energy programs, for example, are expected to require more than 300,000 scientists, engineers and technicians over the next decade—about twice as many of these specialists as we have now."

Other Government-imposed obstacles David sees: regulatory agency rulings which don't allow the cost of R&D to be put in the rate base; arbitrary, poorly researched regulations—as in the drug field—which discourage getting innovations to market; wholesale rulings on business ethics imposed via procurement regulations which are "liable to be worse than the original practice" (such as the rules resulting from recent Press criticism of the way over-seas sales are financed.)

Dr. David is hardly a neophyte on the subject. Before his current post, he was Science Advisor to the President and Director of the now-defunct White House Office of Science and Technology (which President Ford is trying to get re-established.) Before that, he worked 25 years for Bell Labs, specializing in underwater sound and communications acoustics, computing science and "man-machine communications," holds eight patents for his inventions in those fields; and for Stevens Institute of Technology as professor of electrical engineering.

Holder of a B.S. in electrical engineering from Georgia Institute of Technology and master's and doctorate degrees from MIT, he is the originator of "The Man-Made World," a course to provide "technological literacy" now being taught in some 1000 U.S. high schools.

CREATED VACUUM

Citing the railroads as an example, Government, he contends, has "idealized certain situations to such an extent that we have

destroyed the industry without putting something in its place." It's not the people so much, he says, as it is "the nature of the (Government) system."

For "all the good intentions of conscientious people (in Government), it takes the special know-how that exists in industry to develop communiactions satellites for public use, for instance; to create and market energy-saving devices; to look at ways to spin off new industries from this technology."

In short, because Government is regulating rather than encouraging innovation, "we don't get the thrust we need at trying to get companies involved in these problems in the intrinsic way that's going to be necessary if the jobs are to be done."

BANGLADESH

Mr. HARTKE. Mr. President, on December 16, 1971 the Government of the Peoples Republic of Bangladesh was formed in Dacca. This new country was formerly a part of Pakistan and has prospered in spite of diversity.

Bangladesh is located in an area of Asia that is severely affected by floods and monsoons. In many areas of the country 250 inches of rain falls each year and this torrent of rain triggers floods in the Ganges and Jamuna Rivers. Because of the periodic flooding and the devastating rains, the United States gives substantial relief through the AID program. Much of this aid is in the form of food through the Public Law 480.

Since 1971 the Government of Bangladesh has received multidonor aid of $3.5 billion and of this amount the United States contributed $822 million.

Over the years the United States has had an excellent relationship with the Government of Bangladesh and is anxious to see that the new nation succeeds and to this end I join with the people of the United States in wishing the people of Bangladesh much success on their National Day.

COST OF LIVING AND OLDER AMERICANS

Mr. CHURCH. Mr. President, the Senate Committee on Aging has held a number of hearings in Washington, D.C., on "Future Directions in Social Security."

The testimony has been valuable and has dealt with such social security subjects as: Long- and short-range financing issues, treatment of women, the earnings limitation, and so on.

But a few months ago it became evident that the committee should also conduct hearings to obtain firsthand information about adequacy of social security benefits in the face of inflationary increases in the costs of such essentials as: food, health care, housing and utilities, and transportation.

Hearings conducted in California by Senator TUNNEY, in New Jersey by Senator WILLIAMS, and in Iowa by Senator CLARK have helped the Committee to document the desperation and hardship faced by so many older persons in cities, smaller communities, and rural areas.

Within recent weeks I have continued these hearings with 2 days of testimony in Portland, Oreg., and 1 day in Nashville, Tenn. Hearings will be held in other cities within the near future.

Everywhere, the story has been the same: Even people who thought they had prepared well for retirement wonder how they will get through the next month or even the next week. They, and the younger members of their families, are affected very directly by their uncertainty about the buying power of retirement income.

The importance of these hearings was summed up in an editorial which appeared in the December 9 issue of the Tennessean in Nashville. It included:

The Committee is holding hearings in a number of cities across the nation. If all of them are as productive as the one here, they are adding greatly to the public's understanding of the suffering and misery inflicted on millions of old people. It is hoped the sessions will lead to relief of these deserving citizens in the not too distant future.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of these remarks my opening statement in Nashville. It refers to several bills I have introduced to provide some help to hardpressed older persons.

I also ask unanimous consent to have printed the Tennessean editorial and an article describing the hearing and similar stories from the Oregonian about the Portland hearings.

Finally, I would like to thank the witnesses and others who helped at the hearings. Several of them spoke from personal experience about the severe cost-of-living problems they face every day.

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

FUTURE DIRECTIONS IN SOCIAL SECURITY: IMPACT OF HIGH COST OF LIVING

(By the Honorable FRANK CHURCH)

Thank you for joining with me and Senator Brock for this hearing in Nashville today.

We are here as representatives of the Senate Committee on Aging.

We are continuing hearings begun in Washington, D.C., on the overall subject of "Future Directions in Social Security."

We have heard from many expert witnesses in our Senate hearing rooms, and they have dealt with vital subjects: financing, future and present; failures in the Supplementary Security Income, or SSI, program; inequitable treatment of women, the Social Security earnings limitation; and so on.

Important as this sometimes technical testimony is, it has real meaning only if we can relate it to what is actually happening to the people who depend on Social Security and SSI either as the sole or major source of retirement income.

And so the Committee has held field hearings in California, Iowa, New Jersey, and Oregon to hear from the elderly and others who can tell it like it really is when it comes to making those precious few Social Security dollars stretch out through the four weeks of each month.

Some of the testimony has dealt primarily with low-income people who don't know how they are going to meet the next rent increase or pay for the prescription drugs they need.

These are the very persons, by the way, who would have been hardest hit by proposed food stamp cutbacks, even though they need this help most. But 49 Senators joined me recently in protesting the Administration's ill-considered proposals, and I am happy to report that our efforts proved successful.

But you don't have to live in statistical poverty or near-poverty in order to live in desperation when you are old.

Other witnesses—people whose retirement income would have been regarded a few years ago as relatively comfortable—are living in deepening uncertainty and some despair.

The large house which has been home for decades now is burdened, not by a mortgage, but by out-of-sight property taxes and—in many States—by utility bills that rise a third or more in a few months.

Where's the money to come from for rent when a person can't buy meat or medicine?

Where's the money to come from for better things in life when the bare needs of life can't be met?

I've introduced several bills to improve retirement income or make it stretch further.

One would improve the cost-of-living adjustment mechanism for Social Security and SSI.

Another would put out-of-hospital drugs under Medicare. In fact, I think there's much more that must be done to make Medicare a real program that will maintain health, rather than one which leans so heavily on the hospital for care. Home health, for example, should be encouraged, not hampered as it now is.

And, until such time as the so-called retirement test under Social Security can be eliminated, it should be liberalized to reflect current realities. And so should the income tax retirement credit be liberalized as well.

Yes, there's work to be done in improving the flow of retirement dollars to Americans, and there's work to be done in providing the services that will help them save dollars as well.

For that reason I'm glad that the Congress has enacted the Older Americans Act Amendments of 1975 and that President Ford has signed them.

I hope that this action is one of many the President will take in analyzing anew the problems facing the elderly of this Nation.

I have asked our witnesses to abide by a 5-minute time limit on their statements, and to set an example, so will I. But I hope to have conversation with the witnesses and with people in the audience as we go along, and I know that Senator Brock does, too.

Thank you once again for being here today.

[From the Tennessean, Dec. 9, 1975]

RELIEF FOR THE AGED

A U.S. Senate committee's hearing in Nashville Saturday on the needs of the aged focused public attention on one of the most urgent problems facing the state and nation.

The committee heard from a line of witnesses about the troubles confronting all too many elderly persons every day.

They don't have enough income and consequently are without adequate nutrition and medical care.

Those living in rural areas have special problems. They are isolated from the rest of society not only by reason of their age but also by the remoteness of their homes.

If they are sick and hungry and can't feed and care for themselves, there is often no one to care for them. If they need to go to a doctor or a hospital, there is no one to drive them.

Younger, healthier people are often reluctant to assist the elderly. Some worry about their financial liability if something should happen to an old person in their charge. Others just don't want to be bothered.

The institutions of government and others have not done enough to alleviate the suffering of the elderly poor. "The churches" were accused of failing to do their duty in such things as furnishing transportation for the aged.

Sen. Frank Church, D-Idaho, chairman of the committee, said during the hearing that people on fixed incomes like Social Security payments have been hit the hardest by in-

flation and that periodic adjustments of income need to be made to reflect the needs of these people. He said he favored legislation to establish a cost of living index based on needs of the elderly.

Sen. William Brock III, R-Tenn., a member of the committee, pointed out that according to a 1974 census report 45% of all households headed by people over 65 earned less than $6,000 and almost 35% had an income below $5,000.

"These are very distressing statistics, and clearly deserve our attention," Senator Brock said. "In my judgment, inflation is the most pernicious social evil of our time. . . ."

Some other members of Congress participated in the hearing. Rep. Clifford Allen of the Fifth District advocated amending the Social Security law so that a retired person could receive benefits while still working at a regular job.

Rep. Marilyn Lloyd of the Third District bemoaned the fact that the U.S.—"the most prosperous country in the world"—has neglected its fastest growing minority, the elderly.

"We want to be more aware of where we have neglected to serve you," she told the audience of mostly elderly persons.

The committee is holding hearings in a number of other cities across the nation. If all of them are as productive as the one here, they are adding greatly to the public's understanding of the suffering and misery inflicted on millions of old people. It is hoped the sessions will lead to relief for these deserving citizens in the not too distant future.

[From the Tennessean, Dec. 7, 1975]

SENATOR ASKS COST OF LIVING INDEX FOR ELDERLY

(By Dwight Lewis)

Sen. Frank Church, D-Idaho, said here yesterday he favors legislation to establish a cost of living index based upon the needs of the country's elderly citizens.

"Right now, we don't have the right type of cost of living index," Church said at the Joseph B. Knowles Center while presiding over a hearing about problems now burdening older Americans.

"People on fixed incomes have been hit the hardest by inflation and a lot of things elderly people need are not covered by programs that they're on," Church said. "Therefore, periodic adjustments need to be made that reflect the needs of these people."

Church, chairman of the U.S. Senate's special committee on aging, told the estimated 375 persons attending yesterday's meeting that "we are holding the hearing in Nashville as we have in other cities across the country to hear from those who can tell it like it really is."

Sen. William Brock III, a member of Church's committee, told the audience there are about 445,000 persons in Tennessee over the age of 65, and that they comprise almost 11% of the state's population today.

"A 40% increase in the number of persons over age 65 can be expected in the next 25 years," Brock added. "In other words, we are concerned with a significant segment of Tennessee's population.

"It goes without saying that the negative aspects of inflation have been felt by every person living in Tennessee. However, that impact on our elderly citizens is particularly severe."

Brock said that according to a March 1974 census estimate, 45% of all households headed by people over 65 earn less than $6,000 and almost 35% had an income below $5,000.

"These are very distressing statistics, and clearly deserve our attention," he added. "In my judgment, inflation is the most pernicious social evil of our time. Those with low incomes receive less for the dollar spent and are also often faced with higher taxes."

Also participating in yesterday's hearing with Church and Brock were 3rd Dist. Rep. Marilyn Lloyd and 5th Dist. Rep. Clifford Allen.

"We're here because we care about your problems," Rep. Lloyd said. "The United States is the most prosperous country in the world, yet it has neglected the country's fastest growing minority.

"We want to be more aware of where we have neglected to serve you," she added.

Allen, who was sworn in as a member of Congress just last week, told the audience that "a society as rich and prosperous as America must have a conscience that permits the elderly to live in dignity."

Allen, appearing on a panel during the hearing, said the whole subject of the elderly "is one very dear to my heart."

He said he feels the Social Security law needs to be amended so that a person, when he becomes eligible, could enjoy his benefits and still keep his regular job if he wanted to.

During the hearing, several citizens from Nashville and other parts of the state were invited to appear as witnesses.

One of them, State Rep. John M. Steinhauer of Hendersonville, chairman of the House general welfare subcommittee on aging, said his subcommittee has recently completed a series of public hearings across the state.

"A common theme at the hearings has been the increasing importance of income maintenance and the cost of living to our senior population," Steinhauer said. "Naturally, because the hearings have focused primarily on actions the Tennessee General Assembly can take to aid the elderly, much of the testimony received addressed state concerns.

"Many of the needs of the elderly on the state level are directly related to federal matters," he added. "The main topics of discussion at the public hearings included pharmaceuticals, housing, Medicaid/Medicare funding, nutrition, revenue sharing, Social Security benefits and transportation."

Mrs. Clint Pickens, 67, of Lewisburg, director of the Marshall County Senior Citizens Center and chairman of the South Central Aging Council, told leaders of the hearing that elderly persons living in rural areas are in desperate need of help.

"There are no public means of transportation for elderly people in the rural areas," Mrs. Pickens said. "This handicaps the elderly."

Mrs. Pickens received heavy applause from the audience when she said: "If the churches did their duty, it wouldn't be like this. It is difficult to get private citizens to take elderly people to the doctor or any other place because they are scared of having a wreck with an elderly person in their car."

Nat Caldwell, a reporter from the *Tennessean*, told the audience the situation has gotten so bad in this country that some older people are being sold "pet food."

Caldwell also told the hearing leaders that "it is bad that the SSI benefit program is being cut out in Tennessee and 18 other states.

"You folks in Congress underestimated the number of people that would become eligible for SSI benefits and it's a cruel thing to cut the program off," Caldwell said.

Nashville Mayor Richard Fulton was invited to attend the hearing but was unable to do so. However, Fulton submitted a five-page paper to be made a part of the record.

In his paper, Fulton said: "We in Nashville-Davidson County have been trying to get federal participation in an innovative condominium facility for the ambulatory elderly who require tender, loving care and service to avoid becoming totally dependent in a geriatric hospital facility.

"I would appreciate your committee investigating why our social service agency has had so much difficulty in getting federal participation in this innovative project."

[From the Portland Oregonian, Nov. 25, 1975]

ELDERLY NEEDS IGNORED—CHURCH RAPS SPENDING FOR ARMS

(By Stan Federman)

Sen. Frank Church, D-Idaho, accused the Pentagon Monday of "gobbling up" billions of dollars for unnecessary new weapons at a time when the nation should instead be devising a medical program to help its needy elderly citizens.

Church said the military was attempting to get congressional approval for funding of a new fleet of bombers that would cost approximately $100,000 million each.

"And nobody knows what they are for," he told an audience of about 300 who were attending the first of two days of hearings in Portland by the Senate Committee on Aging, of which he is chairman.

Church noted that the nation is also building nuclear submarines for $1.8 billion each.

"That type of spending has got to be changed," he said. "We're simply wasting money for weapons when the needs of the American people should be attended to first."

Church's comments came as he heard testimony detailing the harsh economic problems affecting elderly Oregonians.

Spokesman after spokesman described the plight of the state's senior citizens in battling ever-increasing health, housing and utility costs.

An example of the elderly's Medicare problems was voiced by David S. Brown, a 68-year-old retired school custodian. He has hospital bills totaling $15,000 for a recent nine-month hospital stay by his late wife.

"There is absolutely no way a man in my position on a fixed income can pay these bills," said Brown. "It doesn't seem right that someone who works all his life now has to spend his retirement trying to pay medical bills."

Several spokesmen, including former Oregon Sen. Maurine Neuberger, scored governmental bureaucracy for "eating up" funds for administrative costs that should be going directly to help the elderly.

Portland City Commissioner Charles Jordan, in describing the housing problems of elderly persons in the city, observed that some low-cost housing structures may shut down by Jan. 1 because of rigid government standards.

"The federal standards don't meet local needs," said Jordan. "And there's too much red tape when you try to get federal money for housing. There's no flexibility left to us in the federal regulations."

Some suggested and Church agreed that one method for providing more housing for the elderly might be programs aimed at rehabilitation of older structures rather than attempting to build costly new buildings.

Among those attending the hearing in the Bonneville Power Administration's auditorium was 99-year-old Jesse Proffer, a resident of the Northwest Pilot Housing Project.

Proffer an ex-logger and camp cook throughout Oregon, hopes to mark his 100th birthday on July 4, 1976. "He'll be half as old as our country next year," said an admiring Church.

The hearings will continue at 10 a.m. Tuesday at the BPA auditorium.

[From the Oregonian, Nov. 26, 1975]

FOOD STAMP CUTBACKS BLASTED

(By Stan Federman)

Proposed Department of Agriculture food stamp regulations came under fire Tuesday at the final day of hearings in Portland by the Senate special committee on aging.

The proposals, aimed at slashing the program's costs, were labeled "totally inadequate" by Beth Sprinkle, Grants Pass, presi-

dent of the Oregon State Council for Senior Citizens.

She noted that "millions of needy senior citizens would be cut out of the program," while administrative costs would rise.

Mrs. Sprinkle also scored Agriculture Department attempts to link stamps to a "thrifty food diet," which she said was based on 10-year-old studies and failed to take into account today's high food prices.

Sen. Frank Church, D.-Idaho, committee chairman, said "the people who make up these diets should have to live on them for awhile."

For the second day in a row, Church heard testimony from the elderly and spokesmen for groups catering to them.

For the most part, the comments centered on problems that those on fixed incomes have in "just getting by" during continuing inflation.

What she called failures of the Supplemental Security Income (SSI) program were listed by Sister Mary Phyllis Soreghan, a community aide with the Northwest Pilot Project.

She noted that the program, which provides extra cash to elderly persons on low Social Security payments needed to educate those who spurn it because they think "it is some sort of welfare program."

Church agreed that the SSI program "is not working as it should; we've got to get it away from the stigma of welfare." He also rapped the program's "red tape," which he said makes it difficult for oldsters to apply for it.

The Loaves and Fishes program that provides hot meals to the elderly on a "pay as you can" basis was lauded by several speakers.

"It's difficult to describe it to someone unfamiliar with the program," said Etho Husel, an 80-year-old Portlander.

"You see, unless you have used the program, you can't tell what it means to an elderly person," he told Church.

Husel and others observed that the program not only offered nourishing meals but the opportunity for lonely oldsters to socialize with their peers.

The need for federal funding to provide better transportation for the elderly was stressed by Ruth Shepherd, a director of the Lane Transit District in Eugene.

She said the worst transportation problem is in rural areas. Eighty-six per cent of Oregon's senior citizens live in areas far removed from metropolitan bus service, she said.

Mrs. Shepherd said potentially "overwhelming" operating costs have prompted defeats at the local level of government to provide bus transportation for the elderly.

Earlier, Sen. Church visited the Lindquist Hotel in Portland, which is undergoing a $20,000 renovation to meet building code regulations.

The hotel, built around the turn of the century, will eventually house 44 elderly persons and include community kitchens. No federal monies are involved.

Church told one of the owners, Joseph Harrison, that such local initiative was "different from what I normally see."

"This is one of the ways we should be handling the low-cost housing problems," he added, "because the federal Housing and Urban Development (HUD) program just isn't working out in this area."

FOOD STAMP LEGISLATION

Mr. BURDICK. Mr. President, an amendment has been added to H.R. 10284 by the Senate Finance Committee which I fully support and which is of great importance to my State, North Dakota.

The amendment would make the food stamp public assistance withholding program optional with the States.

The present provisions of the law have proven to be extremely difficult for some States to implement. The State of North Dakota has objected to the law from the start, because of the high cost of such a program in the State. Unless the amendment in the bill before us is adopted, however, North Dakota will be forced to implement PAW because the present law makes it mandatory.

The U.S. Department of Agriculture has stated that they feel this program should be optional, and States should be permitted to make the judgment as to whether or not it is feasible for them to administer this program.

With food stamp legislation now pending in Congress, it make little sense to force States such as North Dakota to implement this program at this time. I hope that this amendment will be approved by the full Senate as well as by the House.

VOLUNTEER WINTERIZATION PROGRAM ASSISTS IDAHO ELDERLY

Mr. CHURCH. Mr. President, rising energy costs have had a severe impact on older Americans across the country, especially those living on fixed incomes. The problem is further complicated because millions of older Americans live in substandard housing, and they are losing fuel dollars because of poor insulation.

In my own State of Idaho, the Capitol Jaycees, a volunteer service group, took on the task of winterizing homes of elderly persons in the Boise area. This program met with great success. Funding raised by the Capitol Jaycees and local merchants helped to winterize 13 homes. It is estimated that these efforts helped to reduce heat loss by 40 percent.

The Idaho Daily Statesman recently included an article about this winterization project, and I ask unanimous consent that it be printed in the RECORD at the close of my remarks.

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

(See exhibit 1.)

Mr. CHURCH. Mr. President, I commend my Idaho friends for their dedication toward helping Idaho's seniors. I know that the time and effort that they gave will result in more comfortable winters for the families served.

Earlier this year I introduced legislation, S. 1277, to assist older persons in winterizing and repairing their homes. Older Americans Home Repair and Winterization Act would have another benefit—providing new job opportunities for older workers. Part of this proposal, I am pleased to say, was incorporated in the recently enacted Older Americans Amendments of 1975. Witnesses before the Senate Special Committee on Aging have repeatedly emphasized the need to adopt such a program.

Although winter is upon us in most parts of the country, it is not too late to implement this program. Much can still be done to protect elderly persons from the harsh effects of winter. The successful project of the Idaho Jaycees is just one example of what can be done with a little initiative.

I believe the Federal Government should encourage such assistance on a more comprehensive level.

EXHIBIT 1

CAPITOL JAYCEES WINTERIZE HOMES FOR ELDERLY, LOW-INCOME OWNERS

(By Pat Thornton)

Mary Coleman won't worry so much about her cactus house plants freezing this winter.

In fact, everything in her little bungalow at 517 South Fifteenth will be warmer due to the result of the Capitol Jaycees' Home Winterizing Project.

About 15 club members working in conjunction with four insulating contractors spent all day Saturday battening down Mrs. Coleman's home and 12 others in Boise. Depending upon the construction of individual houses, the Jaycees added insulation and/or weather stripping and/or visqueen (a heavy, plastic-like material) to cut down heat losses.

Richard Heaton, 10040 Hickory Court, project chairman, said the work was more than a club project; it was a community project. The funding came from the Jaycees' Hot Baked Potato booth at the Western Idaho Fair last summer that raised about $1,500.

The club visqueened windows of several homes last year, and when the booth "did better than usual at the fair" decided to "tackle a bigger than normal project," Heaton said. He estimated that for a cash outlay of about $1,000, the club was able to give between $2,500 and $3,000 worth of protection.

"The materials were bought at dealer's cost or below and I would say we had at least 200 man-hours donated. That 200 hours is a conservative estimate. These guys really worked."

Heaton said effects of the work were already felt, literally, Saturday afternoon. At one home, a crew found a door that hadn't closed for 15 years. "They had to plane three-eights of an inch off the bottom before they could begin insulating," he said. Other homeowners said they felt warmth in areas that had always been cold.

Ben Kohler, 3220 Good, who served on the club's screening committee, said the Jaycees' project would result in cutting over-all heat loss in each of the 13 houses by at least 40 per cent. "A single pane of glass," he explained, "at 10 below zero will lose 110 BTUs per square foot per hour. With double glass, visqueen or storm windows, that same window will lose only 70 BTUs—that's 40 per cent right there. The ceiling looses about 14 to 17 BTUs per square foot, and insulation cuts that down to about 5 BTUs. I'd say 40 per cent is a good, conservative figure."

Homes for the winterizing project were selected, Kohler said, on the basis of several points: The person must own his own home; he must be a senior citizen; he must not be able to afford to purchase insulation at regular prices; the house must be insulatable and must not be in a renewal or other area where it would be likely to be destroyed in the near future.

Heaton said he was "very pleased with the reception from club members and from the people we've helped. Our guys could have been out watching the parade this morning, but instead, they were up in attics getting dirty. I'd have to say, and I think the others will agree, this has been one of the really enjoyable days of my life. Everybody has been just grand."

THE NEGATIVE EFFECTS OF EPA REGULATIONS

Mr. FANNIN. Mr. President, when Congress first began to discuss the need to protect air and water quality for the

sake of public health, we agreed that we must establish standards of quality and aid the States in meeting these levels. Unfortunately, under the pressure of court suits and arbitrary deadlines—largely set by Congress—the EPA regulations pursuant to programs under such legislation as the Clean Air Act have cost the public and industry dearly in the form of jobs and plant efficiency, to say nothing of the actual monetary cost of pollution equipment which is often judged obsolete months later.

Though our intent in environmental legislation has been admirable, our results have been unreasonable and unrealistic. I and my constituents in Arizona are willing to pay for clean air and water, but we resent programs which are clumsily administered without regard for the unique situation in each State and with each different industry.

The Clean Air Act regulations presently facing the copper industry in southern Arizona are a perfect example of an ill-considered approach which in turn forces the private sector to pay exorbitant prices for environmental protection. According to spokesmen from Arizona's copper producers, the regulations are severe enough to force smelter closings. As producer of over 53 percent of the Nation's newly mined copper, and as a major Arizona employer, the Arizona copper industry must not be forced to abide by regulations which are totally unreasonable and which are aimed at meeting deadlines instead of air quality standards. The EPA is presently conducting hearings in several mining towns in southern Arizona, but I would like to share information on this situation with my colleagues, as we will soon be discussing amendments to the Clean Air Act which may even aggravate an already dangerous situation.

Mr. President, I ask unanimous consent to have printed in the RECORD articles from the Arizona Silverbelt and the Bisbee Review weekly newspapers, outlining the consequences of the EPA regulations for Arizona copper mining communities.

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

[From the Arizona Silver Belt, Dec. 4, 1975]

EPA RULES COULD CLOSE SMELTER

"If the EPA regulations are enacted as written, it will shut our smelter down!" This is what Douglas Middleton, vice president and general manager of Inspiration Consolidated Copper Company, told members of the Globe and Miami city councils Monday night.

Middleton appealed to the governing bodies of the two towns for assistance in protesting new proposed regulations for smelter emission control announced by the Environmental Protection Agency (EPA).

The Globe Council took immediate action in adopting a resolution supporting Inspiration and a special meeting of the Miami Town Council has been called for Monday to pass a similar resolution.

Mayor Katie Weimer of Miami and G. H. (Hank) Williams of Globe both stated they would appear at the hearings scheduled at 1:30 and 7:30 p.m., Friday, December 13, in the Miami High School Auditorium to represent their individual communities.

The new EPA regulations would require the removal of 98 percent of the sulfur dioxide from the smelter's emissions, a standard which Middleton said was impossible to meet.

"If enacted," the mining official declared, "the new regulations would make the newly constructed Inspiration smelter facilities obsolete." Inspiration has spent in excess of $60 million dollars since 1971 to build what Middleton described as the cleanest smelter facility in Arizona."

State regulations require the removal of 90 percent of the sulfur dioxide from emissions and Inspiration has met this requirement and at the time of licensing, the acid plant was removing 92 percent of the sulfur dioxide from the emissions.

In his presentations to the two councils Middleton asked that residents of the area consider two questions:

How do the people feel about pollution of the smelter when it is working as it should?

What would be the economic and sociological impact in the community if Inspiration had to shut down?

Both mayors used local residents to attend one of the EPA hearings to provide input, if possible, but to indicate support for Inspiration in any event.

Middleton and other Inspiration officials are busily preparing technical data upon which to base arguments that the EPA rules are too stringent for compliance and that as applied to Inspiration are from three to 10 times more stringent than those proposed for other smelters in the state.

Further community support is being solicited by the legislative committee of the Globe Chamber of Commerce which has prepared a fact sheet of information regarding the economic impact of the smelter operation on the area.

The committee has prepared a statement which is reproduced with this story asking concerned citizens to take part in the hearings and protest "impossible air standards . . . thus causing a collapse of the economic base in Globe-Miami and throughout Arizona."

Area citizens were asked to sign a statement contained in today's Silver Belt and return it to the Chamber office on North Broad or mail it to the chamber at P.O. Box 2539, Globe, 85501.

Concerned citizens and organization representatives are being asked by the chamber to attend the hearings December 13.

Factual information concerning the economic impact the implementation of the proposed regulations would have on the Globe-Miami area is available at the chamber office, and citizens are urged to prepare statements for the hearing.

Included among the facts assembled by the chamber committee are 13 points of information:

1. Wages and salaries paid to area mining employees in 1975 will total $36 million, not including fringe benefits, or thousands of dollars in civic contributions. These dollars are multiplied three to four times as they are spent in the community.

2. Gila County mines paid more than $2 million in state property and sales taxes in 1974.

3. Globe-Miami school districts received $1.5 million in state property and severance taxes. Globe and Miami municipal governments received $45,787 in 1975 from the same source.

4. Inspiration has already spent $60 million in air pollution controls which is more than the company's entire capitalization, and has removed 90 per cent of sulfur dioxide emissions.

5. Local mines employ some 2700 people which directly affects 8100 individuals or more than one third of the Globe-Miami population. Hundreds more are employed in mining related industries. In Arizona 64 cents out of every dollar received from copper production is spent in Arizona.

6. During the eight month work stoppage due to the labor dispute in the copper mining industry in 1967–68, retail sales in Gila County dropped $10 million.

7. Inspiration has one of two smelters in Arizona which has already met the 90 per cent standard, but if new regulations are enforced, the cleanest smelter in the state would be forced to close.

8. Mineral production in Gila County in 1973 was valued at $122,980,000 or 10.4 per cent of the state's total.

9. Inspiration was ranked 11th among the nation's leading copper producers in 1974. Cities Service Company which produces 125 million pounds of copper per year from its Pinto Valley operation concentrates depends upon Inspiration for smelting.

10. Arizona Senator Barry Goldwater has recently asked the EPA for an immediate reconsideration and revision of the air quality regulations and said evidence showed the regulations were made in a haphazard manner without proper supporting technical evidence as to whether the standards could be met with presently available technology.

11. We should demand that industry protect and beautify the environment, but we must be more reasonable or we will destroy our industrial base. Our Globe-Miami mining companies have spent millions of dollars in behalf of the environment, beginning this program voluntarily before environmental pressures were ever exerted.

12. Not too long ago, the smoke from the stack was a beautiful symbol of thousands of jobs for the people in our area. Yet over the past decade we have allowed emotionalism to cloud people's good common sense to the point where nonsensical things are being done in the name of beauty and environmentalism.

13. There must be a balance between beautification and economic viability. Beauty can mean untrammeled nature to some and to others food for the table, fuel for the fire, and shelter from the elements.

Representatives of the committee plan to attend the EPA hearing Monday in Douglas to gain insight for the local presentation. If possible, members of the committee also plan to attend the Kennecott hearing in Hayden Wednesday.

Area citizens who may have additional data which would add to the effort being made locally are urged to contact the Globe Chamber and coordinate the presentation of the case for Inspiration and the entire Globe-Miami area.

[From the Bisbee (Ariz.) Review, Dec. 4, 1975]

DOUGLAS SMELTER WILL CLOSE IF EPA INSISTS ON AN ACID PLANT

(By Bill Epler)

If the federal Environmental Protection Agency insists on construction of a sulphuric acid plant at the Douglas smelter, the smelter will be closed. John A. Lentz of Douglas, senior vice president of Phelps Dodge, said the company simply cannot justify expenditure of an estimated $119 million to build the acid plant.

Lentz made the flat statement Monday morning at a special meeting called by the company at the Adams Hotel in Phoenix attended by state legislators, representatives of the news media and officials of several other major mining companies.

The meeting was an outgrowth of the release on Oct. 22 by the EPA of its proposed regulations for the control of sulphur oxide emissions from the state's copper smelters.

Public hearings on the proposed regulations will be held in the Arizona communities in which the state's seven copper smelters are located, beginning next Monday in Douglas.

The Douglas hearing will be held in the high school auditorium. The hearing will be in two sessions, 1:30 in the afternoon and 7:30 in the evening to enable more people to attend.

It is a long and technically involved story, but in essence the EPA's proposed regulations say that it is possible for all the smelters to continue operating in the state, if they meet certain conditions. Among them is the basic requirement each smelter must utilize the intermittent control system, frequently referred to as the "closed-loop system," and must have a sulphuric acid plant to remove sulphur dioxide from converter emissions.

Lentz said at the Phoeniz meeting that after the proposed EPA regulations were published in the Federal Register on Oct. 22 that Phelps Dodge was "aghast" at the requirements and "dismayed" at their implications, especially insofar as the Douglas smelter is concerned.

Lentz related that Phelps Dodge had Stearns Roger Corp. of Denver, one of the largest engineering and construction firms for mining industry plants in the world, survey the Douglas smelter and prepare an estimate of the cost of constructing the kind of an acid plant that would be required.

Stearns Roger conservatively estimated it would cost $119 million. And the way inflation has been going, the plant's costs would likely go at least 50 percent higher than that before it could be completed.

"There is no way we can justify spending that kind of money," Lentz stated. "We would close the smelter first."

The Phelps Dodge official said the company wants to keep the Douglas facility operating. He said that when the company's new Hildalgo smelter in southwestern New Mexico becomes operational within the next several months that no Phelps Dodge mine will be dependent upon the Douglas smelter.

Although it will no longer be essential for Phelps Dodge operations, the company wants to keep the Douglas smelter going to do custom smelting work for others.

This lead Lentz into recounting that Phelps Dodge has 12 years remaining on a 14-year contract with Cyprus Pima Mining Co. to process concentrates from its large copper mine south of Tucson.

Closure of the Douglas smelter would eliminate jobs for its 640 employees, as well as more than 1,100 employees of the Cyprus Pima mining and concentrating operation.

In a statement read at the Phoenix meeting, Paul Allen, president of Cyprus Pima, said the Douglas smelter is currently processing 75 percent of his firm's copper production. Unable to justify it making the investment in the acid plant at Douglas, Cyprus Pima would be forced to shut down its operations at once, Allen said.

It was explained that due to a shortage of smelting facilities, it would be impossible for Cyprus Pima to get its concentrates processed anywhere else.

Jack Boland, Phoenix attorney, stated that if the EPA, after the hearings and upon adoption of the final regulations, continues to insist upon construction of an acid plant at Douglas that the company will immediately file suit in the federal courts. If necessary, the company will pursue the matter all the way to the U.S. Supreme Court, Boland said.

The attorney and other company officials explained that in their opinion the acid plant is not really required to meet reasonable standards for the ambient air, which is the air around the smelter in which people live.

Among the many requirements in the proposed regulations is one that states that certain emission limitations must be met over a six-hour period. Because of the very nature of the smelting process, it is virtually impossible to meet this requirement without raising hope with economic production.

When asked why this six-hour standard was required, an EPA official is reported to have explained that this would make it handy for EPA employees to visit a smelter, set up their measuring devices in the smelter stack, test the emissions to see if standards were being met, and then pack up and go home within a standard eight-hour shift. Mining company officials about slid under the table when they heard that one!

Possible time schedule for closure of the Douglas smelter, if the EPA insists on construction of an acid plant, is very difficult to project at this time, Boland said.

He explained that after the hearings this month, the EPA will take written material and transcripts of verbal presentations back to Washington and study them. It could take from several weeks to many months before the EPA adopts and publishes the final regulations.

If it insists on construction of the acid plant, Phelps Dodge intends to take the matter to court. If it goes all the way to the Supreme Court, it could be several years before the matter is resolved.

Loss of the Douglas would wipe out more than 1,700 jobs, severely damage the economy of the Douglas area and Cochise County, create a serious tax loss problem for the Douglas school districts and threaten continued rail service for Bisbee, Douglas and southern Cochise County as principal business for Southern Pacific is hauling concentrates and supplies to the Douglas smelter and anode copper from the smelter to El Paso.

Next Monday's hearing sessions at Douglas are expected to be lively affairs as the company, many individuals and organizations are planning to protest the threatened loss of the smelter.

TOWARD A SECURE SOCIAL SECURITY

Mr. CHURCH. Mr. President, nearly 32 million persons now receive social security benefits, about one out of every seven Americans.

For the vast majority of older Americans, social security is their primary support.

As things now stand, most retirees do not have private pensions to supplement monthly social security benefits.

Only 1 out of 4 couples receiving social security benefits and 1 out of 10 nonmarried beneficiaries also receive private pensions.

Even when benefits from other Federal programs are considered, only one out of three couples and one out of six individual beneficiaries have a second pension.

These facts underscore the need to assure that the social security system is not only administered efficiently but also impartially.

Social security is simply too important to be exploited for narrow, partisan advantage.

In January, I introduced legislation, S. 388, to help insulate the social security program from political pressures.

My bill would reestablish the Social Security Administration as an independent, nonpolitical agency outside the Department of Health, Education, and Welfare.

Second, it would prohibit the mailing of political notices with social security checks.

Third, S. 388 would separate the transactions of the social security trust funds from the unified budget.

My proposal has generated widespread bipartisan support. In fact, 51 Senators have sponsored this measure, including the majority leader (Mr. MANSFIELD) and the minority leader (Mr. SCOTT).

I am also pleased that my Social Security Administration Act has won solid backing from several national senior citizen publications.

One such example is Weekly Review which called S. 388 "the most important piece of legislation affecting social security since Franklin D. Roosevelt signed the program into law 40 years ago."

Mr. President, I commend this article entitled "Toward a Secure Social Security" to my colleagues, and ask unanimous consent that it be printed in the RECORD at the close of my remarks.

In addition, I ask unanimous consent that a listing of cosponsors of S. 388 be printed in the RECORD.

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

[From the Weekly Review, Dec. 6, 1975]

TOWARD A SECURE SOCIAL SECURITY

Sen. Frank Church of Idaho, Chairman of the Senate Special Committee on Aging, has introduced the most important piece of legislation affecting Social Security since Franklin D. Roosevelt signed the program into law 40 years ago.

The bill, S. 388, also known as the Church Independent Social Security Agency Bill, contains three important provisions.

One, to remove the Social Security Administration from the Department of Health, Education and Welfare and to create an independent Agency administered by a 3-man board, with no more than two members from the same political party. The President, with the approval of the Senate, will appoint the members to the board for a 5-year term.

Two, to prohibit any Administration from using SSA for political purposes. More specifically, the Church bill would make it illegal to mail any literature, with the Social Security or Supplimentary Security checks, that would make reference by name or title to any officer of the United States.

Three, to prohibit the counting of Social Security Trust Funds as part of the general revenues of the Federal Budget.

The reasons that prompted Sen. Church to introduce the bill are many.

The Social Security is a state-operated insurance agency that derives its funds from the hard labor of the working people. It is only fair that these funds should be administered by an independent agency.

In October 1972, the Committee to Reelect the President used the SSA for political trickery by mailing a note with the Social Security checks, reminding the recipients that Nixon was responsible for the increase in Social Security benefits.

There have also been charges that the Social Security Trust funds have been used to offset budget deficit caused by irresponsible expenditure on military hardware.

In spite of these reasons, only 38 Senators have committed to support the Church bill.

SPONSORS OF S. 388, SOCIAL SECURITY ADMINISTRATION ACT

Senators Church, Clark, Humphrey, Kennedy, Biden, Ribicoff, Williams, Burdick, Tunney, Huddleston, Hart (Michigan), Hatfield, Schweiker, Jackson, McGovern, Abourezk, McGee, Scott (Pennsylvania), Cannon, Bayh, McIntyre, Stevenson, Case, Brock, Inouye, Pell.

Senators Hartke, Symington, Brooke, Randolph, Javits, Stone, Mondale, Magnuson, Montoya, Metcalf, Eagleton, Nelson, Hollings, Eastland, Stafford, Domenici, Mathias, Has-

kell, Pastore, Moss, Durkin, Mansfield, Allen, Leahy, Morgan.

COOPERATIVES IN THE GRAIN EXPORT MARKET

Mr. HUMPHREY. Mr. President, for some time I have been concerned that farmer cooperatives assemble large quantities of grain for export, yet are almost totally dependent on the large international grain traders for making the export sales. In the last few months news reports indicate that these multinational firms are acquiring increasing numbers of grain-handling facilities near the sources of grain supplies in this country.

I am concerned that the cooperatives are at a competitive disadvantage in responding to the greatly increased export demand for grains in recent years. Dr. Michael Phillips, Agricultural Economist, Farmers Cooperative Service, USDA, has made a timely analysis of the competitive position of farmers cooperatives in the export grain trade and has indicated the courses of action family farmers may take to improve their position.

Dr. Phillips finds that producer-owned cooperatives have accounted for only 7 percent of the grain exports since 1971, in contrast to 85 percent of the exports being made by the five large multinational grain traders: Cargill, Continental, Cook Industries, Bunge, and Dreyfus.

He finds the general requirements for exporting grain are: First, a worldwide market information system; second, an economic research staff; third, worldwide sales network; fourth, flexible delivery terms; fifth, alternative port loading facilities; and sixth, ability to accept risk.

Dr. Phillips finds that cooperatives can strengthen their position in the export grain market with a more coordinated approach.

I ask unanimous consent that this excellent article be printed in the RECORD.

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

THE STATUS OF COOPERATIVES IN THE IMPERFECTLY COMPETITIVE GRAIN EXPORT MARKET

(By Michael J. Phillips)

As agriculture becomes more integrated in a horizontal, vertical and conglomerate sense, farmers find themselves more involved in imperfectly competitive markets. This statement may raise the eyebrows of economists who cling to the notion that agriculture is still the purest example of perfectly competitive markets. However, a classic example of this developing phenomenon is the grain industry, where changes in the nature of demand for U.S. grains is requiring a better understanding of this industry's competitive structure.

This paper's basic premise is that grain producers are increasingly becoming involved in imperfectly competitive markets and that their status via their own cooperatives is tenuous. Discussion is divided into four parts: (1) It will verify that the nature of demand for U.S. grain has changed and that grain exports are vitally important to the industry; (2) It will argue that farmers are competing in an imperfectly competitive market for grain exports; (3) It will show that family farmers through their cooperatives are not in a competitive position vis-a-vis the competition; and (4) It will lay out alternative courses of action the family farmer may follow.

THE CHANGING NATURE OF DEMAND FOR U.S. GRAIN

The U.S. grain industry underwent a dramatic change between 1972 and 1974, a period in which exports increased from $7 billion to $21 billion.[1] The importance in the change, however, was not in the price increase itself but in the nature of the demand that brought about the price increase.

Through the sixties and up to 1972, Government with its large grain surpluses was the prime determinant of farm prices. In 1974, without these large surpluses, the prime determinant of farm prices was export demand. Domestic demand for major grains is relatively constant. For example, between 1970–74, domestic demand for wheat decreased 11 percent, corn increased 14 percent and soybeans increased 12 percent. On the other hand, export demand between 1970–74 for U.S. wheat increased 47 percent, corn 58 percent and soybeans 13 percent.[2] As long as Government is not holding large surpluses, export demand is going to play a significant role in determining agricultural prices.

This fact is particularly important to producers and marketers of wheat, soybeans, corn and grain sorghum. These crops are the four leading agricultural exports as a percent of farm sales. Since 1972, 75 percent of the wheat; 55 percent of the soybeans, and 30 percent of the corn and grain sorghum have been exported.[3]

Export volume of these major grains increased significantly since 1960, from .9 billion bushels to 2.9 billion bushels in 1973.[4] In 1974, exports were less due to a bad crop year. However, USDA economists projecting to 1985 predict the U.S. will experience continued growth in export demand for agricultural products.

Therefore, if the prime determinant of agricultural prices continues to be the export market and if demand does increase over the next decade the conclusion is obvious: Exports will be increasingly significant and farmers will need a better understanding of this grain export industry.

COMPETITIVE STRUCTURE OF THE GRAIN EXPORT INDUSTRY

Using the Bain classification of markets by defining the market share of the four or eight largest firms in an industry, conclusions can be reached with regard to seller concentration or the competitive elements of an industry. Basically, the higher the seller concentration the more oligopolistic or imperfectly competitive the industry. Conversely, the lower the seller concentration the more atomistic or perfectly competitive the industry.

In the grain industry many merchandising and processing firms do some overseas business but five firms dominate the U.S. grain export industry accounting for 85 percent of total exports. Since 1971, Cargill and Continental, each have had about 25 percent of the U.S. exports; Cook Industries, 15 percent; and Bunge and Louis Dreyfus corporations, 10 percent each.[5] These companies, which basically comprise the grain export industry, are multinational, diversified and closely held corporations. They are multinational in the sense that they operate on a world-wide scale, buying and selling grain from and to any country. They are diversified companies dealing in such varied industries as leather goods, pet food, termite control, insurance, cotton merchandising and fishing fleets—just to name a few. These companies, with the exception of one, are closely held corporations in which family members and a small number of key executive own the major portion of the stock.

The rest of the grain export industry is much different. Of the remaining 15 percent of the market, 8 percent is divided among five small export companies and the remaining 7 percent among four producer-owned cooperatives.[6] The 7 percent market share accounts for family farmers' direct representation in the export market. No individual cooperative accounts for more than 2.3 percent of the market. Thus, the largest cooperative exporter is competing with firms at least five times its size.

This weak position of cooperatives in the final export market is not indicative of cooperative strengths at other levels in the grain marketing system. Cooperatives are in a relatively stronger position further back in the marketing channel. At the point of first receipt, or the local level, cooperatives handle about 41 percent of the off-farm grain sales. About 90 percent of these locals are affiliated with regional cooperatives, yet these regionals get only one-half or about 19 percent of the off-farm sales. The rest of local cooperative grain is sold to the non-cooperative grain trade. Regional cooperatives make available for export 9 percent of off-farm sales and directly export 3 percent of off-farm sales; which is equivalent to 7 percent of total U.S. grain exports.

In contrast to the cooperative position the firms that dominate the industry become weaker further back in the marketing channel. They rely heavily on the cooperative sector to procure their grain for export. Regional cooperatives from 1972–74 sold the bulk of their grain for export to the five major companies. By commodity, regional cooperatives sold for export 85 percent of their wheat, 63 percent of their corn and 64 percent of their soybeans to the major companies who then made the direct sale. More than 60 percent of that grain was put through a cooperative port facility.

Thus, while the cooperatives assemble large quantities of grain for export they are almost totally dependent upon the dominant firms to market the grain for export. A better understanding of the industry is needed to learn why this situation exists.

Agricultural economists outside of the export industry know very little about it. However, general requirements for exporting grain are: (1) A world-wide market information system, (2) an economic research staff, (3) world-wide sales network, (4) flexible delivery terms, (5) alternative port loading facilities and (6) ability to accept risk.

(1) World-wide market information system: Probably the most basic requirement for exporting grain is the need for information. The dominant firms gather information on the world supply and demand situation, the importing country's supply and demand situation, information on transportation, information on U.S. and foreign government policies and programs as well as information on the competition. This is usually computerized on a world-wide basis and compiled in central headquarters for evaluation. Cooperatives exporting grain have no such system. In contrast to the dominant firms, the information gathered by cooperatives is totally inadequate. Sustaining such a large-scale information system requires an organization of substantial size, which in the grain export business at the present time means a market share of about 10 percent. As previously stated, no individual cooperative has more than 2.3 percent of the market.

(2) Economic research staff: Evaluating this massive amount of information gathered by the dominant firms requires a substantial and well trained economic staff. These firms use a staff of economists to analyze supply and demand data and recommend alternative

Footnotes at end of article.

courses of action to the sales management staff. They also become involved in the long-range planning strategies for the company. No cooperative exporting grain has an economic research staff. Information the cooperative does have is analyzed by the traders. There is also no staff involved in long-range corporate planning. Lack of these functions severely limits cooperatives' export marketing ability.

(3) World-wide sales network: Establishing connections in foreign markets is accomplished by the dominant firms by either (1) establishing and staffing overseas offices or (2) use of commissioned agents. From what is known about the dominant firms, they emphasize establishing sales offices and using their own personnel.

In contrast, cooperatives have no sales offices in the countries they market grain. Cooperatives rely entirely on commissioned agents to make their sales as well as provide them with market information. Buyers wanting to purchase grain from a cooperative find it difficult to establish connections, as opposed to locating the office of one of the dominant grain firms.

(4) Flexible terms of delivery: Delivery terms of grain to the buyer are of two basic types. The most commonly used terms are f.o.b. (free on board) ship and c.i.f. (cost, insurance, freight) a foreign port. Delivery terms f.o.b. basically mean an exporter is responsible for the grain only until it is loaded on ship. The buyer arranges and pays for the ocean transportation. With delivery terms of c.i.f., it is the responsibility of the exporter to obtain the shipping vessel, schedule it for delivery and be responsible for the grain until it reaches the port of destination. The dominant exporting firms are able to deliver both c.i.f. and f.o.b. Cooperatives do not have this flexibility. Almost all cooperative export sales are on a f.o.b. ship basis. This lack of flexibility handicaps cooperatives competing with the major grain firms.

(5) Alternative port location: The flexibility to deliver from a number of port locations in the U.S. is a characteristic of the dominant firms. This is quite an advantage as it allows the exporter to coordinate sales inland to the most economical port location for the foreign buyer. Under the present cooperative system, each cooperative has its own port location and transports grain only through the cooperative's own facility. Very little coordination exists in using cooperative port facilities on a joint basis and taking advantage of many of the economies in transportation and scale that the dominant firms enjoy.

(6) Ability to accept risk: The size and scope of the dominant firms, which includes their vast diversification, places them in a good position to assume many of the risks involved in exporting grain. These risks include being in a long or short position for any great length of time, risk in chartering ocean freight, and risks in delivering grain to the port of destination Any of these risks is too great for any single cooperative to accept. The large size and diversification of the dominant firms allow them to accept these risks by being able to absorb any losses in the short run without threatening the survival of the organization. This is not true for cooperatives.

ALTERNATIVE COURSES OF ACTION BY COOPERATIVES

Cooperatives can strengthen their competitive position in the imperfectly competitive grain export market through several courses of action. At a minimum they need a more coordinated approach to the export market. At least three courses of action are available:

(1) Procure grain for the dominant firms: On an individual cooperative basis, it can be argued that this course of action is already taking place. However, inherent in this alternative is procuring and marketing grain to the dominant firms on a more coordinated basis. This course of action takes advantage of cooperatives' expertise in procuring grain and the dominant firms' expertise in marketing the grain for export.

(2) Make all export sales: Marketing all grain on a joint cooperative basis direct to the foreign buyer essentially bypasses the dominant firms and competes with them in the export market. This requires establishing a worldwide sales system and all the other requirements needed to sell direct to foreign buyers.

(3) Use a combination of strategies: This alternative involves selling to the dominant firms and to the foreign buyer direct. It requires continuing to develop export markets already penetrated by cooperatives and continue to sell grain to the dominant firms for export only in a more coordinated cooperatives system.

No effort has been made to analyze these various strategies. To do so requires more research of the grain export industry, which at the present time is lacking in land-grant universities as well as USDA. Cooperatives need to analyze further their status in the grain industry and the course of action they are to pursue if they want to become a stronger competitor in the grain industry.

FOOTNOTES

[1] U.S. Department of Agriculture, Economic Research Service, *U.S. Foreign Agricultural Trade Statistical Report, Fiscal Year 1974, p. 1.*

[2] U.S. Department of Agriculture, Economic Research Service, *Wheat Situation, Feed Situation and Fats and Oil Situation*, WS–230, Fds–252 and FOS–277 respectively, pp. 2, 16 & 2 respectively.

[3] Ibid.

[4] U.S. Department of Agriculture, Economic Research Service, *U.S. Foreign Agricultural Trade Statistical Report, Fiscal Year 1974, pp. 8–9.*

[5] Compiled from statistics furnished by the North American Export Grain Association, Inc.

[6] Ibid.

ADDRESS BY SENATOR JOHN CULVER: "LOOKING AT THE FUTURE—A RATIONAL PROCESS"

Mr. GLENN. Mr. President, in the early part of 1976, the Government Operations Committee will be holding hearings, which I will have the privilege of chairing, on how best we Americans can evaluate alternative future goals in energy, transportation, population distribution, economic growth, governmental and corporate structure, possible technological advances, and other identifiable factors which are basic to the future of our Nation, and our civilization. We will also explore how we should move to achieve those goals identified as necessary and desirable.

My distinguished colleague from Iowa, Senator JOHN CULVER, has the foresight to know how necessary cooperation among all levels of government is and will be in identifying and achieving these goals. Senator CULVER was instrumental in establishing a State futures-evaluation program, known as Iowa 2000.

When initiating the idea for Iowa 2000 in 1972, Senator CULVER stated:

We need to be aggressively looking towards our future, deciding on the kinds of priorities we want for ourselves right here at home, and giving hard thoughts to the steps we will need to take to achieve them.

In a recent address to the Iowa Commonwealth Conference at the University of Iowa, Senator CULVER discussed the processes by which we can achieve the identification and realization of these National, State, and local goals for the year 2000. I recommend a study of the full text of his searching remarks, but would like to underline two most important points the Senator makes:

First, the process of identifying goals is, and must continue to be, a "rational" process—"a rational study of future options available to us, based on multidisciplinary research to determine the most likely course of events."

Second, these processes must be from the bottom up; not from the top down—there must be active involvement of Americans at the grassroots level—there must be involvement and shared decisionmaking by Americans all across America; not dictation of where this Nation is to go by a few elite seated at their ivory computers.

I believe we can and must work out a form of national planning that will not be coercive but at the same time will provide both government and the private sector with the kind and quantity of information on which rational decisions for the future can be made, and so that we successfully preserve the opportunity for free choice.

Mr. President, I should like to share Senator CULVER's thoughts on this vital issue with my colleagues. I ask unanimous consent that the full text of his address at the University of Iowa, as well as the introductory remarks by Dr. William Shanhouse, vice president of the University of Iowa, be printed in the RECORD.

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

FEDERAL-STATE AND FEDERAL-LOCAL RELATIONS IN THE YEAR 2000

(Remarks by Senator JOHN CULVER)

A committee, organized in 1486 at the command of King Ferdinand and Queen Isabella of Spain, to study Columbus' plans to sail west to find a shorter route to the Indies, reported in 1490 that such a voyage was impossible for various reasons, including these:

The western ocean is infinite and perhaps unnavigable.

If he reached the other side of the globe—the antipodes—he could not get back.

So many centuries after the creation, it was unlikely that anyone could find hitherto unknown lands of any value.

I would point out that the attitude of that royal committee in 15th century Spain was in marked contrast to the response of the people of Iowa—including the governor, the legislature and the State's civic leaders—to the idea of initiating an "Iowa 2000" project in the year 1972.

Like the proposed voyage of Columbus, the Iowa 2000 futures project was a projected trip into the unknown. But the response in our State to the idea was overwhelmingly affirmative. And now, in an incredibly short space of time, more than 50,000 concerned Iowans have become involved in this vast and imaginative undertaking. The project's task forces on natural resources, energy, economic development, and life enhancement, have all made a significant contribution in assembling necessary information on which enlightened decisions concerning Iowa's future can be made. I note that this work will continue in the course of this commonwealth conference today.

As one who believes devoutly that to neglect the study of the future is to betray the heritage of the past, I want to salute all of you who have had a part in Iowa 2000.

In order for me to make any kind of meaningful commentary on what Federal-State and Federal-local relations will be, 25 years hence, I need to lay out for you first the premises or beliefs from which I proceed.

As we near the completion of the first two hundred years of our republic, I believe we have reached the point where there is an imperative need for comprehensive, long-range national planning. In this era of accelerated change, we simply can't afford to reel along from one crisis to another as we are doing now.

For one thing, resource shortages in the years ahead are going to compel some coordinated national effort to pull together information and foresight capabilities to match scarce resources with consumption in a manner that will serve both the public interest and the needs of the private sector.

But the need for national planning, of course, goes beyond the objective of preserving the health of the economy with respect to resources and beyond the goal of developing long-range and budget policies designed to avoid both recession and inflation.

It goes to the heart of setting our national goals five, twenty, thirty years ahead, to meet public needs in health, education, housing, employment, transportation, preservation of the environment, national defense, and other vital areas.

The opponents of national planning are concerned—and I share their concern—about the danger that a planned society could become a regimented society where big brother takes over and free thought and initiative are stifled.

But I believe we can and must work out a form of national planning that will not be coercive but at the same time will provide both government and the private sector with the kind and quantity of information on which rational decisions for the future can be made and so that we successfully preserve the opportunity for free choice.

One way of avoiding over-concentration of power in national planning is to make a conscious effort to decentralize the planning process itself.

For this, our federal-state-local system provides the ideal format.

Planning must be increasingly done, in the years ahead, at the local level, and more and more citizens must be drawn into the information-gathering and decision-making processes. I recognize that we can't go back to the New England town meeting, and I am aware of the difficulties of getting consensus out of people at the local level.

But if we are to do the kind of national planning that will better enable us to avoid the crises of the future, without yielding our individual freedoms, I believe this is the way it will need to be done.

And our federal system offers a range of opportunities for participatory democracy that we have barely begun to tap up to now.

My view of what the state of the federal system will be in the year 2000 is conditioned by my faith that through disciplined planning and the development of effective foresight capability, we can do something about shaping our destiny as a society. I do not subscribe to the gloomy determinism that sees the future as disaster overtaking us, regardless of what we do.

Futurists deal with what they call "alternative futures"—based not on certainties but on highly likely possibilities. Obviously, the future is not always a direct continuation of the past. If nuclear war or some other world disaster strikes or if we experience a revolution of new break-throughs in technology, then all bets are off.

But the kind of long-range planning to which I refer is a rational study of future options available to us, based on multidisciplinary research to determine the most likely course of events.

This kind of study of the future may read like science fiction at times, but it is basically the essence of practicality and good sense.

The state of our federal system in 2000 will, of course, reflect the dramatic changes in our general environment that will have taken place by that time.

The technical changes are perhaps what first come to mind. Air transit at 4,000 miles an hour will be taken for granted. The conputer and communications revolution will have a greater influence on our society than the industrial revolution. Computerized television terminals will be owned by most families, permitting a wide range of activities to be carried out via electronic communication at home. A permanent manned base on the moon is within the range of probability.

Control of most bacterial and viral diseases will be achieved. There is a good chance that a baby's sex will be predictable.

Migration into cities and suburbs is expected to continue, perhaps accelerate. The current trend toward smaller families will continue. The number of Americans 65 and older will increase substantially. An average of the forecasts of what the total population will be is around 250 million.

Most health care will be covered by national health insurance. Basic causes of heart disease and cancer may have been found.

There will still be problems with shortages—essential minerals, as well as oil, although synthetics will have been developed to fill some of the needs. Shortage of water may well be one of our principal concerns.

It is predicted that the average workweek will be a little shorter—perhaps 36 hours. Education, it is predicted, will be increasingly a lifelong process, pursued on an intermittent, rather than a concentrated schedule. Pollution will still be a problem although technology will have made great strides—e.g. in the depollution of inland waters. The production of artificial protein may ease the world food situation somewhat. There will have been significant progress in the development of alternate energy sources. Although the private automobile will still be with us, driving in congested urban areas will give way to mass transit systems and special routes above and below street levels.

The gross national product will take a quantum leap—perhaps to three trillion dollars annually. Despite inevitably increasing government controls, private enterprise will still be functioning in most areas of commerce.

It is foreseen that urban concentration by 2000 will have reached the point where five-sixths of the nation's population will be living in one-sixth of the land area. Labor on farms will continue to give way to machinery and chemicals. Projections show as much as a 70 percent increase in state and local governments—nearly four times more than the expected increase in federal employment.

Urban problems—crime, poverty, pollution, concentration of minorities in central cities—will doubtless still torment us. The present trend of increasing demand for outdoor recreation space will have greatly accelerated by the end of the century.

Racial tension will diminish, although it will remain a problem. Unconventional family forms and life styles will continue to be in evidence. The percentage of working women will rise from the present 38 percent to about 46 percent and the role and status of women in our society will be substantially strengthened.

I have touched on only a few aspects of the changed context to which our federal system will be required to adapt in another 25 years.

Obviously, 2000 will be dramatically different from 1975 in many ways.

Yet, as we all know, many of the same human problems and concerns will remain as they are today.

In terms of the explosive growth of knowledge and the pace of accelerated change we will experience in the final quarter of this century, the year 2000 seems light years away.

Yet it is not as remote in time as World War II.

To millions of Americans, that seems like only yesterday.

I personally see our three-level federal system continuing to operate in the year 2000 in substantially its present form.

Despite its admitted imperfections, the system has been serviceable and durable over the years, and, like the constitution itself, has, in the overall view, proved itself adaptable to new problems and stresses brought about by industrialization and other powerful trends in our country's development.

I have faith that the capabilities are in the system although there are certain areas in which it has notably failed thus far and the agenda of unfinished business is a matter of general concern.

The Federal system, like all governmental systems, has been resistant to institutional change, and it is clear that there must be such change in the years ahead if we are to cope with such major social problems as crime, proverty, the plight of the cities, the energy crisis, and many other national problems.

I believe that slowly but surely on the Federal level and in the other jurisdictions, we are facing the imperative need for such change and that it will spell the difference.

The idea of getting government out of private business and our private lives is attractive, but scarcely realistic. Government at all levels will be required to perform an increasing number of regulatory functions, in the years ahead, made necessary by new stresses on our society.

While regulation will continue, reorganization of our Federal and State regulatory systems is a priority item on the list of needed institutional reforms.

Local government officials, businesses and private individuals are in open revolt against unnecessarily stringent regulations and nonessential paperwork required by the Federal and State governments. I believe the message is, at long last, getting through.

When we think of the federal establishment, we are more inclined to think of programs that didn't entirely succeed rather than those that did. With regard to this, the point has been aptly made that features of our governmental system most protested by one generation often become the qualities most valued by the next.

Moreover, we have asked too much and expected too much of the Federal Government. I agree with President Boyd in his admonition to the Iowa 2000 commission to search for non-governmental solutions wherever possible.

I believe the Federal Government will be continuing its traditional role in the Federal system, although with some significant modifications. Reforms under consideration in the Congress at the present time could spell a vast difference in the Federal Government's ability to carry out its intergovernmental functions more effectively.

The role of local government will have both changed in some respects and grown by the end of the century—particularly with respect to the planning function. The bulk of the Nation's planning, I am convinced, must be done at the grass roots level.

As I stated earlier, I expect an even-increasing number of citizens to be participating in governmental decision-making. This is not going to be a rose garden for those

in positions of leadership, but there is no other way if we are to avoid centralization of power as we move into long-range national planning.

The trend toward the consolidation of local government units and intergovernmental arrangements along functional and other lines will have changed the form of local governments substantially by 2000. The convulsions of many city governments these days point up the need for modernization—information systems, personnel recruitment, and, most of all, the establishment of assured financial bases. Experimentation with regional government patterns and other innovations needs to be encouraged and supported in the years ahead.

As the role of local governments grows and cities overflow their boundaries and develop new intergovernmental patterns, the role of the state and regional government will grow correspondingly, as I see it.

General revenue sharing has given state governments as well as local governments a new lease on life, and I believe that revenue sharing is here to stay despite rumblings of criticism of the program in Congress and elsewhere.

Incidentally, it is a matter of pride to me that Iowa has, by and large, made effective and proper use of its revenue sharing funds. This record is of substantial help to those of us in the Congress who are supportive of a five-year extension for the general revenue sharing program.

By the end of the century, I believe we will see both general revenue sharing and categorical programs, as we have today. In my judgment, there is a need for both.

By the end of the century, I believe we will see increased inter-state cooperation in a wide variety of functional areas. I believe additional attention will be given in the years ahead to relating these multi-state organizations to the regional administrative structure of the federal bureaucracy—that is, the federal regional councils.

Land use planning assistance to states will long since have been provided. I believe land use legislation will be enacted by the Congress in the foreseeable future, but if this should not be the case, land use planning assistance can be provided through some existing channel, such as the 701 program, for which such authority currently exists.

By the end of the century, I believe that an inter-governmental mechanism for developing national growth and development policy, as envisaged by the housing and urban development act of 1970, title VII, will be in operation.

These are a few random comments about federal-state and local government relations in the year 2000.

The point I would stress the most is that, as we look to the future a generation away, we can have faith in the viability and continuity of our federal system.

I have described long-range planning as a rational exercise—which indeed it is—but I should add that along with the rationality there must be faith.

I would say, in conclusion, that the approach of our country's 200th birthday provides a symbolic watershed for reacquainting ourselves with the heritage of the first 200 years and for making some dynamic and courageous decisions about the long-range future.

In the first two centuries, we proceeded along developmental lines that were roughly the same from the beginning—aggressive geographical expansion, economic growth, lavish use of resources, and unplanned use of space and energy.

Now we must proceed in a more rational, disciplined and foresighted way if we are to continue the good life.

I am proud that Iowa is in the forefront of this movement.

INTRODUCTION OF SENATOR CULVER BY DR. WILLIAM SHANHOUSE, VICE PRESIDENT, UNIVERSITY OF IOWA

The great dramatist Henrik Ibsen tells us ". . . Man is in the right who is most closely in league with the future."

Until this morning I had never had the pleasure of meeting Sen. John C. Culver. In seeking information from those who know him well, he has been described as "a man of powerful intellect, committed to excellence; an intense individual with imagination and tenacity; a winning kind of man."

However, in order to get a truly discerning picture of John Culver, I turn to the one person who has known the Senator longest.

I called his mother.

Mrs. Culver told me how at the age of 21, John confronted two very successful people whom he deeply admired—his Harvard educated, staunch Republican father and grandfather. He then declared that he was registering with the Democratic Party, and that he would forsake their world of business to pursue a career in politics. His father and grandfather respected his outspoken determination. John Culver knew where he was going.

When initiating the idea for Iowa 2000 in 1972, John Culver stated, ". . . We need to be aggressively looking towards our future, deciding on the kinds of priorities we want for ourselves right here at home, and giving hard thoughts to the steps we will need to take to achieve them."

The future demands planning. But "the paradox of planning is that only action can determine whether the plan is valid."[1]

In looking toward the future we must be prepared to risk the challenge and adventure of the unknown and convert tomorrow's visions into reality.

As Senator Culver recently noted in discussing the goals of the Culver Commission on the Operation of the Senate, "We do not need to be anesthesized or reassured. We need a comprehensive and probing analysis, and a tocsin to action."

President Boyd recently asserted that "People in our society must try new things and new ways—this is the genius of democracy." Senator John C. Culver is most representative of this genius.

[1] Satish B. Parekn, Senior Director of Phelps-Stokes Fund.

U.S. EXPORT POLICY AND NEGOTIATIONS WITH THE SOVIET UNION

Mr. HUMPHREY. Mr. President, I wish to share with this body an editorial in the December 14 Washington Post entitled "What Should Moscow Pay For Grain?"

The question which this editorial poses for U.S. policymakers is what concessions it can legitimately ask of the Soviet Union in return for our grain supplies. It is quite clear that the reduced Soviet grain harvest—now estimated at 137 million metric tons—will pose serious policy choices for the Soviet Union.

Already the Soviet Government has attempted to back out of its agreement with regard to shipping one-third of its American-bought grain on U.S. ships. This development probably signals the beginning of an attempt by the Soviet Union to bargain hard now that it is in a belt-tightening situation.

The Soviet Union obviously could use a great deal more of our grain, but it faces certain serious logistical problems at its ports which will mean that it cannot import much more than it is doing at the present time.

The editorial suggests that access to further supplies of American grain could be linked to a cooperative Soviet attitude in Middle East diplomacy and perhaps a closeout of the Soviet sponsored intervention in Angola.

Our leverage in the grain market does give us certain bargaining chips. We should negotiate firmly but responsibly, remaining alert to the sensitivities and vital interests of the Soviet Union, and avoiding policies and actions which can disrupt America's existing markets for its agricultural exports.

There is little doubt that our attempt to include oil concessions as a part of our grain agreement with the Soviet Union resulted in the loss of soybean sales during the months we established informal export controls.

Again, we see the price that we pay for not having an agricultural policy relating our economic and political interests in the area of grain exports.

Mr. President, I ask unanimous consent that this thoughtful editorial be printed in the RECORD.

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

WHAT SHOULD MOSCOW PAY FOR GRAIN?

Kremlin confirmation that the Soviet grain harvest—at 137 million tons, a full third below plan—is the worst in 10 years poses a sharp policy choice for the United States. With the Russians virtually certain to approach Washington to buy more grain, on top of the 12 million tons already ordered for 1975–76, should the United States ask for something more than money in return? Fortunately, American officials, especially in the State Department, are more alert than they were in 1972 when they bailed the Russians out of another (lesser) crop disaster just for cash. This time around, the general disposition is to link a larger grain sale to Soviet concessions on other things. But to what?

One possibility suggested earlier this year was to tie grain sales to a deal for Russian oil. We believed at the time that this was a bad idea, and it has since fallen of its own ponderous weight. It remains possible and worthwhile, however, to link grain sales to greater Soviet cooperation in creating international grain reserves, supplies set aside to stabilize markets and to ensure against famines in the desperate nations. Beyond that, Soviet need affords the United States leverage to make Moscow live up to its earlier agreement to ship at least a third of its American-bought grain on American ships, whose rates are almost double current world shipping rates. The Russians are balking on this agreement. But they will have to bend if they are to assure delivery of the unshipped seven million tons out of the 12 million tons already ordered, let alone assure delivery of any additional supplies.

The more delicate aspect of the question is, of course, whether Washington should also ask Moscow to pay some kind of a political price. That the Russians anticipate and fear such a demand can be inferred from their determination to strike a tough belt-tightening posture—to demonstrate to outsiders that they don't need much more imported grain. On the basis of past record, no one can doubt that the Soviet leadership would, if it felt it necessary, tighten its subjects' belts. That would produce, however, a major deterioration of the Russian diet, reducing the meat component—and this at a time when Mr. Brezhnev presumably is eager to celebrate

the gains he has brought to the Soviet consumer.

What political price could the United States legitimately and effectively demand? The Jackson and Stevenson amendments linking economic relations to Jewish emigration proved one point conclusively: Given harsh and conspicuous foreign pressure on a sensitive internal policy matter, the Kremlin will not easily yield. Nor would it seem productive to ask the Russians to give up anything important bearing directly on their national security; that would rule out any significant linkage to the strategic arms talks, we presume. And, in another framework, it would also be unwise to link grain to any demand that could not be met before the next harvest, for in that event enforcement would itself likely become a bone of contention.

Something not excessively internal, not too close to security, not too long-range: What about a cooperative Soviet attitude in Mideast diplomacy, now perhaps entering an important phase of emphasis on the Palestinian question? What about a closeout of Soviet and Soviet-sponsored intervention in Angola, a place where Moscow is playing out a whole range of adventurous and irresponsible urges? These are the kinds of political matters, we think, that the Russians could properly be expected to address in order to gain further access to American grain.

UNEMPLOYMENT IS DREADFUL

Mr. CHURCH. Mr. President, I was shocked and appalled by a recent Wall Street Journal report on the desperate plight of some of the human beings included in the Nation's unemployment statistics. It is a painful reminder to those of us who are "fully employed," and who are responsible for formulating the Nation's economic policy; we can take no comfort because unemployment did not rise as much this November as it usually does. When jobless people are driven to attempt to sell their kidneys in order to stay alive, then something is drastically wrong with this country's commitment to its most valuable resource. Does the predicament of these people have to turn on a hoped-for increase in consumer demand which will put people back to work and encourage industrial leaders to expand their investment decisions? Recent surveys indicate that consumers are not overly optimistic about the near future. Are policymakers so preoccupied with fear of inflation that human beings are forced to this extreme? What part of their body, much less their dignity, will those who are carrying the burden of this fumbling economy have to sell next? What kind of a country have we got when the economy cannot put people to work, and society cannot take care of the jobless when it does not work?

Mr. President, as this year comes to a close, some 7.2 million Americans are seeking jobs and income they cannot find. Nearly 100,000 workers who were minimally protected by unemployment insurance are exhausting their benefits each week. There are 1½ million more people without jobs just before Christmas this year than last. Monthly data do not really tell the full story: For over the course of 1975, it is likely that 25 to 30 million persons will have experienced at least one period of joblessness?

During 1974, when monthly unemployment averaged 5.1 million people, some 18.1 million different individuals were without jobs at some time during the year. Of these—

Five and four-tenths million, or 30 percent had two or more spells of unemployment during 1974.

Two and six-tenths million, or 18 percent had three or more spells of unemployment.

Two million found no job at all during the year.

One and nine-tenths million had periods of unemployment totaling more than half the year.

Three and one-tenth million were out of work from 15 weeks to half a year.

Five and two-tenths million were unemployed from 5 to 14 weeks.

Three and one-tenth million were Negro and other ethnic minorities, or 26 percent of their number in the labor force.

One and seven-tenths million, or more than 9 percent, were workers over the age of 55.

Eight and seven-tenths million, or 47 percent were in the prime working age group of 25 to 54.

Mr. President, the number of our citizens with the demeaning experience of unemployment will be dramatically higher this year.

Indeed, solving the unemployment problem is complicated by the inflation which has already occurred. In his December 5 appearance before the Joint Economic Committee, Commissioner of Labor Statistics, Julius Shiskin, noted that the number of people working or seeking work has risen by 1¼ million persons during the first 8 months of what we describe as "economic recovery." This is nearly five times the rate of labor force growth during earlier recoveries. Among possible reasons for this, the Commissioner stated:

> . . . the combination of inflation and unemployment has put severe financial pressure on many families and induced an unusually large number of family members to seek jobs.

And that—

> . . . some people who might otherwise have left the labor force may be staying in because of the extension of unemployment benefits. Eligibility for these payments requires the beneficiary to be seeking work.

Mr. President, what greeting do we have for the unemployed this Christmas?

I ask unanimous consent that the article referred to above be printed in the RECORD.

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

[From the Wall Street Journal, Dec. 16, 1975]

SPARE PARTS?

Some jobless workers try to sell their kidneys for cash.

Kidney surgeons report an upsurge of offers from cash-starved former workers seeking to sell one of their kidneys. The National Kidney Foundation has had 100 such calls recently, says medical director Dr. Ira Greifer, from people who "needed money." Kidney "for sale" ads have run in New York and Pittsburgh papers, the latter offering a jobless blue-collar worker's kidney for $5,000.

But surgeons shun the idea. St. Louis specialist Dr. Keith Hruska says he blocked a patient's bid for the Pittsburgh kidney because there wasn't likely to be "an acceptable tissue match" and "I also thought it was morally wrong." It's legally wrong, too, in many states, to sell bodily organs, though giving them away is allowed.

Dr. Greifer says the loss of one kidney presents a health risk that "isn't big at all," but, he asks, "why risk anything?"

PATCO LABOR TACTICS: A MOCKERY OF ENERGY CONSERVATION

Mr. DOLE. Mr. President, having discussed the conference reports on two very controversial pieces of legislation dealing with our national labor and energy policies this week, my Senate colleagues should find particularly timely for their attention the substance of a recent telephone call to my office from a very frustrated Kansas constituent.

The conversation in question originated from LaGuardia Airport in New York City with a major commercial airline pilot who is also a part-time farmer back in the southeastern area of my State. He was calling to express his annoyance and bewilderment at just having undergone a 45-minute delay in landing his aircraft due to a Professional Air Traffic Controllers Organization—PATCO—work slowdown.

His concern was not aroused by the personal loss of time experienced by himself and his passengers, but rather by the unnecessary, unreasonable, and unconscionable waste of fuel deliberately precipitated by a labor disagreement. The air traffic controllers were intentionally holding up the arrival and departure of scheduled flights just to demonstrate their protest over current contract negotiations—and the impact was both costly and disruptive.

At a time when the operations divisions of trunk air carriers—as well as the airline pilots themselves—are making a concerted effort to improve fuel efficiency by flying at higher altitudes and lower speeds, among other techniques, he found it very distressing that he should needlessly be placed in a holding pattern 150 miles out and forced to waste away some 7,000 pounds of fuel just to satisfy the objectives of disgruntled PATCO employees. Since he was operating one of the smallest commercial jets in the air—a 2-engine, 80-passenger DC-9—that 7,000 pounds, or 1,000 gallons, was only a very small part of the massive waste which resulted from the slowdown action.

When we consider the size and number of other aircraft going into New York and the fact that a Boeing 727, 707, and 747 will burn 9,000, 10,800, and 19,587 pounds of fuel per hour at holding, respectively, it is obvious that figure would be multiplied several hundred times over—perhaps running into the millions of gallons. In view of the fact the practice has been going on for several weeks now, the losses in terms of energy alone are a disappointment to every citizen in this country who has made a conscientious effort to save our Nation's resources.

Delays caused by congestion or weather are one thing, Mr. President, but those induced by labor disputes which

should be settled in more conventional ways are quite another. At LaGuardia on the day of the call, the visibility was an incredibly clear 20 miles, and except for the actions of the controllers, traffic would have proceeded under the most favorable conditions imaginable.

I think my constituent's displeasure over this incident was intensified by his recollection of the difficulty farmers had in getting fuel just for normal plowing, planting, and harvesting operations during our "crisis" periods of 1973 and 1974. Certainly, I can appreciate that feeling myself, having personally assisted in resolving the shortage problems of a great number of Kansans who have had vital requirements in recent years for diesel fuel—which as many Senators know is very similar to jet fuel in the refining process.

Mr. President, if we are ever going to succeed in our energy conservation goals, we are going to have to have the cooperation of everyone—including labor organizations which can surely rely on basic, acceptable means of pursuing their work grievances. For as long as we have inconsistencies of this type in our important national policies, I doubt that we can ever attain the energy independence which we so desperately need.

The actions of the PATCO controllers on this and related occasions are a matter of some concern in my opinion, and should be questioned by those of us in Congress who are serious about our Nation's energy future. It is inappropriate, of course, for us to actively discourage these types of "bargaining" pressures, but I for one think it would be in order for both the FEA and the GAO to determine just how much fuel was senselessly consumed during this episode—and to seek an understanding from those who are responsible.

REGIONAL PRESIDENTIAL PRIMARIES

Mr. MONDALE. Mr. President, 2 weeks ago I introduced S. 2741, a bill which would establish a series of regional Presidential primaries. I indicated at that time that one of my primary purposes in doing so was to help encourage a national debate on whether and how we might restructure the entire means by which we select candidates for the Presidency.

I am pleased that the introduction of S. 2741 has had that effect. Since then a number of editorialists and commentators have focused on the many serious problems contained in our present nominating system and called for its drastic overhaul. My colleague from Minnesota (Mr. HUMPHREY) was kind enough to have several of these commentaries inserted in the RECORD of December 11, 1975. Since then more have appeared, and I would like to share them with my colleagues as well.

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

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

[From the New Britain (Conn.) Herald, Dec. 8, 1975]

FEWER PRIMARIES

Instead of getting better, it's getting worse. That is, the situation in which a person who wants to become President of these United States has to come up with the job-stealing time, the small fortune, and the physical endurance required to conduct what amounts to 30 mini-presidential campaigns across the country, before he even gets to run the big one itself. That is, assuming he or she wants to compete in all of the state presidential primaries that are now scheduled next year, including the one in the state of Connecticut.

The problem of proliferating primaries has been the subject of scrutiny and reform for some time now. Even when there were fewer such contests nationwide, there was agitation for a national primary, or at least for a series of regional primaries.

Now a man who gave up the presidential race last year for the very reason that he was unwilling to undergo the rigors required by running in up to 30 primaries, Senator Walter Mondale (D-Minn.) has introduced a bill to create a regional primary system.

There have been other regional primary bills before, but Sen. Mondale's is apparently the first of its type to be introduced, one that would divide the country into six regions which are roughly comparable in their populations.

All of New England would be included in one of the six regions, along with New York State and New Jersey. Currently there are six primaries scheduled in this area, in New York, New Jersey, New Hampshire, Massachusetts, Rhode Island, and Connecticut.

Certainly it appears to make electoral sense to be moving toward fewer primaries, even a regional system. Political parties in the United States may not yet be strong enough to justify a single, national presidential primary for each party and states' rights advocates may prevent this from ever happening. But we now have 30 separate state primaries. If this goes all the way to 50 state primaries, why not just hold them all the same day and call it a national presidential primary? Meanwhile a regional primary system might help get voters used to the idea of fewer primaries, and would serve as a half-way house on the road toward total consistency.

[From the Minneapolis Tribune, Dec. 13, 1975]

MONDALE'S REGIONAL PRIMARY BILL

The way presidential candidates are selected "is indisputably one of the most important processes in our entire political system," Sen. Walter Mondale told the U.S. Senate this month, "but it is also, unfortunately, one of the most irrational. It has evolved over nearly 200 years without design, structure or purpose into a complex maze of state laws, party regulations, and unwritten traditions. No other major nation chooses its leaders in such a chaotic manner, and the question is whether we should continue to do so."

Mondale's answer to that last question is no. And as part of a program for changing the selection process—only part, he emphasizes—the Minnesota Democrat has proposed a bill setting up a system of regional primaries. The bill would divide the nation into six regions, each of which would have a primary-election date assigned to it by lot, with the six dates two weeks apart. States within each region would be free to hold primaries or not, but those that did would have to conduct them on their region's election date.

The effect, Mondale says, would be to eliminate both "the disproportionate and unfair advantage" a few states have because their primaries are either very early or very late and "the unseemly race every four years" to hold the nation's first primary. The plan would also shorten the primary campaign and give candidates a chance to present their views in each region. Moreover, it would bring order—and perhaps substantive discussion of issues—to what is now a media event conducted in a circus atmosphere and a game in which candidates vie for psychological advantages over one another.

A side effect of the bill, Mondale says, might be to reduce the number of primaries. "Since no single primary state would be allowed . . . to stand uniquely apart from the other states, but would be compelled instead to share with them the commercial, publicity and other benefits, they might have previously enjoyed, perhaps the idea of holding a primary will be less attractive." And that, the senator suggests, might help restore "a blend of states holding preferential primaries and states using the caucus-convention system of electing (national party) convention delegates"—a blend Mondale says "is now seriously out of balance."

That balance is worth preserving. And Mondale is right in calling the caucus system, used in Minnesota, "one of the healthiest elements in our entire political process because it permits greater and more direct individual participation than any other system." The caucus system lets people take part in the political decision-making process from its beginning instead of making them wait to choose among alternatives others have selected for them.

But changing the primary system would not be enough, Mondale says, because it's only one of the four basic elements in the presidential nominating process. Others are party rules and procedures governing the selection of national convention delegates, the financing of presidential campaigns and the relationship between candidates and the news media. Efforts to solve problems in some elements, Mondale contends, have often resulted in new problems in others, and the nominating process now "desperately needs a comprehensive approach. . . ."

Mondale suggests a presidential commission, comprising "scholars, political figures and ordinary citizens" to take such a comprehensive look and report back after the 1976 election. "I can think of no more worthy or appropriate undertaking in our nation's 200th year as we celebrate the blessings of our democratic system than to begin a serious effort to improve one the most important elements of that system," he told the Senate. Nor can we. Mondale has performed an important public service by suggesting the effort and by providing, in his primary bill, a focus for part of the needed discussion.

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

THE PRIMARY PROBLEM

Senator Mondale of Minnesota has joined the ranks of thoughtful politicians who are bent on modifying that once highly touted reform, the Presidential primary. The nominating process has come a long distance since such progressive states as Oregon and Wisconsin offered the direct primary as the way to freedom from party bosses. That purpose was sometimes well served; but, as with so many cures, the side effects have proved harmful in their own right.

Senator Mondale, convinced that the system now "verges on anarchy," would drastically alter it with a bill to create six regional primaries instead. The idea is not new. Senator Packwood of Oregon and Representative Udall of Arizona have been nursing similar legislation, while Senator Mansfield of Montana and others favor a nationwide primary held on a single day.

Like the original concept itself, these variations pose difficulties. In particular, a national primary might, if a party had many

candidates in the field, required a run-off, exposing the aspirants, not to mention the voters, to three nationwide elections, at a staggering expenditure of money and energy.

Yet even that drawback might be preferable to the present hodgepodge, in which 30 states offer 30 different sets of rules and opportunities, allowing a candidate to shop for political terrain that favors him while ignoring states where he might lose. Throughout the process as it stands now, the emphasis is on a trumped-up "psychology." The objective is to create a snowball effect by snatching early victories—or even making showings that can be blown up as victories—in a few unrepresentative states that catch all the attention of the media because they are the first to be heard from.

A regional system, with five or six primary election days for the entire process, might not eliminate this snowball effect entirely. But where it developed, it would at least be based on something more valid than a minority turnout of a minority party of a tiny state like New Hampshire—or a free-for-all among nine or ten candidates in Florida, with none of them getting a really significant proportion of the vote.

It is premature to regard the Presidential primary as expendable, but good sense demands at the very least a drastic move toward uniform rule and a curtailment of what Senator Packwood has rightly described as "a Barnum and Bailey traveling sideshow" that leaves the candidates "tired and broke, and the public bored or bewildered and—far too often—disgusted."

REGIONAL DEVELOPMENT ACT AMENDMENTS OF 1975—H.R. 4073

Mr. MONTOYA. Mr. President, the Regional Development Act Amendments of 1975 are something of a landmark for regional economic development in the United States today. Essentially, this act extends some of the same authorities of the Appalachian Regional Development Act to the other regions of the Nation.

The conference report continues the programs of Appalachia for another 4 years as the administration proposed. Congress in this act also recognizes the successes and the great benefits these programs have achieved in the Appalachian communities and agrees to such an extension, together with important amendments that will improve present programs.

Many Members of the Senate have been aware that the other seven regional commissions, established largely on the Appalachian model, have not enjoyed the same kind of approval from the administration. It has said: "OK, if we must have these commissions, let us keep them modest in program authority and modestly funded."

Through the efforts of many Senators—not least of whom are Senators McCLELLAN and MANSFIELD—we bring this conference report to the floor for final approval that at least provides greater authority in both programs and funding to these regional action planning commissions on a sca'e of some comparability with Appalachia.

The Senate bill—the Regional Development Act of 1975—provided a 2-year extension of the Appalachian programs. It provided also a 2-year extension of the title V regional commissions in order to put them on the same cycle as the Appalachian Act.

For the first time, the commissions are given authority like those in the Appalachian Act in areas of health and vocational education. New authorities are also provided in energy and transportation. The authorization for the present fiscal year is raised from $150 million to $200 million, with $50 million for the transitional quarter, and then to $250 million for fiscal year 1977.

Most people know that the gap between authorization and appropriations—close to 4 to 1—for the title V Commissions has been one of the best jokes in Washington. This year we were able—through the initiatives of Senators McCLELLAN, PASTORE and others—to raise that ratio to about 5 to 2.

Those of us who have championed the upgrading of these Commissions can take some pride in this bill. But we did not get everything we sought. We wanted the seven Commissions on the same authority cycle as the Appalachian Regional Commission. In the Senate bill, all Commissions were on the same cycle. The earlier passed House bill was simply an extension of the Appalachian programs for 4 years. The House conferees were unwilling at first to accept our title V amendments to the Appalachian extension bill. Finally and reluctantly, after much effort by many in both Houses, the House conferees accepted all of the Senate version. But it was only a 2-year extension of the title V Commissions. The Senate conferees agreed to a 4-year extension of Appalachia.

I wish to emphasize that we have not yet achieved our goal of having all the regional development programs on the same cycle. Conferees from the House Public Works Committee agreed that they would support a further 2-year extension of the Commission when legislation to extend the Public Works and Economic Development Act comes before us early in 1977.

As chairman of the Economic Development Subcommittee, I wish to assure my colleagues that I will work energetically to extend the title V Commissions to 1979, the same as the Appalachian Commission programs.

The title V Commissions are not yet comparable institutions to the Appalachian Regional Commission. But we have made a start. At the same time, there is interest in extending the regional economic development programs to other parts of the Nation, including a Commission for Puerto Rico and the Virgin Islands, and possible single State Commissions for Texas and California.

One thing is certain in my mind. The idea of regional development and regional planning is more viable than ever. We do in fact have regional economies in this country. As we debate and discuss the need to set national priorities and goals, we will begin to appreciate the regional building blocks that make up this huge country. These Regional Commissions are going to be the precursors of that process which I suspect we will grudgingly accept as a national necessity one of these years.

Let me say a word directly to the Federal and State officials of these title V Commissions. In offering these amendments to your programs, we are mindful that a change in emphasis is being given for development planning and programing. When we passed the Public Works and Economic Development Act in 1965, we in the Congress responded to conditions of economic lag that characterized most of the regions. Today, those conditions are considerably different. Many of the regions now confront the dual problems of managing and facilitating growth in some parts, while trying to stimulate and enhance it in others. Also, the urban areas of the regions, as well as the previously emphasized rural ones, in many cases now present equally compelling development problems in their own right.

The amendments offered by this legislation broaden the program capacity of the Commissions, particularly in the areas of energy and transportation. They improve the capability of each Commission to deal with the many aspects of development. But they do not, nor were they intended to, move the Commissions from their basic economic development missions.

Mr. President, this legislation passed the Senate last summer by an overwhelming vote of 92 to 1. I hope we can repeat that message to the administration in accepting this conference report.

Finally, I wish to express my thanks to the chairman of the committee, Senator RANDOLPH, and the ranking member on the other side, Senator BAKER. They are two Senators who are in great measure responsible for the successes of the Appalachian programs. But I wish also to acknowledge their openmindedness and statesmanship in accepting and supporting the title V amendments to the Appalachian legislation. They did this at the risk of considerable disfavor from their own constituencies and the other Appalachian States.

SOCIAL SECURITY UNIFORM REVIEW PROCEDURES

Mr. LONG. Mr. President, I move that the Senate proceed to consider H.R. 10727.

The PRESIDING OFFICER. The Chair lays before the Senate H.R. 10727, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was greed to, and the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment on page 4, beginning with line 6, strike out:

SEC. 5. The amendments made by the first two sections of this Act, and the provisions of section 3, shall take effect on the date of the enactment of this Act. The amendment made by section 4 of this Act (and the amendment made by the first section of this Act to the extent that it changes the period within which hearings must be requested) shall apply with respect to any decision or

determination of which notice is received by the individual requesting the hearing involved on or after the date of the enactment of this Act.

And insert in lieu thereof:

SEC. 5. The amendments made by the first two sections of this Act, and the provisions of section 3, shall take effect on the date of the enactment of this Act. The amendment made by section 4 of this Act shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, after February 29, 1976. The amendment made by the first section of this Act, to the extent that it changes the period within which hearings must be requested, shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, on or after the date of the enactment of this Act.

SEC. 6. (a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of West Virginia heretofore entered into pursuant to such section 218 may, at any time prior to 1977, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions covered by a retirement system on the date of the enactment of this Act by individuals as employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions by individuals as employees of such municipal corporation, the sums prescribed pursuant to subsection (e)(1) of such section 218. For purposes of this subsection, a retirement system which covers positions of policemen or firemen, or both, and other positions, shall, if the State of West Virginia so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act, any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

(1) all services performed by such individual, in any policeman's or fireman's position to which the modification relates, on or after the date of the enactment of this Act; and

(2) all services performed by such individual in such a position before such date of enactment with respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of the Treasury the amount of such refund within ninety days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare.

SEC. 7. Notwithstanding any other provision of law, no regulations and no modification of any regulation, promulgated by the Secretary of Health, Education, and Welfare, after the date of enactment of this Act, shall become effective prior to the end of the eighteen-month period which begins with the first day of the first calendar month which begins after the date on which such regulation or modification of a regulation is published in the Federal Register, if and insofar as such regulation or modification of a regulation pertains, directly or indirectly, to the frequency or due dates for payments and reports required under section 218(e) of the Social Security Act.

SEC. 8. (a) This section may be cited as the "Combined Old-Aged, Survivors, and Disability Insurance-Income Tax Reporting Amendments of 1975".

(b) Title II of the Social Security Act is amended by adding after section 231 the following section:

"PROCESSING OF TAX DATA

"SEC. 232. The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954, to the Secretary for the purposes of this title and title XI. The Secretary and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Secretary of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954. Notwithstanding the provisions of section 6103(a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall make available to the Secretary such documents as may be agreed upon as being necessary for purposes of such processing. The Secretary shall process any withholding tax statements or other documents made available to him by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Secretary and the Secretary of the Treasury.".

(c) Section 232 of the Social Security Act, as added by subsection (b) of this section, shall be effective with respect to statements reporting income received after 1976.

(d)(1) Section 201(g)(1) of such Act is amended to read as follows:

"(g)(1)(A) The Managing Trustee of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII) is directed to pay from the Trust Funds into the Treasury—

"(i) the amounts estimated by him and the Secretary of Health, Education, and Welfare which will be expended, out of moneys appropriated from the general fund in the Treasury, during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954, less

"(ii) the amounts estimated (pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection) by the Secretary of Health, Education, and Welfare which will be expended, out of moneys made available for expenditures from the Trust Funds, during such three-month period to cover the cost of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i).

Such payments shall be carried into the Treasury as the net amount of repayments due the general fund account for reimbursement of expenses incurred in connection with the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. A final accounting of such payments for any fiscal year shall be made at the earliest practicable date after the close thereof. There are hereby authorized to be made available for expenditures, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i) of the first sentence of this subparagraph.

"(B) After the close of each fiscal year the Secretary of Health, Education, and Welfare shall determine the portion of the costs, incurred during such fiscal year, of administration of this title, title XVI, and title XVIII and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clauses (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury and the portion of such costs which should have been borne by each of the Trust Funds; except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection. After such determination has been made, the Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury, in order to insure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year for the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.".

(2) Subsection (g) of such section is further amended by adding at the end thereof the following new paragraph:

"(4) The Board of Trustees shall prescribe before January 1, 1981, the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds deem such action advisable they may modify the method so determined.".

(e) Any persons the Board of Trustees finds necessary to employ to assist it in performing its functions under section 201(g)(4) of the Social Security Act may be appointed without regard to the civil service or classification laws, shall be compensated, while so employed at rates fixed by the Board of Trustees, but not exceeding $100 per day, and, while away from their homes or regular places of business, they may be allowed traveling expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

(f) The Secretary shall not make any estimates pursuant to section 201(g)(1)(A)(ii) of the Social Security Act before the Board of Trustees prescribes the method of determining costs as provided in section 201(g)(4) of such Act. The determinations pursuant to section 201(g)(1)(B) of the Social Security Act with respect to the carrying out of the functions of the Department of Health, Education, and Welfare specified in section 232 of such Act, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of section 201(g)(1)(A) of the Social Security Act), during fiscal years ending before the Board of Trustees prescribes the method of making such determinations, shall be made after the Board of Trustees has prescribed such method. The Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts that should be transferred from the general fund in the Treasury to the Trust Funds (as referred to in section 201(g)(1)(A) of the Social Security Act) to insure that the general fund in the Treasury bears its proper share of the costs of carrying out such functions in such fiscal years. The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.

(g) Section 6103 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(g) DISCLOSURE OF INFORMATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE.—The Secretary or his delegate is authorized to make available to the Secretary of Health, Education, and Welfare information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F for the purposes of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective information return processing program.".

(h)(1) Section 230(b)(2) of the Social Security Act is amended to read as follows:

"(2) the ration of (A) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subsection (a) with respect to such particular calendar year was made to (B) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a),".

(2) Section 230(b) of such Act is further amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the average of the wages for the calendar year 1977 (or any prior calendar year) shall, in the case of determinations made under subsection (a) prior to December 31, 1978, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year."

(i)(1) Section 203(f)(8)(B)(ii) of the Social Security Act is amended—

(A) in clause (I) thereof, by striking out "taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year", and inserting in lieu thereof "wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year", and

(B) in clause (II) thereof, by striking out "taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973, or, if later, the first calendar quarter of the most recent calendar year", and inserting in lieu thereof "wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973, or, if later, the calendar year preceding the most recent calendar year".

(2) Section 203(f)(8)(B)(ii) of such Act is further amended by adding at the end thereof the following new sentence: "For purposes of this clause (ii), the average of the wages for the calendar year 1977 (or any prior calendar year) shall, in the case of determinations made under subparagraph (A) prior to December 31, 1978, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.".

(j) Section 224(f)(2) of the Social Security Act is amended, in the first sentence thereof, by—

(1) inserting "before the calendar year" immediately after "calendar year", and

(2) inserting "before the calendar year" immediately after "taxable year".

(k) Notwithstanding the provisions of section 218(i) of the Social Security Act, nothing contained in the amendments made by the preceding provisions of this section shall be construed to authorize or require the Secretary, in promulgating regulations or amendments thereto under such section 218(1), substantially to modify the procedures, as in effect on December 1, 1975, for the reporting by States to the Secretary of the wages of individuals covered by social security pursuant to Federal-State agreements entered into pursuant to section 218 of the Social Security Act.

Mr. LONG. Mr. President, the bill H.R. 10727, as passed by the House of Representatives, would make certain changes in the hearings and appeals provisions of the social security and supplemental security income programs in order to overcome a huge backlog in processing hearings cases which has developed within the Social Security Administration. The changes would make the provisions relating to appeals under the two programs virtually identical. It would also authorize individuals who have been hired to conduct hearings under the SSI program to serve as temporary administrative law judges between now and the end of 1978 with authority to hear social security cases. The Committee on Finance recommends the acceptance of the provisions as passed by the House with one modification. A provision reducing the time within which a social security appeal may be filed would be effective March 1, 1976, rather than immediately.

The committee also proposes three other amendments to the House bill. One of these amendments would make possible the elimination of quarterly reporting of social security wages by the Nation's employers and the substitution of a single annual report. The change would not in any way affect the liability for social security taxes or the times for paying such taxes. Another amendment would prohibit the Department of Health, Education, and Welfare from instituting any change in requirements on State and local governments for the deposit of social security contributions with respect to their employees without giving at least 18 months' notice. The final committee amendment would allow the State of West Virginia additional time—until 1977—to make certain retroactive changes in its social security coverage agreements. This would rectify a situation in which some policemen and firemen in that State paid social security taxes in the mistaken belief that they were covered under the program.

Mr. President, I ask unanimous consent that a more detailed summary of the provisions of H.R. 10727 be printed in the RECORD at this point.

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

SUMMARY OF H.R. 10727

The bill as passed by the House of Representatives made certain modifications in the provisions of the Social Security Act dealing with the appeals process under programs administered by the Social Security Administration. The committee modified the effective date of one of the provisions in the House bill and added to the bill a number of amendments as described below.

SOCIAL SECURITY HEARINGS AND APPEALS

The programs administered by the Social Security Administration presently have a huge backlog of some 103,000 cases awaiting a hearing. The committee bill would attempt to alleviate this problem by making certain changes in the social security hearings and appeals processes. The bill would make the provisions of law governing hearings and judicial review under the supplemental security income (SSI) program virtually identical to those of the social security cash benefit and medicare programs. It would permit the Social Security Administration to use existing SSI hearing examiners to also hear social security and medicare cases between now and the end of 1978. In addition, the bill would change the time in which a person could request a hearing after a claim had been disallowed. For both social security cases and SSI cases, the time would be 60 days—an increase from 30 days for SSI claims and a decrease from 6 months for social security claims. The bill as passed by the House and as approved by the committee is effective on enactment except that the effective date of the reduction in the time for filing a request for hearings in social security cases would be March 1, 1976.

POLICEMEN AND FIREMEN IN WEST VIRGINIA

The Social Security Amendments of 1972 included a provision which allowed the State of West Virginia to modify its social security coverage agreements so as to provide social security protection to certain policemen and firemen who had erroneously paid social security taxes in the belief that they were covered. Under the 1972 amendments, the State of West Virginia had to amend its agreement with the Social Security Administration before 1974. The State, however, has not made the necessary amendment in its agreement, and the committee bill provides an extension through 1977 of the time in which the agreement may be changed.

DEPOSIT OF SOCIAL SECURITY CONTRIBUTIONS BY STATE AND LOCAL GOVERNMENTS

Under the committee bill, the Secretary of Health, Education, and Welfare would be required to give notice at least 18 months in advance of any changes he proposes to

make in the way in which social security contributions are paid by State and local governments. This would assure that States would be given ample leadtime to implement any changes and would also give Congress an opportunity to review any changes which the Secretary might propose.

ANNUAL REPORTING OF SOCIAL SECURITY WAGES

The committee bill includes a provision which is designed to reduce the tax reporting burden of the nation's employers. Under the provision, the Secretaries of the Treasury and of Health, Education, and Welfare would be given the authority needed to exchange information so that social security reports of individual earnings could be made once each year rather than once each quarter.

The provision would not affect the responsibility of employers for collection and payment of social security taxes nor would it change the requirements as to when these payments are due. It would not have any effect on the way in which State and local Governments pay or report social security contributions to the Social Security Administration. Payments by both private employers and State and local Government units would continue to be made in the same way that they are made under existing law.

Mr. FANNIN. Mr. President, I join with our chairman in recommending favorable action on this bill by the Senate.

The principal purpose of this legislation is to alleviate the backlog of cases awaiting hearing under the various programs administered by the Social Security Administration. In a letter to Chairman LONG dated December 9, 1975, HEW Secretary Mathews stated that this backlog of cases awaiting hearing is one of the most critical problems of the Social Security Administration and that the Department supports the bill as passed by the House.

The committee's report adequately explains the changes made by the bill, but there is one change to which I want to make specific reference. The bill reduces the time from which a medicare or social security appeal can be taken from 6 months to 60 days. The committee agreed that this change was proper, but delayed its effective date to March 1, 1976, so that the Social Security Administration could advise all applicants of this change. I want to emphasize that the committee expects the Social Security Administration to take all necessary steps to assure that applicants are informed of this change. It should not simply let the notice of this change be buried in the fine print.

There are three committee amendments to the bill. One of these, offered by the distinguished Senator from Tennessee, is designed to reduce the tax reporting burdens of the Nation's employers with respect to collection and payment of social security taxes. One of the problems of big government is that we are increasingly buried in an avalanche of regulations and reports. Under present law, an employer must in effect submit five reports per year with respect to each employee covered by social security. This amendment would provide a way to reduce this to one report a year and I commend Senator BROCK for offering it.

I understand that the administration has been preparing a somewhat different legislative proposal designed to accomplish the same result and that it has some difficulty with the committee amendment. Senator BROCK has conferred with the administration and, if there are improvements that can be made, this can be done at an appropriate time.

The other two committee amendments extend the time for the State of West Virginia to make certain changes in its laws to permit social security coverage for certain policemen and firemen and provide for an 18-month advance notice requirement for HEW regulations affecting social security collections by State and local governments.

This legislation was ordered reported without objection by the committee and I urge its adoption in the Senate.

Mr. President, I ask unanimous consent that a letter from the Secretary of Health, Education, and Welfare to the Republican leader (Mr. HUGH SCOTT) with attachments thereto be printed in the RECORD.

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

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
December 16, 1975.

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

DEAR SENATOR SCOTT: This is to bring to your attention the Department's views with regard to H.R. 10727, a bill ordered reported by the Senate Finance Committee on December 10, 1975, and which may be scheduled for Senate floor action in the near future.

The Department supports this bill as it was passed by the House of Representatives, for reasons set forth in my letter of December 9 to Chairman Long (see the enclosure at Tab A). As passed by the House, the bill would permit, for a period of three years, the Social Security Administration's (SSA's) black lung Administrative Law Judges (ALJ's) and Supplemental Security Income (SSI) hearing examiners to hear cases under all titles of the Social Security Act. Limiting the black lung ALJ's and hearing examiners to hearing cases under the Federal Coal Mine Health and Safety Act and title XVI of the Social Security Act, respectively, has been a primary cause of the dramatic growth, in the number of pending requests for hearing in the past few years. We believe that enactment of H.R. 10727 will improve our ability to deal with this backlog on a timely basis.

The request for hearing backlog, which reached a high of 113,225 cases in April 1975, has now been reduced (as of December 6) to 100,163. We anticipate that enactment of H.R. 10727 will enable SSA within one year to reduce the backlog further, so that a claimant's average waiting time for a hearing will not exceed ninety days. Without this bill, we anticipate that such a reduction will require two years.

In addition, we have no objection to two of the four amendments added to the bill by the Finance Committee. (For a summary of each of these amendments, see the enclosure at Tab B.) We do believe unnecessary another Committee amendment, which would require that the States be given at least 1½ years advance notice before regulations could become effective to require more frequent deposits of withheld social security contributions. The Department has already indicated to the States its intention to provide substantial leadtime along the lines proposed by this amendment.

We are opposed, however, to the amendment added by the Committee which provides for the annual reporting of wages for social security income tax purposes. We also do not believe that a statutory restriction on the timing of social security deposits is necessary. This amendment is intended to reduce the number of reports employers must submit to Federal agencies. While we applaud this goal, the approach taken by the Finance Committee would only minimally reduce the paperwork burdens of employers and would seriously strain the administrative capacity of the Social Security Administration. In a report on annual wage reporting submitted to the House Ways and Means and Senate Finance Committees by this Department and the Treasury Department on December 31, 1974, both Departments recommended an alternative approach to annual reporting under which employers would not be required to furnish a quarterly breakdown of wages paid during the year and the States would also be required to report covered wages on an annual basis. Our recommendation has great potential for reducing the Federal paperwork burden on employers, for improving compliance with the income tax laws, and for bringing about a net savings in Federal Government administrative costs. These benefits to employers and Government alike would be substantially reduced under the approach proposed by the Finance Committee. Also, the Finance Committee approach would increase SSA's administrative costs by $20.2 million in the first year as compared to a $8.6 million increase under our recommended approach. (For a more detailed comparison of our recommendation with the Finance Committee's proposal, see the enclosure at Tab C.)

Since the submittal of our report on annual reporting, the Departments of the Treasury and Health, Education, and Welfare have been drafting legislation to implement our recommendation. Because our recommended approach would involve some very complex changes in the social security program, including changes in the provisions for granting quarters of coverage, drafting this legislation has of necessity been a time-consuming task. However, it is for the most part completed, and the draft bill is now being coordinated with other Federal agencies whose programs would be affected by the program. Because of the great advantages to employers and Government alike of our recommended approach, we urge you and your colleagues to defer action on the Finance Committee's proposal until our work on the draft bill has been completed.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report.

Sincerely,

DAVID MATHEWS,
Secretary.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
December 9, 1975.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is to inform you of the Department's views with regard to H.R. 10727, a bill unanimously passed by the House of Representatives on December 1, 1975, which is now pending before the Senate Finance Committee.

The bill addresses one of the most critical problems of the Social Security Administration (SSA)—the large backlog of cases awaiting hearings. This backlog has created inordinate delays in processing requests for hearings, with consequent hardships imposed on individual beneficiaries. Because H.R. 10727 would remove a number of obstacles to more timely disposition of hearing requests, the Department supports its enactment.

One of the obstacles that would be re-

moved by H.R. 10727 is the present distinction between SSA's Administrative Law Judges (ALJ's) and Supplemental Security Income (SSI) hearing examiners. The hearings officers of the former class meet qualifications set forth under the Administrative Procedure Act and can hear cases under the Old-Age, Survivors, and Disability Insurance (OASDI) program, the Hospital Insurance (Medicare) program, and the Supplemental Security Income program. The SSI hearing examiners, appointed by the Secretary under special authority granted in title XVI of the Social Security Act, can only hear SSI cases. Our inability to utilize these hearing examiners to conduct other types of hearings, especially OASDI hearings, has resulted in an inefficient and costly use of manpower and thus is one of the primary causes for the large number of pending requests for hearings.

(As of November 8, 1975, approximately 103,000 hearings were pending.) H.R. 10727 would temporarily eliminate this distinction among hearings officers by authorizing the present SSI hearing examiners, through December 31, 1978, to hear OASDI and Medicare cases as well as SSI cases. The bill would thus give the Department the necessary temporary authority to utilize one corps of hearings officers to deal quickly and directly with the hearings backlog. It would also make the Administrative Procedure Act applicable to SSI cases in the same way that it is now applicable to OASDI and Medicare cases, thereby providing for consistent treatment under all three programs. In this regard, we note that the report of the Ways and Means Committee on the bill, Report No. 94–679, makes clear that grade GS–14 would be an appropriate classification for those holding authority provided for by the bill, rather than GS–15. The necessity of using these temporary ALJ's to deal with the current hearings backlog will obviate our training them to handle the more complex issues that arise in provider hearings under title XVIII. In consequence, it will not be practicable to use these ALJ's for these more demanding title XVIII cases. Also, we are further considering whether it is appropriate to authorize use of temporary hearing examiners in any title XVIII case as proposed in the bill. We therefore agree that a GS–14 grade would be appropriate.

H.R. 10727 would also reduce the time limit for the filing of a request for a hearing of denied OASDI and most Medicare claims from six months to sixty days, and it would increase the time limit for SSI cases from thirty to sixty days. This change would provide equal treatment for claimants under all three programs. Also, the shorter time limit for requesting a hearing would serve to reduce the degree of change that can occur in the medical condition of a claimant for disability benefits between his previous denial and the date of his hearing; this could reduce, in many cases, the need to develop new medical evidence of disability. This medical development can be quite time-consuming and can therefore be a major contributing factor to the delay in the processing of hearing requests and disability claims, which comprise a major portion of the hearings backlog.

The changes made under H.R. 10727 would have a very beneficial impact on the Social Security hearings backlog. With them, the Social Security Administration expects to be able to reduce the backlog to manageable proportions within one year, at which time the median processing time for hearings would be reduced to ninety days. (Without H.R. 10727, it would take SSA two years to reduce the backlog.) The bill would entail no additional benefit payment costs, and could cause administrative savings as great as $16.3 million in fiscal years 1977 through 1981. Although we are reviewing the need for temporary ALJ's to participate in title XVIII hearings, we urge you and your colleagues to support speedy passage by the Senate of H.R. 10727 in its present form.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DAVID MATHEWS,
Secretary.

SENATE FINANCE COMMITTEE AMENDMENTS TO H.R. 10727 TO WHICH THE ADMINISTRATION DOES NOT OBJECT

1. Change in Effective Date of Change in Time Limit for Requesting Hearings in OASDI and SSI Claims.

Section 4 of H.R. 10727, as passed by the House, would shorten the time limit for requestioning a hearing for claims under the Old-Age, Survivors, Disability, and Health Insurance (OASDHI) programs from six months to sixty days. Section 4 would also change the time limit for requesting hearings on Supplemental Security Income (SSI) claims from thirty days to sixty days. The Finance Committee amendment would modify the effective date of this provision so that it would be applicable to hearings requests made as a result of notices of adverse decisions received on or after March 1, 1976. Under the House-passed bill, the revised time limits would be applicable to requests for hearings made as a result of notices of adverse decisions received on or after enactment of the bill.

2. Modification of Coverage Agreement with West Virginia to Provide Coverage for Certain Policemen and Firemen

Under this amendment the State of West Virginia would be able to modify its coverage agreement at any time prior to 1977 to provide retroactive and prospective coverage for services performed in certain policemen's or firemen's positions covered by a retirement system, if the State has at any time prior to the date of enactment paid to the Secretary of the Treasury social security contributions with respect to the retroactive services.

A similar provision was included in H.R. 1, the Social Security Amendments of 1972. That provision permitted the State to modify its agreement at any time prior to 1974; however, the State did not modify its agreement before expiration of the time limit.

COMPARISON OF ANNUAL WAGE REPORTING SYSTEM PROPOSED BY THE SENATE FINANCE COMMITTEE WITH THAT RECOMMENDED BY THE DEPARTMENTS OF TREASURY AND HEALTH, EDUCATION, AND WELFARE

There are two major areas of difference between these two approaches to annual wage reporting. These differences are described in the following discussion.

1. Annual Reporting of Annual Wages vs. Annual Reporting of Quarterly Wages

Under present law employers must file with the Internal Revenue Service (IRS) quarterly tax returns containing wage and tax liability information on wages paid during the quarter. Part of this information is transmitted by IRS to the Social Security Administration (SSA), where it is used to update each employee's social security earnings record. Quarterly wage information is essential to the determination of an individual's eligibility for and the amount of his social security benefits.

In a report submitted to the Congress on December 31, 1974, the Secretaries of Health, Education, and Welfare and the Treasury recommended a change to a system of annual reporting without a quarterly breakdown of wages. Under this proposal, necessary legislative changes in the Social Security Act would be made so that there would no longer be a need for employers to record or report quarterly wages paid to employees. Employers would report annually the total amounts paid to employees during the year.

Under the Finance Committee proposal employers would still be required to maintain quarterly records of wages paid to employees, which they would submit at the end of each year with their annual report. (These quarterly wage records would be necessary because under the Committee's proposal social security coverage determinations, determinations of eligibility for social security benefits, and certain other provisions of the Social Security Act would still be based on quarterly earnings.) Thus, while the number of employer reports would be reduced, employers would still have to keep a record of quarterly wages paid to each employee. The relief to employers under this system would, therefore, be minimal. Moreover, the administrative impact of this system on SSA would be tremendous. Annual reporting would cause administrative problems for SSA because all wage information would have to be processed at the beginning of the year rather than spread out over the four quarters of the year as under the present system. In addition, annual reporting of quarterly wages would require SSA to process more than twice as many wage items than if no quarterly breakdown were required. (The HEW-Treasury proposal would cause an increase in SSA's administrative costs of $8.6 million in the first year, while the increase in SSA's administrative costs resulting from requiring a quarterly breakdown of wages would be $20.2 million.)

2. Treatment of State and Local Governments

Under the HEW-Treasury recommendation, the States, as well as private employers, would be included in a change to annual reporting. The Finance Committee's proposal would allow the States to continue reporting under the present quarterly system. This special treatment of the States, which have about nine million employees covered under social security, would seriously aggravate SSA's administrative problems and increase SSA's administrative costs by $3.5 million under an annual reporting system. Since the great majority of State and local employees work for fairly large public employers who have sophisticated accounting and reporting techniques and who are used to keeping extensive business records, the States should report on an annual basis like private employers. Therefore, we recommend strongly that State and local governments be included in any proposal to change to annual reporting of wages for social security and income tax purposes.

Mr. LONG. Mr. President, I ask unanimous consent that the committee amendment be regarded as original text and that it appear in the RECORD before we accept the Gravel amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The RECORD will so show.

Mr. GRAVEL. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill add the following new section:

"SEC. —. Section 1612 (b) (2) of the Social Security Act (as enacted by section 301 of

the Social Security Amendments of 1972) is amended (1) by inserting (A) immediately after (2), and (2) by adding at the end thereof the following new paragraph:

'(B) Monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual.' "

Mr. GRAVEL. Mr. President, this amendment was part of a bill that was accepted by the committee, passed by the Senate, and sent to the House of Representatives. That bill was not acted upon by the House of Representatives, so obviously this amendment fails.

This amendment was brought up again in committee and was accepted unanimously by the committee.

What the amendment would do is this: In Alaska about 4 or 5 years ago, the Alaska State Legislature passed a law establishing a longevity bonus. Most of the old people in Alaska when they reached the age of 65 or passed retirement would leave Alaska because they could not afford to stay there because it is so much more expensive to live in Alaska than elsewhere. So they would migrate out of Alaska after living their whole lives or essentially 25 or 30 years there.

The legislature, in an effort to cause these people to stay in Alaska to give them an incentive to stay in Alaska passed a law where each citizen who was a pioneer, over 65 years of age, will receive $100 per month which means we give the people in Alaska $1,200 a year each if they qualify. There are 7,500 Alaskans who receive this money paid for out of the State treasury of Alaska.

HEW granted Alaska a waiver so that for the computation of SSI and Old Age Assistance this money paid for by the State of Alaska to these Alaskan citizens would not be considered income for that computation, if this waiver were granted until the end of this year, and then they renewed the waiver until June, but they told the State administration of Alaska that, if this were not enacted into law, they would no longer give us any waivers. This does not mean a loss of one dime to the Federal Treasury.

It is something the Senate has acted on in the past, the committee has acted on unanimously, and I hope that we act on it also at this point in time.

Mr. DOLE. Mr. President, we are prepared to accept it on this side of the aisle.

Mr. LONG. This matter was discussed in the committee. After a very fine explanation that the Senator from Alaska made, it was unanimously agreed to. I do think the amendment is meritorious, and I know of no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1282

Mr. PELL. Mr. President, I call up my amendment No. 1282, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill, add the following new titles:

TITLE II—REPLACEMENT OF LOST, STOLEN, OR DELAYED CHECKS

SEC. 201. Section 205(q) of the Social Security Act is amended to read as follows:

"Expedited Benefit Payments

"(q)(1) Notwithstanding any other provision of law, the Secretary shall establish and put into effect procedures under which expedited payment of monthly benefits under this title will, subject to paragraph (4) of this subsection, be made in the manner prescribed in paragraphs (2) and (3), of this subsection.

"(2)(A) Not later than one day after the date an individual files (with the official and at the place prescribed under regulations of the Secretary) a completed application (described in subparagraphs (b)), the Secretary shall certify for payment and cause to be made to such individual the monthly insurance benefit payment, or so much thereof which has not been paid, alleged in such application to be due to such individual, unless information known to the Secretary indicates that a material allegation made in the application is untrue or for other reasons such individual is not entitled to such benefit payment, in which case, the Secretary shall apprise such individual of such information in writing.

"(B) The application referred to in subparagraph (A) shall contain:

"(i) the name, address, and social security number of the applicant.

"(ii)(a) an allegation that, one or more monthly benefit payments due and payable to the applicant have not been received by the applicant as of the date of the filing of the application, and are at least seventy-two hours overdue, together with the date that each such payment was due, or,

"(b) an allegation, concurred in by the Secretary, that one or more monthly benefit payments have been made and received in an amount less than that to which such individual is entitled, together with the date that each such payment was received.

"(iii) an allegation that the applicant is entitled to such benefit, and,

"(iv) such other data or information as the Secretary shall by regulations prescribe.

"(3) Any payment made pursuant to a certification under this subsection shall not be considered an incorrect payment for purposes of determining the liability of the certifying or disbursing officer.

"(4) For purposes of this subsection, benefits payable under section 228 and under title XVI shall be treated as monthly insurance benefits payable under this title.".

SEC. 202. Section 1631(d)(1) of the Social Security Act is amended by striking "and (f)" and inserting the following in lieu thereof: "(f) and (q)".

SEC. 203. The amendments made by sections 201 and 202 of this Act shall be effective in the case of applications filed and written requests filed, under section 205(q) of the Social Security Act, on and after the first day of the first calendar month which begins more than sixty days after the date of enactment of this Act.

TITLE III—EXPEDITING OF HEARINGS AND DETERMINATIONS

SEC. 301. Part A of title XI of the Social Security Act is amended by inserting, immediately after section 1123, the following new section:

"SEC. 1124. (a) In the administration of the programs established by titles II, XVI, and XVIII, the Secretary shall establish procedures designed to assure that—

"(1) Any duly requested hearing to which an individual is entitled thereunder will be held within a reasonable period of time after such hearing is so requested, if such hearing is requested with respect to a determination of the Secretary: (A) as to the entitlement of such individual to monthly insurance benefits under title II and title XVIII or the amount of any cash benefit; (B) which is described in section 1869(b)(1); and (C) as to the entitlement of such individual to benefits under title XVI or the amount of any such benefit.

"(2)(A) Not later than ninety days after any hearing (except a hearing described in subsection (2)(B) of this section) described in subsection (1) of this section is requested, the Secretary shall render a final determination on the issues which were the subject of such hearing, or if no final determination of the Secretary has been made at that time, the Secretary shall make payments of benefits to such individual in like manner as if a final determination has been made fully in favor of the individual.

"(B) Subsection 2(a) of this section shall be applicable to any hearing in which the matter in disagreement involves the existence of a disability (within the meaning of sections 423(d) and 1614(a)(3) of the Social Security Act) except that the applicable period of time shall be one hundred and ten days.

"(3) The time periods described in subsection (2) of this section shall be extended whenever and to the extent that such individual requests any extension of time or continuance, or fails to appear at the time of a hearing.

"(4) No payments to an individual shall be made under paragraph (2) for any period after a final determination of the Secretary has been made (after a hearing on the matter) denying the claim of such individual.

"(5) Any payments made pursuant to paragraph (2) shall not be considered to be an incorrect payment for purposes of determining the liability of the certifying or disbursing officer who made or authorizes such payment to be made.

"(6) Any payment made pursuant to paragraph (2) shall be nonrefundable and shall remain the property of the individual.".

TITLE IV—EXPEDITED PAYMENT OF BLACK LUNG BENEFITS; AND EXPEDITED HEARINGS AND DETERMINATIONS RESPECTING SUCH BENEFITS

SEC. 401. (a) Section 413(b) of the Federal Coal Mine Health and Safety Act of 1969 is amended by striking out "and (1)" and inserting in lieu thereof "(q), and (1)".

(1) The amendment made by subsection (a) shall be effective in the case of applications filed and written requests filed, under part B of title IV of the Federal Coal Mine Health and Safety Act of 1969, on and after the first day of the first calendar month which begins more than sixty days after the date of enactment of this Act.

SEC. 402. The Secretary of Health, Education, and Welfare, in the administration of part B of title IV of the Federal Coal Mine Health and Safety Act of 1969, shall, with respect to hearings and determinations on claims thereunder, establish procedures for the expediting of such hearings and determinations which are, to the maximum extent feasible, patterned after and consistent with the objectives of section 1124 of the Social Security Act.

TITLE V—LIMITATION OF BENEFIT REDUCTION TO COMPENSATE FOR BENEFIT OVERPAYMENT

SEC. 501. (a) The first sentence of section 204(a)(1) of the Social Security Act is

amended by inserting, immediately before the period at the end thereof, the following: "; except that the monthly insurance benefit to which any individual is entitled shall not be reduced by more than 25 per centum on account of any overpayment (or overpayments) in monthly insurance benefits previously made to such individual or any other individual".

(b) The amendment made by subsection (a) shall be applicable in the case of decreases made under section 204(a) of the Social Security Act from monthly insurance benefits payable for months after the month in which this Act is enacted.

Mr. PELL. What this amendment does is it provides a procedure whereby a recipient whose check arrives more than 3 days late can go to the local social security office, fill out an application, and get a replacement within a day.

It provides that hearings on disability appeals must be completed within 110 days after filing requests for hearing and that other hearings under Titles II, XVI, and XVII must be completed within 90 days.

It provides benefits for applicants black lung benefits, and it provides when there is an accidental overpayment no more than 25 percent of the recipient's due benefits be taken out of that particular check so he does not lose his complete month's payment because of no fault of his or her own.

These are four very simple amendments to bring a great deal of fairness and I think correctness to the administration of social security procedures. This is being cosponsored by 40 separate Senators, so it would seem to have merit.

I would think if it were put to a vote it would pass since it has such a large number of supporters.

I hope that the Senator from Louisiana, the chairman of the committee, would be willing to accept this amendment.

Mr. LONG. Mr. President, I regret that I cannot accommodate the Senator at this point.

Here is our problem. With regard to all of the matters that have been considered in the Committee on Finance at this late date in the session, any determined opposition would defeat any of the measures that we have reported—even though some of these proposals have passed the House of Representatives and have been unanimously recommended by the committee. We are compelled to proceed as though we were on a consent calendar, because where there is any objection, all one who feels strongly opposed to it need do is simply debate the matter for a while and the leadership would be compelled to set the bill aside, and the bill would not become law.

Furthermore, I do not know if we are going to be able to hold conferences on these bills.

If the House of Representatives is willing to go to conference, we will certainly try to do so, but we may simply have to act on the basis that if the House will not accept what we send them, the measure will simply fail to become law in this session of Congress.

We in the Committee on Finance have a problem that is not experienced by most of the committees. Under the Constitution, revenue bills must originate in the House of Representatives, and we have to wait until the House sends us a revenue bill in order to act. The House will often insist that we respect their right to initiate legislation and not take a simple tax bill and make it into a social security bill.

It can happen that this means we are precluded from acting in an area until late in the session. It was well on into the session before we received any social security bill at all to give us an opportunity to legislate in this area.

What I propose to the Senator is that this amendment be offered at a time when we are not proceeding on a unanimous-consent type basis, a time when his proposal can be debated and voted upon. I have no doubt that with some 40 cosponsors, the amendment very likely would be agreed to by the Senate and if so I would expect to support it in conference and do all I can to help it prevail, as a servant of the Senate, if I should be a member of the conference. But in view of the fact that the administration opposes the amendment, I have no doubt that one of those on the minority side would feel compelled to resist the amendment, as a loyal member of the President's party——

Mr. PELL. They might not. They might be cosponsors.

Mr. LONG [continuing]. And in due course, we would find that the bill simply could not pass.

Therefore, Mr. President, I hope that the Senator will be willing to withhold his amendment, with the understanding that we will bring out a social security bill sometime during the first half of next year, hopefully, one that the President would like to sign.

It might be a bill that would contain enough controversy that we would fully expect that the Senator would offer his amendment, and we would vote on that, together with other meritorious amendments that Senators have been thinking about for some time which have some opposition but which could muster a majority of the vote. If the Senator does that, I think his amendment could be considered thoughtfully by the Senate, and I am sure the Senate would give him a good, fair judgment on it.

In the meantime, I would hope that we could accord the Senator a hearing in the committee and present to the committee his views. We might be able to improve on his amendment. We would like to have a try at it prior to the time that matter is voted on in the Senate.

Mr. PELL. I thank the Senator from Louisiana for his thoughts.

As a matter of comity and friendship to the Senator, bearing in mind the exigencies of the Senate at this time, I will accept his advice. I appreciate his commitment that at some time in the next 6 months, when the social security bill comes up, I will be given an opportunity to call up this amendment and debate it.

Mr. President, I ask unanimous consent to withdraw my amendment at this time.

Mr. LONG. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment, and it is withdrawn.

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill insert the following:

That section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN IRRIGATION DAMS.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c)(4)(G) if—

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation puposes, and

"(2) the water so released is available on reasonable demand to members of the general public.".

SEC. 2. The amendments made by the first section of this Act shall apply to obligations issued after the date of the enactment of this Act.

Mr. McCLURE. Mr. President, briefly, this is a matter which is on the calendar and has been considered by the Committee on Finance. It is fully explained in Report No. 94–570, under Calendar No. 546. I think there is a consensus that it may be added to this bill.

I yield to my colleague from Idaho.

Mr. CHURCH. Mr. President, I join my colleague and say to the distinguished manager of the bill that we ask for this because of the great time urgency. If this bill is not passed in this session of Congress, we may lose a whole year in the replacement of a dam at American Falls that has already been declared unsafe. There is a great need to proceed as quickly as possible.

For that reason, I hope very much that the manager of the bill can accept the amendment.

Mr. LONG. Mr. President, I hope that the Senators will be willing to withhold this amendment long enough for us to see if this bill is going anywhere; because if the bill is not going anywhere, it serves no purpose to put the amendment on it.

If we are able to perfect the bill in such a fashion that we think that it is likely that the President will sign the bill and that it will not run into a snag in the House of Representatives—then if the Senate would be willing to permit me to put this amendment on the bill, in view of the fact that it has been approved by the committee and it has passed the House, I would be willing to agree to it.

I feel compelled to resist it at this point because the bill has not been perfected; and I am not sure that if we start taking amendments of a nongermane nature, we are going to move the bill at all.

Mr. CHURCH. I ask the manager of the bill this: If he can prevail, so that the bill is in an acceptable form, will he then add this amendment, in view of the fact that the House has approved it and the Senate committee has approved it and time is of the essence?

Mr. LONG. If we can keep the bill in such shape that we think it can be agreed to on a pro forma basis, I will be willing to agree to it. For the moment, I am not sure that we could keep it in that shape.

Mr. McCLURE. Mr. President, will the Senator from Idaho join me in withdrawing the amendment for the time being?

Mr. CHURCH. Yes.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BROOKE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . TAX CREDIT FOR HOME HEATING SYSTEM IMPROVEMENT EXPENDITURES.

(a) FINDINGS.—The Congress finds that—

(1) the heating of private homes accounts for a significant portion of our national energy consumption, and that substantial increases in the cost of oil, gas, and electricity have significantly and adversely affected million of American homes;

(2) at present, national energy sources are limited and the capacity of the national energy supply system to meet future demand is inadequate;

(3) it is in the national interest to conserve energy by improving the efficiency with which fossil fuels are used;

(4) significant energy savings for the Nation and the consumer may be achieved by the installation of commercially applicable energy-saving components, including insulation, and the application of advanced technologies; and

(5) it is an important national objective to encourage sound investment practices which improve the operating efficiency of existing residential heating systems.

(b) INSULATION AND OTHER ENERGY-CONSERVING ALTERATION OF PRINCIPAL RESIDENCE.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44A. INSULATION AND OTHER ENERGY-CONSERVING ALTERATION OF PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the qualified insulation and other energy-conserving expenditures paid by the taxpayer during the taxable year with respect to any residence to the extent that such expenditures do not exceed $500.

"(b) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to retirement income),

"(C) section 38 (relating to investment in certain depreciable property),

"(D) section 40 (relating to expenses of work incentive programs),

"(E) section 41 (relating to contributions to candidates for public office),

"(F) section 42 (relating to credit for personal exemptions), and

"(G) section 44 (relating to purchase of new principal residence).

"(2) VERIFICATION.—No credit shall be allowed under subsection (a) with respect to any qualified insulation or other energy-conserving expenditures unless such expenditures are verified in such manner as the Secretary or his delegate shall prescribe by regulations.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INSULATION AND OTHER ENERGY-CONSERVING EXPENDITURES.—The term 'qualified insulation and other energy-conserving expenditures' means any amount paid by an individual for any installation (other than pursuant to a reconstruction of the dwelling unit) which occurs after January 1, 1976, and before January 1, 1979, of insulation or other energy-conserving components in any dwelling unit which—

"(A) at the time of such installation is used by the individual as his principal residence; and

"(B) is in existence on January 1, 1976, and used on such date by one or more individuals as a residence.

Such term shall only include amounts paid for the original installation of any insulation or other energy-conserving components in a dwelling unit.

"(2) INSULATION.—The term 'insulation' means any insulation, storm (or thermal) window or door, or any other similar item—

"(A) which is specifically and primarily designed to reduce, when installed in or on a building, the heat loss or gain of such building,

"(B) the original use of which commences with the taxpayer,

"(C) which has a useful life to the taxpayer of at least 3 years, and

"(D) which meets such performance standards as the Secretary or his delegate may prescribe by regulations after consultation with the Administrator of the Federal Energy Administration and the Secretary of Housing and Urban Development.

"(3) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item, fixture, equipment, or material including, but not limited to, a heat exchanger, combustor, ducting, piping, and control which—

"(A) is capable of increasing thermal efficiency in a residential structure or improving the operating efficiency of a heating system already installed in such structure;

"(B) meets such performance standards as the Secretary or his delegate may prescribe by regulations after consultation with the Administrator of the Federal Energy Administration and the Secretary of Housing and Urban Development;

"(C) the original use of which commences with the taxpayer; and

"(D) has a useful life of at least 3 years.

"(4) HEATING SYSTEM.—The term 'heating system' means any item, fixture, equipment, or material which is designed, when installed in or on a building, to contribute to the heating of such building, to contribute to the heating of water for use within such building, or to control the automatic cycling of such hardware. Such term includes, but is not limited to, all necessary fittings and related installations.

"(d) SPECIAL RULES.—

"(1) JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and is used during any calendar year as a principal residence, by two or more individuals—

"(A) the amount of the credit allowable under subsection (a) (after applying subsection (b)(2)) with respect to any qualified insulation or other energy-conserving expenditures paid during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of subsection (b)(1)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount paid by such individual during such calendar year for such expenditures bears to the aggregate of the amounts paid by all of such individuals during such calendar year for such expenditures.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—The case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual—

"(A) shall be treated as owning the dwelling unit which he is entitled to occupy as such stockholder; and

"(B) shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any qualified insulation or other energy-conserving expenditures paid by such corporation.

"(e) REDUCTION OF BASIS.—The basis of any property shall not be increased by the amount of any qualified insulation or other energy-conserving expenditures made with respect to such property to the extent of the amount of any credit allowed under this section with respect to such expenditures.

"(f) TERMINATION.—This section shall not apply to any amount paid after December 31, 1978.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following new item:

"SEC. 44A. Insulation and other energy-conserving alteration of principal residence.".

(2) Section 56(a)(2) of such Code (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (vi), by striking out "; and" at the end of clause (vii) and inserting in lieu thereof ", and", and by inserting after clause (vii) the following new clause:

"(viii) section 44A (relating to insulation and other energy-conserving alteration of principal residence); and".

(3) Section 56(c)(1) of such Code (relating to tax carry-overs) is amended by striking out "and" at the end of subparagraph (F), by striking out "exceed" at the end of subparagraph (G) and inserting in lieu thereof "and", and by inserting after subparagraph (G) the following new subparagraph:

"(H) section 44A (relating to insulation and other energy-conserving alteration of principal residence), exceed".

(4) Subsection (a) of section 1016 of such Code (relating to adjustments to basis) is amended by striking out the period at the end of paragraph (22) and inserting in lieu thereof a semicolon and by inserting after paragraph (22) the following new paragraph:

"(23) to the extent provided in section 44A (d), in the case of property with respect to which a credit has been allowed under section 44A."

(5) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44" and inserting in lieu thereof "44, and 44A".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after January 1, 1976, in taxable years ending after such date.

Mr. BROOKE. Mr. President, the home heating systems improvement amendment which I and my colleagues Senators DOMENICI, MCINTYRE, RIBICOFF, PACKWOOD, JAVITS, KENNEDY, GARN, SYMINGTON and PELL are introducing today is an essential part of a national energy conservation program. Each year, the 35 million American homes which lack adequate insulation waste the equivalent of 130 million barrels of oil that could have been saved through proper retrofit of the building.

Each year, 2 million gas and oil fired home heating systems waste 9 million barrels of oil which could be saved if they were simply fitted with more efficient components.

We cannot keep missing the opportunity for fuel savings which could be realized by proper home heating conservation measures.

A large part of the problem, particularly in the market for heating system improvements, is that consumers are not aware of possible savings. Furthermore, the heating equipment industry needs to expand its procedures for evaluating and standardizing new conservation equipment. And homeowners need more education about the money-saving impact of home insulation and storm windows.

One efficient way to educate homeowners is through a temporary program of tax credits for such energy saving expenditures. This would be an appropriate use of the tax system, as few national goals are so important as a reduced reliance on oil imports.

The House of Representatives wisely passed a tax credit for home insulation as part of the Energy Conservation and Conversion Act of 1975 which it sent to the Senate last summer. In July, I testifield before the Senate Finance Committee on provisions of this Act, as well as on energy conserving measures of my own I hoped would be included.

But the committee has taken no action on this vital matter. Winter is upon us, and again, poorly insulated and inefficiently heated houses are billowing forth wasted heat into the cold air. I believe the Senate can wait no longer, so I have used the House language the Senate Finance Committee has already considered in this legislation.

I have made one amendment I feel is important which was not a part of the House bill. The tax credit in H.R. 6860 only applied to expenditures for insulation. But important fuel savings can also be realized by upgrading existing oil and gas furnaces and the pumps, ducts, and thermostats which control heat flow. Many well-insulated homes are still using 10 percent more fuel than they should for lack of new heating system components. I have added the words "other energy conserving alterations" to the list of those expenditures which may be counted for the tax credit. This means "any item fixture equipment or material" used as part of the existing heating system which meets conservation and quality standards established by the FEA Administrator. As the ceiling of 30 percent of $500, remains as the House passed it, this should not increase the demands on the Treasury above the House estimates of $260 million per calendar year.

This program is not the answer to all our residential energy conservation problems. Clearly we need loans, consumer education, and tough construction standards for energy conservation. More important, this bill treats residences owned by individuals who can respond to admittedly small tax incentives by investing in improvements. It is not a response to the high energy costs borne by tenants in multifamily buildings. Nor is it a solution to the truly dire needs of the poor who usually live in the least well insulated buildings.

Nevertheless, most residential energy is used and wasted by middle income families. This tax credit is an important and long overdue incentive to cut our residential fuel consumption.

The House Ways and Means Committee estimate of revenue loss to the Treasury is $260 million for each calendar year. This must be considered in light of the $539 million which will be saved each year both during and long after the 3-year life of this program. This figure is also a conservative estimate of the gains, since it is calculated by considering the 47,450,000 barrels of oil saved per year by the end of 1978 at the current world price of oil, which is likely to rise.

The addition of heating system retrofit as a qualifying expenditure under this program should not significantly increase the use of the tax credit. This is because most of the 35 million homes which need insulation also need their heating systems updated and will have to choose between one or the other kind of expenditure for the tax credit. Furthermore, as I pointed out earlier, we are talking about heating components for only an additional two million home heating systems, which is the number of those estimated to be able to achieve additional savings through retrofit. Even if all these users were added to the 35 million potential users of the tax credit foreseen by the House, that is only an addition of 5 percent or, at the outside, a $13 million revenue loss.

Finally, the impact on the fiscal year 1976 revenues about which the Senate Budget Committee is quite rightly concerned is minimal. Most of this revenue loss will be realized in spring of 1977, as there is no impact on tax withholding. Therefore, the fiscal year 1976 impact should be between $25 and $35 million of lost revenues expended to realize the important energy savings so vital to our national health and security.

Mr. LONG. Mr. President, this amendment is already included in the energy bill, as the Senator has so well stated. I do think, Mr. President, that we are going to be able to act on the energy bill some time in the early part of next year. In fact, we had undertaken to move with that energy bill until we found that there was so much controversy on the production question, over which our committee does not have jurisdiction, that we were compelled to simply wait and see if the controversy could be ironed out in order that we could know on what basis we were working when we proceeded with the energy bill in the Committee on Finance.

It is too late for us to act on our energy bill this year. We will have to work on it next year and do the best we can. I hope to support a measure of the sort the Senator is proposing.

At this point, Mr. President, we are not able to act on measures that are going to receive any substantial opposition or measures that are going to give us a problem from a budgetary standpoint. This amendment, meritorious as it is, does involve a substantial cost. Without the other revenue-raising provisions in the energy tax bill, to help defray the cost, this provision could be regarded as a budget-buster. We have already passed about as much tax reduction as we can afford within the budget to which we have committed ourselves under the budget resolution. That being the case, Mr. President, if the amendment is added to the bill, I should feel compelled to move to recommit the bill, because the basis upon which we are proceeding here is that we will only add those measures to it that are not subject to determined opposition by even a single Senator. At this point, I should feel that this matter is next year's business and it will have to be considered next year.

I assure the Senator that I shall join with him and he will have my help in trying to pass this amendment next year, perhaps subject to some modification as the Senate might in its wisdom see fit to agree to. I hope that the Senator would be willing to permit us to pass what we have in other respects, a bill that has no objection to any part of it, also one that involves only a modest amount of money. Actually, what we have here really involves a modest saving of money.

I hope the Senator will not press for this amendment on the bill and that he will be willing to join with us in seeking to enact this measure when we get back in here next year and report the energy bill. The energy bill has been the subject of hearings, and the committee has done a lot of work on it and, as I say, it has had to be laid aside because we had to wait to resolve this very severe controversy which yet awaits the decision of the President of the United States after the Senate finally voted on it today.

I ask the Senator this: Could he cooperate with us in that respect, to wait until next year to let us decide this matter? I know that he does not want to deny these Senators the right to have action on these relatively noncontroversial matters that, on the overall, actually amount to revenue savings.

Mr. BROOKE. Mr. President, as the Senator knows, this legislation was passed by the House. The Committee on Finance has had it for some time. I can appreciate the press of problems that the Committee on Finance has had to address.

Mr. LONG. As I recall, we had agreed

to this particular provision in the committee.

Mr. FANNIN. Will the Senator yield?

Mr. LONG. I believe that we in the committee, on the energy bill, actually went beyond what the Senator has and agreed not only to this but to go beyond this.

If we try to do now what we have in our energy bill, we will have to find a way to raise some money to pay for it within this year's budget. Otherwise, it will be subject to a point of order, as I understand the budget procedure.

We share the Senator's objective and we want to work with him to achieve that. Our problem is, we cannot do it now.

Mr. BROOKE. The only problem, as I pointed out to the Senator, Mr. President, is that this puts it over to another year, which means we shall lose another heating season, namely, the 1975–76 heating season.

Mr. LONG. Let us look at it this way: Everybody who is going to buy a more modern heating system or improve the efficiency of that which he has, will be doing it next year. Insofar as people have bought a more efficient heating unit already, they did it without the tax incentive being in place.

We fully expect to propose next year to do what the Senator has in mind here and if we do, I have no quarrel with a date that starts early in the year. Perhaps we can agree that when we act on it next year, the effective date ought to be January 1, 1976. The Senator could stand on the floor, if need be, and offer an amendment to insist that we do it that way, because he had sought to bring this matter to the consideration of the Senate this year.

Mr. President, I am confident that if we add this amendment, we are going to have problems with the budget resolution. Members of the budget committee may not be here at the moment, but I think the amendment will present problems in that respect.

In addition to that, I think that we would have a much larger package than we started out with. Senators who did not know we were going to be considering amendments of the sort that are in the energy bill, which are also of merit, are going to say, "Well, if you consider that one, I have some things I think ought to be brought to your attention in that regard." I think the result will be that we are just not going to pass any bills.

I want to help with what the Senator wants to do, but I want to help in a way that is going to be effective and not in a way that is not going to be effective.

Mr. BROOKE. I want to assure the distinguished chairman of the Committee on Finance that I have no intention of, in any way, trying to delay or defeat the social security bill. I think it is an important piece of legislation.

I am very pleased that the chairman of the Finance Committee feels that this is an important piece of legislation, and also feels further this is legislation that, if we cannot delay it for another year and deprive homeowners of this tax credit, which will be an overall boost to our overall energy program, that we ought to do so.

Now, there are many cosponsors of this legislation, and I hope to have a rollcall vote on this particular amendment. Putting it on the social security bill, of course, is not something that is sacrosanct.

I would be willing, in view of what the Senator has said, to withdraw this amendment from the social security bill and, perhaps, reserving the right tomorrow to add it to another vehicle if my cosponsors do want an up-and-down vote on this particular amendment at this time.

But I am very pleased to have the assurance of the distinguished chairman of the committee that we could move on this hopefully early in January when we come back, and his assurance—and I certainly accept that assurance—that he would do everything he can possibly do because he believes himself in the merits of this legislation because it is sorely needed, and I think it is good legislation.

Mr. LONG. Mr. President, I am glad the Senator brought the amendment up, because it warms my heart that there are Senators who feel as I do that there are good provisions in that energy tax bill that should be passed, and that we ought to be about it as soon as we can get to it.

I felt, and I still feel, that even before we take the tax reform bill up we ought to take up the energy tax bill and do the best we can to make it the best bill the Senate can agree upon and pass it, and reserve judgment on the tax reform issue until we pass the energy tax bill. I do not see any reason why we could not do that as the first order of business after we get back here in January.

Mr. BROOKE. With the Senator's assurance and with my stated reservation, Mr. President, I withdraw the amendment.

Mr. LONG. Mr. President, I appreciate the Senator's cooperation, and he can be assured of my cooperation.

Mr. CHURCH. Mr. President, would it be appropriate at this time to reintroduce the amendment of the Senators from Idaho?

The PRESIDING OFFICER. Is the Senator withdrawing his amendment?

Mr. BROOKE. Yes.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CHURCH. Mr. President, I ask unanimous consent that the amendment that heretofore was introduced by my colleague and myself relating to the American Falls Dam be offered at this time.

The PRESIDING OFFICER. Is the Senator calling it up a second time?

Mr. CHURCH. I am calling it up a second time on behalf of myself and my colleague.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill insert the following:

That section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN IRRIGATION DAMS.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c) (4) (G) if—

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

"(2) the water so released is available on reasonable demand to members of the general public.".

SEC. 2. The amendments made by the first section of this Act shall apply to obligations issued after the date of the enactment of this Act.

Mr. CHURCH. Mr. President, we have already reviewed the purpose of this amendment, and the distinguished manager of the bill agreed to consider it at an appropriate time, and I hope he would find it possible to accept the amendment.

Mr. LONG. Mr. President, if the Senate will permit me to accept the amendment, I would be willing to do so on condition that we show the same consideration to the Virgin Islands bill which has passed the House and which, so far as I have been able to determine, is subject to no objection whatsoever here in the Senate.

The reason both of these bills have not passed the Senate already has been that Senators wanted to offer amendments to them. If we do what the Senator is hoping to achieve here, we would simply take these unobjected-to measures which have passed the House already and add them to the social security bill. Then we would keep the House-passed bills on the calendar, and when we take them up, we would amend those bills to strike the House language to reflect the fact that it has already been enacted.

Mr. McCLURE. Mr. President, for myself that is perfectly satisfactory with me, and I would certainly cooperate with the chairman of the committee.

Mr. LONG. I offer as an amendment the text of the Virgin Islands bill, which is on the calendar.

The PRESIDING OFFICER. The clerk will report the amendment in the second degree.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment to the amendment.

At the appropriate place, insert the following new section:

SEC. . (a) Section 7652(b) (3) of the Internal Revenue Code of 1954 is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "Beginning with the calendar quarter ending September 30, 1975, and quarterly thereafter, the Secretary or his delegate shall determine the amount of all taxes imposed by, and collected during the quarter under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States.";

(2) by amending the first sentence of subparagraph (A) to read as follows: "There

shall be transferred and paid over, as soon as practicable after the close of the quarter, to the Government of the Virgin Islands from the amounts so determined a sum equal to the total amount of the revenue collected by the Government of the Virgin Islands during the quarter, as certified by the Government Comptroller of the Virgin Islands."; and

(3) by amending the sentence immediately following subparagraph (C) by striking out "at the beginning" and inserting in lieu thereof the following: "with respect to the four calendar quarters immediately preceding the beginning".

(b) The amendments made by paragraphs (1) and (2) of subsection (a) shall apply with respect to all taxes imposed by, and collected after June 30, 1975, under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States.

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

Mr. LONG. Yes.

Mr. PROXMIRE. First, on the Idaho amendment, the Church-McClure amendment, as I understand it, as it was explained to me by the distinguished Senator from Idaho, the senior Senator, this would permit a creature of the State of Idaho to issue obligations that would be tax-free in order to finance the construction of a dam; is that correct?

Mr. CHURCH. That is correct.

Mr. PROXMIRE. Well, now, I do not understand why this does not qualify under present law inasmuch as any obligation of a State or an instrumentality of a State is exempt from the Federal income taxes under present law. Why would this not qualify?

Mr. CHURCH. It is an irrigation—my colleague might respond.

Mr. McCLURE. Might I respond? The present law provides that historic water is provided for irrigation alone.

The question that becomes involved is because this is a rather complex mix of irrigation entities and a prior falling water right that is used for the production of power, and it is on that latter case that the Internal Revenue Service felt there might be, if they issued a ruling granting the exemption, an opening of the window wider than if there were a specific statutory exemption, so they determined after a period of time that the specific statutory exemption would serve their purposes better than trying to issue a ruling under the existing statute.

Mr. PROXMIRE. Is the Internal Revenue Service on record supporting this kind of legislative remedy? It seems to me there is no difference. If this would provide a precedent if there were a ruling, it would provide a precedent also by legislation. After all, why could not everybody else come in and say, "Idaho has blazed the trail and, therefore, we should be exempt."

Mr. McCLURE. I would say to the Senator we have letters from the administration stating they have no objection to the passage of this legislation, and that communication has been addressed to the committee both here and to the committee in the House.

Mr. CHURCH. I might add, if I may, the situation is really unique and has been so recognized. The dam that is there was a Federal dam. It has now been condemned. A large reservoir has had to be reduced fully one-third because of the public danger posed by the existing structure.

This proposal enables us to secure a replacement without having to appropriate Federal money and build it as a Federal dam.

It is an arrangement that will permit the bonding mechanism to be used to finish financing for the dam, though title to the dam, once built, will still revert to the Federal Government.

So, from every standpoint, it is good. The only problem has been to secure this kind of legislation to make certain that the bond issue will pass.

It should be tax-free, nobody objects to that. It is just that the IRS was hesitant to make a ruling and preferred legislation owing to the uniqueness of the situation. That is why this subject bill was introduced.

Mr. PROXMIRE. One more question. Is it true as to the reason that the IRS has not issued a ruling, would it be true they have not done so because Federal money is involved in this particular project and they feel that it would be wrong, at least in principle, to provide that kind of double subsidy, both Federal contribution in appropriations and a tax-free status for additional funding?

Mr. McCLURE. The Federal Government is not involved in the reconstruction of the dam at all.

As a matter of fact, that is one of the reasons for the legislation. It is to avoid the necessity of asking the Federal Government to provide financing for the reconstruction of the dam.

Mr. LONG. The fact is that we passed a law to say that interest on this kind of bond would be tax exempt, and the only reason the tax status of this specific issue is in doubt is just due to a technicality that the mind of man could not foresee.

I urge that one of the staff assistants show the Senator the statute.

It is simply a matter that no one could have foreseen here in Washington. It is my point of view it is a mere technicality. If we had known this problem would exist, we would have provided for it.

If this power were to be distributed locally for use by the citizenry, the dam would qualify for the tax exemption anyway.

That is the kind of thing we contemplated when we passed the original tax provision.

In this case, as I understand it, power will only be generated when the water is used for irrigation purposes. When they take some water out for those purposes, it will generate some power to help with the irrigation. At that point, the power is not being distributed locally to the citizenry.

We just did not anticipate this limited set of facts would occur. If we had, we would have taken care of it when we passed the general statute.

It would indicate this should qualify, as all the others would. But we just do not have enough foresight in drawing a specific statute to try to take care of people similarly situated, to foresee there would be someone who would meet the qualifications in every respect, except some minor technicality.

Mr. PROXMIRE. I think the three Senators have given a very convincing explanation, as far as I am concerned, on the Idaho part. How about the Virgin Islands aspect?

Mr. LONG. That is to permit the Virgin Islands to receive certain revenue collections on a quarterly rather than annual basis for the simple reason they need the money, and if they can receive it quarterly they are able to put their money to use more quickly.

Mr. PROXMIRE. What does the IRS say about that?

Mr. LONG. They are for it.

Mr. PROXMIRE. They support it?

Mr. LONG. Yes.

There is no objection to it, as far as they are concerned.

Mr. PROXMIRE. How about the cost involved?

Mr. LONG. No cost, as I understand it. It is just that as the Virgin Islands becomes entitled to revenues collected under United States tax laws on articles produced in the Virgin Islands and transported to the United States, they could get them quarterly rather than annually.

Mr. PROXMIRE. How would this apply as a precedent elsewhere?

Would this mean if we do it quarterly here, we do it quarterly elsewhere?

Would not other territories who were in the same position as the Virgin Islands be able to claim they also should get the quarterly distribution?

Mr. LONG. It is my understanding that there is no other territory having the same arrangement with the United States as the Virgin Islands. Their arrangement with the U.S. Government is different from the other territories.

Mr. PROXMIRE. As I understand it, this bill passed the House?

Mr. LONG. Yes.

Mr. PROXMIRE. And it is reported unanimously by the committee?

Mr. LONG. Yes. I am not aware of any opposition.

Mr. PROXMIRE. There is no opposition on the part of the administration?

Mr. LONG. I have never heard the first person make an argument against it or express any reason why it should not be passed.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from Idaho, as amended.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I call up my amendment which is at the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further

reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill add the following new section:

SEC. . Section 218(e)(1) of the Social Security Act is amended by adding at the end thereof the following new sentence:

"The regulations referred to in clause (A) of the preceding sentence shall provide that payments to be made by States to the Secretary of the Treasury shall be made on a calendar-quarter basis no more frequently than the 15th of the second month following each calendar-quarter and the regulations, referred to in clause (B) of such sentence shall provide that reports and remittances shall be made simultaneously by States on a calendar-quarter basis no more frequently than the 15th of the second month following each calendar-quarter."

Mr. ROBERT C. BYRD. Mr. President, this amendment would provide that payments which the States make to Secretary of the Treasury would continue to be made on a quarterly basis as has been the customary method of making these payments and reports.

There have—within recent months—been initiatives by the Social Security Administration to force the States and their political subdivisions to begin making deposits of social security contributions on a more frequent—monthly—basis. I believe that forcing the States to make deposits on a more frequent basis would work an unnecessary hardship on the States and their political subdivisions, and would—in many cases—lead to the termination of coverage for many public personnel, especially within the smaller communities, which do not have the personnel or the facilities to provide more frequent reporting. Unfortunately, these are the communities whose personnel desperately need social security coverage, because they do not possess the means to obtain other types of coverage.

Mr. LONG. Mr. President, the committee was aware of the views of the Senator from West Virginia, and we may even be in unanimous agreement with his position. But we were aware of the fact that the administration does not favor it and because we feared a veto of the bill if we put the Senator's amendment on it, we settled for something less than that.

Here is what we did. We say in this bill that if the Social Security Administration intends to mandate monthly reporting of wages by States, then they must allow at least 18 months before this can become effective.

The administration agrees that substantial leadtime is necessary before such a change can be made by the States, and this will give Congress a chance to look at what is involved in this.

Meanwhile, Mr. President, if we have the good fortune to have before us a major social security bill which would look to be one the President is likely to sign, I would expect the Senator to offer his amendment and I would vote for it. But I think he jeopardizes his objective if he offers his amendment on this bill.

We provide an 18-month leadtime, which would give the Senator a chance to have the amendment considered and also gives us a chance to work with him, trying to resolve this problem before anything can happen to adversely affect the State of West Virginia or any other State.

Mr. ROBERT C. BYRD. Mr. President, with the understanding that the leadtime is provided for in the measure currently pending before the Senate, and also I want to make it clear I would not want to jeopardize the measure by inviting a veto of it, and with the understanding that I will have an opportunity at a time when a social security vehicle will be before the Senate to offer this amendment, and with the support of the distinguished chairman in mind, as I have understood it in his expressions tonight, I withdraw my amendment.

The amendment was withdrawn.

Mr. DOLE. I would like to ask the chairman one question with reference to the Virgin Islands bill, if I may, so those of us who have amendments discussed yesterday will understand that they have added the text of this amendment but the number of the Virgin Islands bill is still floating around. Is that correct?

Mr. LONG. Yes; the bill is still on the calendar, and that bill can be used as a vehicle to which a rider can be attached. We would hope that that bill can be passed with some meritorious and unobjected-to amendments to give the Senate a chance to have some of its thoughts considered. There have been bills and proposals by the 100 Senators this year when there has been no chance to have them considered because there has been no revenue bill brought up to give them a chance to offer amendments. We would hope that those amendments, such as those discussed in the Finance Committee and which have been agreed to by unanimous vote, could be cleared and sent to the House. The only difference would be if the President meanwhile has signed into law the social security bill.

I really think that no harm is done to pass the same bill twice, if it is a good bill. I do not think it does any harm to have it appear twice in the statute books. It is a lot easier to strike surplusage from a statute book than it is to get a good provision onto the statute book.

Mr. DOLE. I appreciate the comment. It has been suggested that we could decorate the tree tomorrow. I wanted to make certain that some of us who had legitimate amendments to discuss and offer, still had that right.

Mr. LONG. Yes; that is correct.

Mr. President, there is an amendment which I would like to call up which should be on this bill. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment.

H.R. 10727

SEC. 9(a) The matter preceding clause (i) in section 402 (a)(19)(A) of the Social Security Act is amended—

(1) by inserting "under the work incentive program established by part C" after "register", and

(2) by striking out "and employment" and inserting in lieu thereof "employment, and employment search activity".

(b) Section 402(a)(19)(F) of such Act is amended—

(A) by striking out "(certified to the Secretary of Labor pursuant to subparagraph (G))", and

(B) by inserting ", in the case of a child, relative, or other individual certified to the Secretary of Labor pursuant to subparagraph (G)," immediately after "except that".

(c) The amendments made by this section shall take effect on April 1, 1976.

SEC. 10 Section 402(a)(19)(B) of the Social Security Act is amended—

(1) by inserting "to families with dependent children" after "aid",

(2) by inserting "(i)" immediately after "project", and

(3) by striking out "or (3)" and inserting in lieu thereof ", or (ii) under the program established by section 432(b)(3) solely by reason of the number of hours of the individual's employment thereunder".

SEC. 11 (a) Section 402 (a)(19)(D)(i) of the Social Security Act is amended by striking out ", and income derived from a special work project under the program established by section 432(b)(3)".

(c) Section 402(a)(19)(G)(ii) of such Act is amended—

(1) by striking out "subparagraph (A)," and inserting in lieu thereof "subparagraph (A) of this paragraph (I)",

(2) by striking out "part C" the first place it appears therein and inserting in lieu thereof "section 432(b) (but without regard to clause (4) thereof)", and

(3) by striking out "part C," the second place it appears therein and inserting in lieu thereof the following: "section 432(b) (but without regard to clause (4) thereof), (II) such social and supportive services as are necessary to enable such individuals actively to search for employment under the program established pursuant to section 432 (b)(4), and (III) after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment;".

(d) Section 403(c) of such Act is amended by striking out "part C" and inserting in lieu thereof "section 432(b) (but without regard to clause (4) thereof)".

Mr. LONG. Mr. President, the Finance Committee has reported an original bill making changes in the work incentive program. These changes were sought by the Labor Department. Since reporting the bill, we find that some of the provisions fall within the jurisdiction of the House Education and Labor Committee and some provisions fall within the jurisdiction of the House Ways and Means Committee. In order to accommodate this split jurisdiction in the House, I am offering the Ways and Means Committee portion of the committee bill as an amendment to the social security bill.

Now let me explain this provision. This provision would amend title IV of the Social Security Act to assure that mandatory registrants under the work incentive or WIN program would actively seek work by providing for a program of employment search. The bill also provides that the earned income minus work-related expenses under the public service employment program in the work incentive program would not be disregarded in computing eligibility for aid to families with dependent children.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the

amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 10727), as amended, was passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. FANNIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes.

Mr. LONG. Mr. President, I do not know if we will be conferring with the House on this bill, but just in case, I move that the Senate insist on its amendments to H.R. 10727, a bill from the Finance Committee, request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. HARTKE, Mr. CURTIS, and Mr. FANNIN conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of amendments to H.R. 10727.

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

EXTENSION OF THE RENEGOTIATION ACT OF 1961 FOR 6 MONTHS

Mr. LONG. Mr. President, I ask unanimous consent that the Senate proceed to consideration of the renegotiation bill, H.R. 11016.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11016) to extend the Renegotiation Act of 1961 for 6 months.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice.

Mr. LONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On line 5, strike out "June 30, 1976" and insert in lieu thereof "September 30, 1976."

Mr. LONG. Mr. President, the House has passed and forwarded to the Senate H.R. 11016, an act to extend the Renegotiation Act of 1961 through June 30, 1976. The Renegotiation Act has been extended by the Congress 12 times and is scheduled to expire on December 31, 1975. The General Oversight and Renegotiation Subcommittee of the House Committee on Banking, Currency and Housing has conducted extensive hearings and markup sessions which have culminated in the adoption of a series of proposed amendments to the Renegotiation Act. These provisions have been favorably reported by the full Committee on Banking, Currency and Housing as H.R. 10680 and are explained in detail in House Report 94–699. In order to fully review these proposed changes which may be approved by the House early in 1976 and to give detailed consideration to a report prepared pursuant to Public Law 93–368 which directed the staff of the Joint Committee on Internal Revenue Taxation to evaluate various proposals to extend and amend the Renegotiation Act, it is imperative that additional time be provided to the Committee on Finance. Accordingly, the committee has authorized me to offer a committee amendment to H.R. 11016 extending the Renegotiation Act for a period of 9 months. Such an amendment is essential to permit the Committee on Finance to responsibly discharge its obligation to complete its work on a major tax revision measure by June 1976, amendments to the Renegotiation Act, and the numerous other substantive matters within the jurisdiction of the committee which will require action prior to June 30, 1976.

Mr. PROXMIRE. Will the Senator yield?

Mr. LONG. I yield.

Mr. PROXMIRE. I am hopeful, Mr. President, that the Senator will do his best to hold hearings on this bill during the 9-month period and to enact reform legislation, if not the kind of reform legislation the House has, legislation that will improve and strengthen that agency. It is an agency that I think has been one of the weakest agencies of our Government. It is just pathetic the poor job that they have done. I happen to have worked hard on that Renegotiation Board work, both in the Joint Economic Committee and elsewhere. I think that the House amendments, and I understand that they go quite a ways to improve the operations of the Renegotiation Board, represent a great improvement.

Mr. President, absent the opportunity to improve this agency, I think we should abolish it. People get the impression that defense contracts and other contracts of the Federal Government are renegotiated when there is an excessive profit. That is just not the case.

After renegotiation, there is case after case where the profit it literally over 1,000 percent, and typically it is over 100 percent. This is an agency, as I say, that has done a poor job. It has been badly staffed in the past, and the House of Representatives has done great work to improve this law.

So I do hope that the Senator from Louisiana, whose committee is so busy, will do his best to schedule hearings on that measure, and will do his best to bring in vigorous, far-reaching reform legislation either to give us an agency that does the job, or to abolish the Renegotiation Board.

Mr. LONG. Mr. President, the Senator has made a very impressive statement on the Renegotiation Board, and as far as I am able to determine, he has spent more time studying the performance of the Renegotiation Board, or the lack of it, than any other Member of this body.

I look forward to hearing the Senator's views after he has had a chance to study the performance of the Board and the results that have been obtained since that time. We very much want the Senator's views, and of course we will welcome the views of any other Senator, as well as persons who have reason to be concerned with the Board, both with regard to what it is accomplishing and what it is not accomplishing.

Mr. PROXMIRE. Will the Senator agree to hold hearings and do his best to bring in a reform bill in the event that he and the committee feel such a bill would be desirable?

Mr. LONG. Well, I will be happy to, with the understanding that the Senator knows what I mean by reform. What I mean by reform is something that I think is an improvement on the existing situation. I think every Senator feels that way. If he is for it, he thinks it is reform; if he is not for it, he does not think it is reform.

When the Senator makes his suggestions, I will certainly look into them, and those I agree with I will certainly try to implement. If I do not implement them, those that the Senator feels strongly about he will be offering here on the floor, and I welcome his doing that.

Mr. PROXMIRE. What I ask the Senator to do is consider the House bill, which we all expect to come over sometime in the next 6 months, and act on it and bring it to the floor so that the Senate can work its will on it.

Mr. LONG. Yes, and I certainly want to consider the Senator's views, because, as I said before, he has given this matter a great deal of attention, and we are all indebted to him for it.

Mr. PROXMIRE. I should have said earlier that one of the reasons for my interest and concern is that the Renegotiation Board came under the jurisdiction of a subcommittee of the Appropriations Committee of which I am chairman, so we had some reason to go into the Renegotiation Board's performance.

Mr. FANNIN. Mr. President, I support the committee amendment to this bill, which would extend the Renegotiation Act, without changes, for a period of 9 months.

The Renegotiation Board was created in 1951 and has as its principal purpose the determination of whether certain persons who have contracts with the Government have made "excessive" profits. The Renegotiation Act, which provides the Board's statutory authority to act, is now scheduled to expire on December 31, 1975. The pending bill, as passed by the House, would extend the Renegotiation Act for a period of 6 months. The committee amendment provides for a 9 months' extension.

The purpose of this longer period of time is to give the Committee on Finance

and the Senate an opportunity to give careful consideration to any bill dealing with this subject. Also, pursuant to the most recent legislation extending the Renegotiation Act, the staff of the Joint Committee on Internal Revenue Taxation has submitted a comprehensive report on the renegotiation process. This report contains an evaluation of the many proposals that have been made to extend and amend the Renegotiation Act. Given the many issues that we will have to address ourselves to, and the fact that the House has not as yet acted on its proposed permanent legislation, I think a 9-month simple extension is preferable to the 6-month extension bill passed by the House.

For these reasons, Mr. President, I support the committee amendment to the pending bill and urge its adoption by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

The bill (H.R. 11016) was passed.

Mr. LONG. Mr. President, I ask unanimous consent that the title of H.R. 11016 be changed so as to read:

An act to extend the Renegotiation Act of 1951 for 9 months.

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

AMENDMENT OF TITLE XXVIII OF THE SOCIAL SECURITY ACT

Mr. LONG. Mr. President, I am not sure this next bill has been cleared on both sides. I make this request of the majority and minority leaders: that if there is no objection, the Senate proceed to the consideration of H.R. 10284, which is a bill involving amendments to the medicare law. I would like to consider that bill.

There was some talk of Senators wanting to offer amendments, but I believe that we have accommodated most of those amendments, and I would even be glad to have them considered tomorrow.

But if there is no objection, I ask unanimous consent that the Senate proceed to the consideration of that measure.

Mr. ROBERT C. BYRD. Mr. President, my calendar shows that there are Senators who want to be notified on the Democratic side.

Mr. LONG. Well, my understanding, for example, was that Senator NELSON wanted to be notified, but he has been contacted, and his amendment is already in the bill.

Mr. ROBERT C. BYRD. What about Senator NELSON?

Mr. LONG. Senator NELSON has been contacted, and he is satisfied. His amendment has been agreed to, and it is in the committee bill.

Mr. ROBERT C. BYRD. Very well. I have no objection.

Mr. DOLE. There is no objection on the minority side.

Mr. LONG. Mr. President, this bill contains a series of relatively minor though quite important amendments to the medicare and medicaid program, and one amendment to the food stamp program.

The PRESIDING OFFICER. Does the Senator wish to take up the bill?

Mr. LONG. Yes; I had hoped to.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for three years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal Employees' Health Benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike out all after the enacting clause and insert the following:

TITLE I—PROVISIONS RELATING TO HEALTH SERVICES

PREVAILING CHARGE LEVEL FOR FISCAL YEAR 1976

SECTION 1. (a) Section 1842(b)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "If the prevailing charge level for the fiscal year beginning July 1, 1975, as determined under clause (ii) of the third sentence of this paragraph and with application of the fourth sentence of this paragraph, with respect to any particular physician service performed in any particular locality, is, by reason of the application of such fourth sentence, lower than the prevailing charge level for such service performed in such locality for the fiscal year ending June 30, 1975, as determined pursuant to such clause (ii), then, such prevailing charge level for the fiscal year beginning July 1, 1975, shall be deemed to be equal to the prevailing charge level so determined for the fiscal year ending June 30, 1975.".

(b) The fourth sentence of section 1842(b)(3) of such Act is amended—

(1) by inserting "(including, to the extent feasible, data with respect to premiums for medical malpractice insurance)" immediately after "index data",

(2) by inserting "in any region" immediately after "physician services", and

(3) by inserting immediately before the period at the end of such sentence the following: "in the region".

(c)(1) The amendment made by subsection (a) shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act with a carrier designated pursuant to section 1842 of such Act and processed by such carrier after the appropriate changes were made in the prevailing charge levels for the fiscal year beginning July 1, 1975, on the basis of economic index data under the third and fourth sentences of section 1842(b)(3) of such Act; except that (1) if less than the correct amount was paid (after the application of the amendment made by subsection (a) of this section) on any claim processed prior to the enactment of this section, the correct amount shall be paid by such carrier at such time (not exceeding 6 months after the date of the enactment of this section) as is administratively feasible, and (2) no such payment shall be made on any claim where the difference between the amount paid and the correct amount due is less than $1.

(2) The amendments made by subsection (b) of this section shall be effective only with respect to determinations of prevailing charge levels under the third and fourth sentences of section 1942(b)(3) of the Social Security Act for fiscal years beginning after June 30, 1976.

(d) The fourth sentence of section 1842(b)(3) of the Social Security Act is amended—

(1) by striking out "fiscal" each place it appears therein, and

(2) by inserting immediately before the period at the end thereof the following: "(and, for purposes of this sentence, the term 'year' means a period which begins on July 1 of any calendar year and ends on June 30 of the succeeding calendar year)".

(e) Not later than 90 days after the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives a report explaining the reasons why, in the administration of so much of the provisions of section 1842(b)(3) of the Social Security Act as relate to the establishment of indices to determine the prevailing charge level for physician's services, there was a failure to carry out the congressional intent that indices be established on a regional basis, and, instead, there was established a single national index applicable to physicians practicing in all areas of the Nation. Such report shall include any recommendations which the Secretary may have as to any legislative action which might be necessary to further implement the congressional intent with respect to the establishment of such indices.

EXTENSION OF AUTHORITY TO WAIVE 24-HOUR NURSING SERVICE REQUIREMENT FOR CERTAIN RURAL HOSPITALS

SEC. 2. Section 1861(e)(5) of the Social Security Act is amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1977".

COORDINATION BETWEEN MEDICARE AND FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

SEC. 3. Section 1862(c) of the Social Security Act is repealed.

TECHNICAL AMENDMENT RELATING TO PART B PREMIUM DETERMINATIONS

SEC. 4. (a) Section 1839(c)(3) of the Social Security Act is amended by striking out "June 1" each place it appears and inserting in lieu thereof "May 1".

(b) The amendments made by subsection (a) shall apply with respect to determinations made under section 1839(c)(3) of the Social Security Act after the date of the enactment of this Act.

PROFESSIONAL STANDARDS REVIEW AREAS

SEC. 5. Section 1152 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g)(1) In any case in which the Secretary has established, within a State, two or more appropriate areas with respect to which Professional Standards Review Organizations may be designated, he shall, prior to designating a Professional Standards Review Organization for any such area, conduct in each area a poll in which the doctors of medicine and doctors of osteopathy engaged in active practice therein will be asked: 'Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single state-

wide area designation?' If, in each such area, more than 50 per centum of the doctors responding to such question respond in the affirmative, then the Secretary shall establish the entire State as a single Professional Standards Review Organization area.

"(2) The provisions of paragraph (1) shall not be applicable with respect to the designation of Professional Standards Review Organization areas in any State, if, prior to the date of enactment of this Act, the Secretary has entered into an agreement with an organization designating it as the Professional Standards Review Organization for any area in the State.".

UTILIZATION REVIEW ACTIVITIES

SEC. 6. (a) (1) Section 1861(w) of such Act is amended—

(A) by inserting "(1)" immediately after "(w)", and

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

"(2) Utilization review activities conducted, in accordance with the requirements of the program established under part B of title XI of the Social Security Act with respect to services furnished by a hospital to patients insured under part A of this title or entitled to have payment made for such services under a State plan approved under title V or XIX by a Professional Standards Review Organization designated for the area in which such hospital is located shall be deemed to have been conducted pursuant to arrangements between such hospital and such organization under which such hospital is obligated to pay to such organization, as a condition of receiving payment for hospital services so furnished under this part or under such a State plan, such amount as is reasonably incurred and requested (as determined under regulations of the Secretary) by such organization in conducting such review activities with respect to services furnished by such hospital to such patients.".

(2) Section 1815 of such Act is amended—

(A) by inserting "(a)" immediately after "SEC. 1815.", and

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

"(b) No payment shall be made to a provider of services which is a hospital for or with respect to services furnished by it for any period with respect to which it is deemed, under section 1861(w)(2), to have in effect an arrangement with a Professional Standards Review Organization for the conduct of utilization review activities by such organization unless such hospital has paid to such organization the amount due (as determined pursuant to such section) to such organization for the review activities conducted by it pursuant to such arrangements or such hospital has provided assurances satisfactory to the Secretary that such organization will promptly be paid the amount so due to it from the proceeds of the payment claimed by the hospital. Payment under this title for utilization review activities provided by a Professional Standards Review Organization pursuant to an arrangement or deemed arrangement with a hospital under section 1861(w)(2) shall be calculated without any requirement that the reasonable cost of such activities be apportioned among the patients of such hospital, if any, to whom such activities were not applicable.".

(c) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make such transfers of moneys between the funds, referred to in clauses (a), (b), and (c) of the preceding sentence, as may be appropriate to settle accounts between them in cases where expenses properly payable from the funds described in one such clause have been paid from funds described in another of such clauses.".

(d) The amendments made by this section shall be effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after the date of enactment of this Act.

CERTAIN EMERGENCY HOSPITAL SERVICES FURNISHED BY VETERANS' ADMINISTRATION HOSPITALS

SEC. 7. (a) Section 1814(c) of the Social Security Act is amended by inserting "or subsection (j)" immediately after "subsection (d)".

(b) Section 1814 of such Act is further amended by adding at the end thereof the following new subsection:

"Payment for Certain Hospital Services Provided in Veterans' Administration Hospitals

"(j)(1) Payments shall also be made to any hospital operated by the Veterans' Administration for inpatient hospital services furnished in a calendar year by the hospital or under arrangements (as defined in section 1861(w)) with it, to an individual entitled to hospital benefits under section 226 even though such hospital is a Federal provider of services if (A) such individual was not entitled to have such services furnished to him free of charge by such hospital, (B) such individual was admitted to such hospital in the reasonable belief on the part of the admitting authorities that such individual was a person who was entitled to have such services furnished to him free of charge, (C) the authorities of such hospital, in admitting such individual, and the individual, acted in good faith, and (D) such services were furnished during a period ending with the close of the day on which the authorities operating such hospital first became aware of the fact that such individual was not entitled to have such services furnished to him by such hospital free of charge, or (if later) ending with the first day on which it was medically feasible to remove such individual from such hospital by discharging him therefrom or transferring him to a hospital which has in effect an agreement under this title.

"(2) Payment for services described in paragraph (1) shall be in an amount equal to the charge imposed by the Veterans' Administration for such services, or (if less) the reasonable costs for such services (as estimated by the Secretary). Any such payment shall be made to the entity to which payment for the services involved would have been payable, if payment for such services had been made by the individual receiving the services involved (or by another private person acting on behalf if such individual).".

(c) The amendments made by this section shall be applicable in the case of inpatient hospital services furnished on and after July 1, 1974.

UPDATING OF THE LIFE SAFETY REQUIREMENTS APPLICABLE TO NURSING HOMES

SEC. 8. (a) Section 1861(j)(13) of the Social Security Act is amended by striking out "(21st edition, 1967)" and inserting in lieu thereof "(23d edition, 1973)".

(b) Subject to subsection (c), the amendment made by subsection (a) shall be effective on the first day of the sixth month which begins after the date of enactment of this Act.

(c) Any institution (or part of an institution) which complied with the requirements of section 1861(j)(13) of the Social Security Act on the day preceding the first day referred to in subsection (b) shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j)(13)), be considered (for purposes of titles XVIII and XIX of such Act) to be in compliance with the requirements of such section 1861(j)(13), as it is amended by subsection (a) of this section.

GRANTS FOR CERTAIN EXPERIMENTS AND DEMONSTRATION PROJECTS

SEC. 9. Nothing contained in section 222(a) of Public Law 92-603 shall be construed to preclude or prohibit the Secretary of Health, Education, and Welfare from including in any grant otherwise authorized to be made under such section moneys which are to be used for payments, to a participant in a demonstration or experiment with respect to which the grant is made, for or on account of costs incurred or services performed by such participant for a period prior to the date that the project of such participant is placed in operation, if—

(1) the applicant for such grant is a State or an agency thereof,

(2) such participant is an individual practice association which has been in existence for at least 3 years prior to the date of enactment of this section and which has in effect a contract with such State (or an agency thereof), entered into prior to the date on which the grant is approved by the Secretary, under which such association will, for a period which begins before and ends after the date such grant is so approved, provide health care services for individuals entitled to care and services under the State plan of such State which is approved under title XIX of the Social Security Act,

(3) the purpose of the inclusion of the project of such association is to test the utility of a particular rate-setting methodology, designed to be employed in prepaid health plans, in an individual practice association operation, and

(4) the applicant for such grant affirms that the use of moneys from such grant to make such payments to such individual practice association is necessary or useful in assuring that such association will be able to continue in operation and carry out the project described in clause (3).

OCCUPATIONAL THERAPY UNDER MEDICARE

SEC. 10. (a) Section 1814(a)(2)(D) of the Social Security Act is amended by inserting ", occupational," immediately after "physical".

(b) Section 1835(a)(2)(A)(i) of such Act is amended by inserting ", occupational," immediately after "physical".

(c) Section 1835(a)(2) of such Act is amended—

(1) by striking out the period at the end of clause (D) and inserting in lieu thereof "; and", and

(2) by adding after clause (D) the following new clause:

"(E) in the case of outpatient occupational therapy services, (i) such services are or were required because the individual needed occupational therapy services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(d) The last sentence of section 1861(p) of such Act is amended by inserting "and occupational therapy services" after "speech pathology services".

(e) The amendment made by the preceding provisions of this section shall be applicable in the case of services furnished on and after the first day of the first month which begins not less than thirty days after the date of enactment of this Act.

TITLE II—PROVISIONS RELATING TO FOOD STAMPS PROVIDED TO AFDC FAMILIES

FOOD STAMP DISTRIBUTION TO AFDC FAMILIES

SEC. 201. (a) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"FOOD STAMP DISTRIBUTION

"SEC. 410. (a) Any State plan for aid and services to needy families with children may (but is not required under this title or any other provision of Federal law to) provide for the institution of procedures, in any or all areas of the State, by the State agency administering or supervising the administration of such plan under which any household participating in the food stamp program established by the Food Stamp Act of 1964, as amended, will be entitled, if it so elects, to have the charges, if any, for its coupon allotment under such program deducted from any aid, in the form of money payments, which is (or, except for the deduction of such charge, would be) payable to or with respect to such household (or any member or members thereof) under such plan and have its coupon allotment distributed to it with such aid.

"(b) Any deduction made pursuant to an option provided in accordance with subsection (a) shall not be considered to be a payment described in section 406(b)(2).

"(c) Notwithstanding any other provision of law, no agency which is designated as a State agency for any State under or pursuant to the Food Stamp Act of 1964, as amended, shall be regarded as having failed to comply with any requirement imposed by or pursuant to such Act solely because of the failure, of the State agency administering or supervising the administration of the State plan (approved under this part) of such State, to institute or carry out a procedure, described in subsection (a).".

(b) Administrative costs incurred by a State plan for aid and services to needy families with children, approved under part A of title IV of the Social Security Act, in conducting procedures (described in section 410 of such Act, as added by subsection (a) of this section) in connection with the food stamp program shall be paid from funds appropriated to carry out the Food Stamp Act of 1964, as amended.

Mr. LONG. Mr. President, two of the medicare amendments would change effects scheduled to occur under present law as of December 31, 1975. First, the HEW Secretary's authority to waive certain nursing requirements for rural hospitals expires on December 31 with the result that many rural hospitals might lose their medicare accreditation. This bill would extend that waiver authority.

Similarly, without action on this bill by December 31, the current relationship between the medicare and the Federal employees' health benefits program would change with the result that Federal employees would have to pay higher health insurance premiums. This bill contains a provision continuing the present relationship between medicare and the Federal employees' program.

In another area current law and regulations will require States by January 1 to establish a new procedure relating to food stamps for recipients of aid to families with dependent children. The committee amendment would make the establishment of this new procedure optional with each State.

In addition to these amendments which must be acted on by December 31, the bill contains several other amendments which, though not major in their scope, are aimed at either removing an inequity in the current medicare law or improving the administration of that law.

Amendments to remove inequities in the law include a provision which would guarantee that medicare payments for physicians' fees are not unintentionally rolled back; an amendment to allow the regular increase in the part B premium intended by the Congress; an amendment to put occupational therapists on an equal footing with other therapists; and an amendment allowing reimbursement of VA hospitals by medicare under certain situations of good faith error.

Amendments designed to improve the administration of the program include an amendment dealing with the Professional Standards Review Organization area designations in those areas where there has been no PSRO activity; an amendment to equalize the funding for delegated and nondelegated direct review of hospital care under the PSRO program; an amendment to up-date the life safety code requirements for health facilities in the current statute; and an amendment to give the Secretary authority to proceed with a retroactive portion of a grant aimed at developing information necessary to tighten up reimbursement of HMO's under medicaid.

Mr. President, I ask unanimous consent that the summary of the provisions of this bill contained in the committee report be printed at this point in the RECORD.

There being no objection, the excerpt from the committee report (No. 94–549) was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

H.R. 10284 as passed by the House contained provisions relating to prevailing charges, nursing requirements in rural hospitals, the relationship between medicare and the Federal employee health program, and the medicare part B premium. The committee amendment incorporates these provisions, with some modifications, and adds a number of new provisions.

PREVAILING CHARGE DETERMINATIONS UNDER MEDICARE

Due to the late issuance of regulations implementing the provision in law intended to limit increases in physicians' prevailing fees from year-to-year, some physicians' fees have unintentionally been rolled back to a point below their previous level. The first provision of the House bill would assure that no prevailing charge in fiscal year 1976 is less than it was in fiscal year 1975. The committee amendment modifies the House provision to indicate that, in calculating the index by which physicians' prevailing fees can increase, the Department should include, to the extent feasible, factors related to any increases in costs of malpractice insurance and that index calculations should be prepared on a regional rather than a national basis.

WAIVER OF 24-HOUR NURSING REQUIREMENTS FOR CERTAIN RURAL HOSPITALS

The second provision of the House bill extends for 3 years (until December 31, 1978) the Secretary's authority to grant temporary waivers of nursing staff requirements in hospitals located in areas where nurses are in short supply and other hospitals are not readily accessible. The committee amendment provides instead for a 1-year extension of the waiver authority.

RELATIONSHIP BETWEEN MEDICARE AND FEDERAL EMPLOYEES HEALTH BENEFIT PROGRAM

The House bill would repeal a provision of Public Law 92–603 which provides that, unless the Federal employees' health program were rewritten to provide supplementary benefits to those older or retired Federal employees who also have medicare eligibility, the medicare program would no longer serve as the primary payer of benefits. The committee amendment incorporates this change, so that the medicare program would continue as the primary payer of benefits without requiring any change in the Federal employees' program.

MEDICARE PART B PREMIUM

The fourth provision of the House bill, included in the committee amendment, would correct a drafting error in Public Law 93–233 which, in modifying the social security cash benefit provision, had unintentionally failed to make corresponding changes allowing for annual changes in the part B medicare premium. The provision would correct this drafting error and permit adjustments in part B premiums on July 1, 1976 and in future years at rates no greater than the percentage rate of increase in cash social security benefits.

In addition, the committee amendment includes the new provisions described below.

PROFESSIONAL STANDING REVIEW ORGANIZATIONS (PSRO) AREA DESIGNATIONS

The committee amendment provides that in those States (1) which have been divided into more than one PSRO area, and (2) in which no conditional PSRO's have been designated, the Secretary would poll the physicians in each designated area as to their preference for a local or statewide PSRO. If a majority of physicians in each currently designated PSRO area in that State approved a statewide PSRO, the Secretary would redesignate that State as a single area.

PSRO DIRECT UTILIZATION REVIEW ACTIVITIES

The committee amendment also contains a provision aimed at equalizing the reimbursement for utilization review activities where they are carried out by a hospital under delegation from a PSRO or by the PSRO itself. Under current law, utilization review expenditures are reimbursable by medicare for delegated review. Under this provision, utilization review expenses of the PSRO in carrying out nondelegated review would also be reimbursable through medicare benefit payments.

MEDICARE PAYMENTS TO VETERANS' ADMINISTRATION HOSPITALS IN CASE OF "GOOD FAITH" ERROR

Under this committee provision, the medicare program would be authorized to pay for care rendered to a medicare-eligible patient in a Veterans' Administration hospital if the patient had entered the hospital and the hospital had accepted the patient under the belief that he was eligible for veterans' benefits, and it was later determined that he was not eligible.

UPDATING OF THE LIFE SAFETY CODE REQUIREMENTS APPLICABLE TO SKILLED NURSING FACILITIES

The next committee provision would update the current requirements for skilled nursing facilities under the medicare and medicaid programs by replacing the current requirement that such facilities meet the provisions of the 1967 Life Safety Code with a requirement that they meet the conditions of the 1973 edition of the code. The provision would also assure that facilities currently qualified under the 1967 code, or State codes which are approved by the Secretary, would not lose their eligibility for participation in the programs.

GRANTS TO DEMONSTRATE APPROPRIATE MECHANISMS FOR CAPITATION PAYMENTS

Another committee provision would remove a technical barrier to the Secretary's approval of a grant to the Sacramento Medical Care Foundation which is aimed at obtaining data to assist the Department in developing ap-

propriate reimbursement mechanisms for health maintenance organizations.

OCCUPATIONAL THERAPY UNDER MEDICARE

The committee amendment includes a provision to expand coverage of occupational therapy services under the medicare program to cover such services when they are provided through clinics, rehabilitation agencies and other organized settings. The provision also allows patients to qualify for home health services on the basis of a need for occupational therapy services alone.

FOOD STAMP PURCHASES BY WELFARE RECIPIENTS

Another provision of the committee amendment to H.R. 10284 relates to food stamps. Agriculture Department regulations scheduled to go into effect in January 1976 will require welfare agencies in all States to allow recipients of Aid to Families with Dependent Children (AFDC) to purchase food stamps through a withholding procedure. The price of the stamps would be deducted from the AFDC check and the stamps themselves would be mailed with the check. Current law requires the Department to impose this procedure on the States on a mandatory basis even though a significant number of States believe that the adoption of this procedure will create severe problems of administration. The committee amendment will allow each State to decide whether or not to use this method of distributing food stamps to welfare recipients.

Mr. FANNIN. Mr. President, during its consideration of H.R. 10284, the Senate Finance Committee adopted provisions contained in S. 2560, the Physician Fee Index Reform Act of 1975 which I had introduced on October 22. This legislation was designed to correct deficiencies in the administration of section 224(a) of Public Law 92–603, the Social Security Amendments of 1972. Section 224(a) added a new feature of the process by which prevailing charges are computed under the medicare part B program. Under section 224(a) prevailing charge levels would be subject to appropriate economic index data.

In adopting this provision Congress envisioned a process by which increases in prevailing charge levels would occur only when such increases were justified by other changes in the economy and only to the extent justified by indexes reflecting changes in the operating expenses of physicians and in earnings level. The intent of Congress in approving this provision was fully amplified by the Senate Finance Committee when it stated in its report accompanying H.R. 1 that—

The Committee, as well as the Committee on Ways and Means believes that it is necessary to move in the direction of an approach to reasonable charge reimbursement that ties recognition of fee increases to appropriate economic indexes so that the program will not merely recognize whatever increases in charges are established in a locality but would limit recognition of charge increases to rates that economic data indicate would be fair to all concerned and follow rather than lead any inflationary trends.

By imposing an economic index framework on the existing prevailing charge formula the Congress was attempting to develop a rational system by which to justify increases in physician reimbursement. For the medicare program to assume that increases in prevailing charges were acceptable without any clear justification was a situation the Congress apparently could no longer tolerate.

Whether the application of an economic index makes sense, is fair, and will result in the containment of costs, was not the subject of S. 2560 although these issues will have to be addressed at an appropriate time. Rather, S. 2560 was designed to correct certain existing deficiencies and inequities in the economic index provision itself and with its administration. Among these deficiencies were: First, the effect of the index of prevailing fees; second, the use of a national economic index as opposed to local or areawide index, and the absence of any consideration of increases in medical liability premiums in computing the index.

Public Law 92–603 was enacted into law on October 30, 1972, but it was not until April 14, 1975, nearly 2½ years later, that regulations promulgating section 224(a) were issued. As a result of this delay its application is having serious unintended effects.

As I understand it, the index is applied on a cumulative basis with fiscal year 1973 prevailing charges as the base. The cumulative index for fiscal year 1976 is 1.179. Thus, an increase in any fiscal year 1976 prevailing charge greater than 17.9 percent over the fiscal year 1973 prevailing charge for that service will be reduced to 17.9 percent, while any charge that increased by less than 17.9 percent will be allowed in full and any unused portion of the allowable increase would be carried forward for use in future years.

Instead of limiting increases, however, this index is causing fiscal year 1976 prevailing fees to decrease below 1975 fees in a substantial number of cases. While HEW assumed that the effect of this distortion would be minimal it is understood that over 15 percent of fiscal year 1976 prevailing charges are being decreased below 1975 levels. As a result, affected beneficiaries will no doubt have to pay additional costs as physicians will not be willing to accept assignment under these conditions.

In addition, the medicare program will suffer increased costs as these same beneficiaries seek payment directly from medicare. As this was clearly not the intent of the Congress in developing the index I have drafted legislation which will adjust the index so as to avoid a rollback in prices. This amendment will provide that no reimbursement based on the prevailing charge for physician services in fiscal year 1976 will be less than what was recognized in fiscal year 1975. In addition, the amendment also authorizes retroactive payments to physicians whose fees have been adversely affected by the application of the index.

In response, the Senate Finance Committee adopted language similar to S. 2560 which would have the effect of preventing a rollback in medicare fees which might have occurred in fiscal year 1976.

In regard to the problems associated with data developed on a national basis as opposed to a more limited geographical area, the committee approved bill language which would require the Social Security Administration to utilize economic index data derived from a "regional" area. This language was designed to resolve the differences between the Congress and the Administration over the scope of data utilized in the index.

Under the regulations issued to implement section 224(a), the Social Security Administration determined that the economic index should be based on national data. This determination, however, was in direct conflict with the very clear intent of both the House Ways and Means Committee and the Senate Finance Committee that such an index reflect changes in the economy for a locality. In this case, "locality" was defined by the Senate Finance Committee as an "area of a size and nature permitting proper calculation and determination of the types required to adjust prevailing charge levels."

In developing the regulations the Social Security Administration apparently concluded that sufficient data was not available at the local level to permit the development of an economic index. Even though the Social Security Administration could reasonably argue that the definition of "locality" could be interpreted as permitting a national index in the event that a locality index was impossible to develop, there remains the conviction of both the House Ways and Means Committee and the Senate Finance Committee, that a locality index was far more preferable and was to be utilized.

A "local" index is more appropriate since it would conform to the "local" determination of the prevailing charge itself. In addition, a local index would be more relevant and reflective of local economic changes and increases in practice costs and earnings as opposed to the generalities of a national index.

Finally, the committee agreed to my proposal to specify malpractice premiums as part of the index.

In addition to the omission by Congress to more clearly specify, in law, its intent regarding the use of local data in building an economic index it also failed to indicate what factors should be taken into account in developing such an index especially as it relates to physician's operating expenses. The statute is virtually silent on this issue on the assumption perhaps that administrative experience would provide sufficient information to make such a determination.

Yet, the regulations implementing section 224(a) do not, for example, take into consideration the recent precipitous rise in medical liability premiums. In 1972 when Public Law 92–603 was enacted the cost of such premiums was being estimated at $600 million nationwide. In just 3 years, according to the HEW Commission on Medical Malpractice, such costs were estimated to have risen to over $1 billion. In view of the obvious impact of these premium costs to many physicians it would seem appropriate therefore to recognize the effect of these costs by requiring the Social Security Administration to take such costs into account in determining changes in the economic index that reflects operating expenses of physicians. As a result, H.R. 10284 seeks to amend the economic index provision by including medical liability premiums as a specified element of such

an index. This provision would be effective beginning July 1, 1976.

It is obvious, of course, that other elements should be specified to assure that the economic index is clear as to its basis and scope. Certainly, as presently constituted the language of the law is more vague than clear; a fact which makes the situation involving the administration of this provision difficult and confusing to physicians, carriers, and perhaps to the Social Security Administration itself. The step I propose will, I hope, lead to other suggestions as to what other elements should be recognized and whether their mention in the law should be affected.

Mr. President, I am aware of the view of the Department of Health, Education, and Welfare that the provisions which I proposed regarding a "regional" index, and the inclusion of malpractice costs in computing the index are impossible to administer. It is, of course, unfortunate that the Department did not communicate its concern earlier especially in view of the fact that it took the Department 2½ years to produce the existing index. Nevertheless, I have included a stipulation that the Department report to the Senate Finance Committee and the House Ways and Means Committee, not later than 90 days following enactment of this legislation, as to its capacity to meet the objectives of these provisions. This report will serve the purpose of providing the Department with a formal opportunity to indicate if it can comply or what further legislation may be needed to assure compliance. Certainly, if the Department expressed concern that its ability to comply was impossible or would involve controversial data gathering techniques, then I would be the first to recommend legislation to either modify the index or repeal it altogether.

This mandated report should clarify the issues by permitting the Department to express its concerns so that the Congress can act appropriately in assisting the Department. This is a cooperative endeavor as the Congress is anxious to produce legislation which the Department can administer without imposing impossible conditions and then demanding compliance of the Department where compliance is impossible. In this regard, it is not my intent to demand compliance in connection with these two provisions during the months in which the Department is evaluating its capacity to implement them. This is the only fair way to approach this problem and I hope my colleagues will agree.

Mr. President, in conclusion, this legislation was initially designed to correct some minor problems. They were viewed as improvements in the existing law, but it now appears that these "minor" changes may aggravate the problems which we seek to correct. It is my hope that these changes can be accommodated but, if not, then the Congress has the responsibility to resolve these problems and to extricate the Department from implementing policies which are impossible to administer.

Mr. LONG. Mr. President, I ask unanimous consent that the committee amendment be agreed to, and that the bill as thus amended be considered as original text for the purpose of further amendment.

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

The bill is open to further amendment.

AMENDMENT NO. 1292

Mr. BEALL. Mr. President, I have two amendments at the desk which have been cleared with the committee. I call up my amendment No. 1292, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) offers an amendment numbered 1292.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. BEALL's amendment (No. 1292) is as follows:

At the end of title I, add the following new section:

SEC. . (a) Section 1167(b) of the Social Security Act (42 U.S.C. 1320c–16(b) is amended to read as follows:

"(b) In any civil suit, action, or proceeding brought against a Professional Standards Review Organization, a member, director, trustee, employee, or official thereof, or a person who is requested by, and who furnishes professional counsel or services to, such organization—

"(1) such organization, individual, or person shall not be held liable for the negligent performance of any duty, function, or activity of Professional Standards Review Organizations authorized under this part, unless such organization, individual, or person was grossly negligent in such performance;

"(2) such organization, individual, or person shall not be held liable for defamation in connection with the performance of any duty, function, or activity of Professional Standards Review Organizations authorized under this part, unless such organization, individual, or person acted with malice or with gross negligence in connection with such performance; and

"(3) the Secretary shall make payment to such organization, individual, or person equal to the reasonable amount of the expenses of legal counsel actually and necessarily incurred, as determined by the Secretary, in connection with the defense of the portion of such suit, action, or proceeding in connection with the performance of any duty, function, or activity of Professional Standards Review Organizations authorized under this part.".

(b) The amendments made by this Act shall take effect on the date of enactment of this Act, but shall not apply with respect to any civil action, suit, or proceeding brought prior to the date of enactment of this Act.

Mr. BEALL. Mr. President, this amendment would amend the Professional Standards Review Organization provisions of Public Law 93–603 in three important respects. I might say it is a duplicate of a bill introduced in the House by Representative GUDE.

First, it would make PSRO's as well as its members and employees, civilly liable in connection with the performance of duties authorized or required of PSRO's only if it can be demonstrated that such organizations or individuals were "grossly negligent." Present law makes such organizations and individuals liable for the failure to exercise "due care."

Second, it would make PSRO's as well as its member and employees liable for defamation in connection with its PSRO's duties and functions only when it can be shown that such organization or individual acted with malice or with gross negligence; and

Third, it would authorize HEW to pay PSRO's and individual's expenses for legal counsel "necessarily incurred as determined by the Secretary in connection with the performance of any duties, functions, or activities of professionals standards review laws."

With respect to the payment of the expenses of legal counsel, I wish to make it clear that it is my intent and that of Congressman GUDE that such HEW payments would only take place if the PSRO's were unable to secure liability insurance. If in fact such liability insurance is available, this provision would not be needed.

When enacted in 1972, PSRO's were designed to provide review of health services by health professionals to assure that such services were medically necessary, provided at the appropriate level of care, and that the quality of such services would meet professionally recognized standards of care.

Today there are 63 PSRO's actually in operation in the country and another 57 in various planning stages. The growth of PSRO's is threatened, however, unless liability protection can be provided to those professionals who are willing to undertake the review of medical services and perform this important public responsibility.

In Montgomery County, for example, the Montgomery County Medical Care Foundation, is scheduled to cease its professional review activities as of the end of this year if some such protection is not forthcoming. This is because such foundation, notwithstanding a yearlong search, has been unable to secure liability insurance protection.

The problem of adequate liability insurance is not just a problem for Montgomery County, but evidentially one for PSRO's throughout the Nation. In a recent survey, 99 out of 105 PSRO's indicated that the issue of liability insurance was of major importance to them. Thus, unless we can solve this liability issue, the PSRO's will be endangered. HEW to date has been only able to promise reimbursement to PSRO's for defense "under certain conditions" and "subject to the availability of funds." Obviously, such conditional and "iffy" assurances are not adequate for the PSRO's.

This amendment incorporates the language of S. 2782, introduced by me and H.R. 11139, introduced by Congressman GUDE.

If PSRO's are to work, physicians and other health professionals involved must be protected against personal liability for carrying out their responsibilities.

Mr. President, I ask unanimous consent that my colleague from Maryland (Mr. MATHIAS) be included as a cosponsor.

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

Mr. LONG. Mr. President, our staff has studied the amendment the Senator has suggested, and we believe it would be meritorious and have no objection to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1293

Mr. BEALL. Mr. President, I call up my amendment No. 1293 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) proposes an amendment No. 1293.

The amendment is as follows:

At the proper place in the bill, insert the following new section:

COVERAGE UNDER PART B OF MEDICARE OF DURABLE MEDICAL EQUIPMENT PROVIDED TO CERTAIN INSTITUTIONALIZED PATIENTS

SEC. . (a) Section 1861(s)(6) of the Social Security Act is amended by inserting "and which is used as the patient's home during a period for which the patient is entitled to have payment made under part A for the inpatient hospital or post-hospital extended care services furnished to him by such institution" immediately after "of this section".

(b) The amendment made by this section shall be effective only with respect to services furnished on and after the first day of the first calendar month which begins not less than thirty days after the date of enactment of this Act.

Mr. BEALL. This amendment corrects what I believe to have been a technical oversight in the medicare legislation of 1965. Section 1861(s) of title XVIII defines "medical and other health services" as the terms are used in referrence to the scope of benefits provided under part B. Durable medical equipment is defined in section 1861(s)(6) as follows:

Durable medical equipment, including iron lungs, oxygen tents, hospital beds and wheelchairs used in the patient's home (including an institution used as his home other than an institution that meets the requirements of subsection (e)(1) or (j)(1) of this section), whether furnished on a rental basis or purchased;

The apparent purpose of the parenthetical language is to make these benefits available to persons making their homes in institutional settings as well as to persons residing in individual homes, but to exclude them from coverage under part B when they can be covered under part A. Subsection (e)(1) refers to hospitals and subsection (j)(1) refers to skilled nursing facilities which provide posthospital extended care services under part A.

The problem is created by the fact the exclusion is written in terms of the characteristics of the institution in which a person may make his or her home rather than in terms of the person's entitlement to receive the services through the institutional care covered by part A. Many persons make their homes in institutions which meet subsection (j)(1) but who are not currently eligible for institutional benefits under part A. These include, for example—

Patients in skilled nursing facilities who require skilled care but not in connection with a prior hospitalization.

Residents of intermediate care facilities. Many ICF's "meet the requirements of subsection (j)(1)."

Patients who have exhausted their coverage under part A.

The most serious manifestation of this problem is its denial of coverage for oxygen. Medicaid generally is not a resource. A few States, but very few, provide some oxygen under the heading of prescribed drugs. In general, a person needing oxygen, who would be entitled to it under part B if he resided in an individual home, has no access to coverage of oxygen because he makes his home in an institution, a situation contrary to the apparent intent of the original legislation.

Mr. President, my amendment seeks to correct this situation by adjusting the service to fit the patient rather than the other way around.

Mr. LONG. Mr. President, the amendment is meritorious, and I have no objection to it. Our staff has studied the amendment and have agreed it is a good amendment.

The amendment was agreed to.

Mr. BEALL. Mr. President, on behalf of the Senator from New York (Mr. JAVITS), I send an amendment to the desk, which I understand has been cleared with the staff of the committee, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) on behalf of Mr. Javits proposes an amendment.

The amendment is as follows:

On page 16, between lines 3 and 4, insert the following:

SEC. 11. Section 1815 of the Social Security Act is amended by deleting the parenthesis after "monthly", and inserting: "with no greater lag in payment to the provider than occurs in the providers' payments for the products and services it purchases)".

Mr. JAVITS. Mr. President, the purpose of this amendment is to overcome changes in the periodic interim payment—PIP—program under medicare, pursuant to recently published regulations in the Federal Register, which would slow down payments to hospitals in the medicare program.

The effect of the regulations will be a devastating blow to the critical cash flow situation of many of our Nation's hospitals. While the longer the delay in payment the greater the gain to the Government that holds the money, the greater the loss is to the institutions that receive the funds. Moreover, the institutions then have to borrow money—if they can—and pay interest on loans when they become cash short as a result of Government delay in payment.

I believe the Congress can act to prevent shortchanging hospitals in this way and require by law that payment be prompt.

The amendment I proposed achieves that result by amending section 1815 of the Social Security Act with respect to payments to providers of services. It amends the law requiring providers to be paid "but not less often than monthly" by further requiring such payment to be "with no greater lag in payment to the provider than occurs in the providers' payments for the products and services it purchases."

The amendment does not authorize hospitals to receive advances on which they will make a profit—but rather assures the medicare program will pay hospitals as promptly as hospitals pay their own bills. Thus, the hospitals would not be compelled to go into debt to pay their bills. This is the effect of the amendment I am proposing.

It is my view that the proposed amendment would be in accord with the legislative history of medicare that the program was to avoid "placing any financial burden upon hospitals by providing funds as nearly as possible after the time of providing services"—Provider Reimbursement Manual Paragraph 2407 of February 12, 1974.

Since the interest cost of the hospitals' borrowing—due to delayed payments—is ultimately shared by all of the hospital's patients, the proposed regulation—which this amendment seeks to overcome—appears in conflict with section 1861 of the Social Security Act which declares that nonmedicare payors should not be made to bear any medicare-related costs.

While the amendment does not specify "payroll," it is intended that "payroll" is included within "services it purchases" as set forth in the amendment.

Mr. LONG. I believe it to be a good amendment, Mr. President, and our staff has also studied this amendment and think it is meritorious.

Mr. BEALL. I thank the Senator from Louisiana.

The amendment was agreed to.

Mr. LONG. Mr. President, I have been informed by the acting majority leader, Mr. ROBERT C. BYRD, that he has learned that there are other Senators who wish to offer amendments to the bill with which I am not familiar, and I appreciate the problems of the leadership. Therefore, I think that we have no choice but to ask that this bill be temporarily laid aside and try to accommodate those Senators when we can.

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

Mr. LONG. Yes.

Mr. DOLE. The Senator from Kansas has two minor amendments, and he may not be in the Capitol tomorrow. I wonder if we could consider the two amendments that I have, which have been agreed to before we lay aside the bill.

Mr. LONG. I have no objection.

Mr. FANNIN. Mr. President, I also have one amendment for the Senator from Georgia, the Senator from Kansas, and the Senator from Arizona. I think that the chairman is familiar with the amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I send an

amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator from Kansas ask that the two amendments be considered en bloc?

Mr. DOLE. No, I do not. The Senator does not.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 16, between lines 3 and 4, insert the following new section:

STUDY REGARDING COVERAGE UNDER PART B OF MEDICARE FOR CERTAIN SERVICES PROVIDED BY OPTOMETRISTS

SEC. 11. The Secretary of Health, Education, and Welfare shall conduct a study of, and submit to the Congress not later than four months after the date of enactment of this section a report containing his findings and recommendationis with respect to, the appropriateness of reimbursement under the insurance program established by part B of title XVIII of the Social Security Act for services performed by doctors of optometry but not presently recognized for purposes of reimbursement with respect to the provision of prosthetic lenses for patients with aphakia.

Mr. DOLE. Mr. President, this amendment is essentially identical to one adopted by the Senate 2 years ago as a part of H.R. 3153, the Social Security Amendments of 1973. It simply calls upon HEW to make a determination of what diagnostic functions and professional services provided by optometrists should be reimbursable under medicare.

Under present medicare law, all routine vision care—including refractive services—are specifically excluded from coverage. However, with respect to services provided under title XVIII for aphakic patients; that is, those whose natural lenses have been removed—optometrists are included within the definition of a physician whose services are reimbursable.

Because of this inconsistency, a great deal of confusion has arisen as to precisely what services provided an aphakic patient are reimbursable. The purpose of this amendment is to create a mechanism by which that issue can be resolved.

In order that the intent might be clear on this, I think it would be well to refer back to the Finance Committee report language on H.R. 3153. On page 70 of that document, Senate report 93–553, it was noted that an appropriate study should be undertaken utilizing the expertise of both optometrists and physicians who are not employed directly or indirectly in governmental agencies, and that at least half of the professionals consulted should be actively practicing optometrists.

In addition to those original guidelines, I would further suggest now that the Secretary might assign the designated task to his Assistant Secretary of Health, and that his office in turn utilize existing Health Manpower agencies so that information could be supplied regarding the optometric curriculum and the distribution of optometrists generally. I would also hope that the panel formed would include consumer representatives and that, in the course of their investigation, consideration can be given to services provided the entire cataract patient—including precataract cases where appropriate.

These additional recommendations will, I believe, enhance the HEW study and result in a much needed clarification of the reimbursement policy in this entire area. For that reason, the Department should look upon them as specific recommendations designed to reflect legislative intent.

Mr. President, it is my understanding that the distinguished floor manager, Mr. LONG, is familiar with this amendment and has no objection to it. Before seeking his comments, however, I would like to note that the distinguished Senator from Connecticut (Mr. RIBICOFF) who was unable to be here at this time, also wishes to be associated with this effort.

The amendment has been discussed at the staff level. I think it is agreeable to the chairman and there is no objection on the minority side.

Mr. LONG. Mr. President, we have no objection to the amendment, and we believe it to be meritorious.

The amendment was agreed to.

Mr. LONG. Mr. President, I have been informed by the staff that Mr. CRANSTON and Mr. MONDALE had left notice with the leadership because they wished to offer amendments with which we are familiar and which we would support, and I am sure they have no objection to the Senate adding their amendments to the bill in view of the fact that they are not here at this moment. They have discussed them with our staff, and they have discussed them with me and others. I simply now, knowing what those Senators had in mind, ask that those amendments be obtained, and I will offer them on their behalf.

Mr. ROBERT C. BYRD. Mr. President, I have the name of Mr. MCINTYRE as a Senator who has an amendment at the desk.

Mr. LONG. Mr. President, that amendment is a solar tax amendment, I am told, and it would confront the same problem as the Brooke amendment. That amendment, if it is offered at all, ought to be offered on a revenue bill, and we are saving two revenue bills here on the calendar.

I would hope we could simply complete the work on this bill this evening and give Senator MCINTYRE the opportunity of offering his amendment on another bill tomorrow.

Mr. ROBERT C. BYRD. Very well.

Then the Senator from Louisiana assures me that Mr. MCINTYRE will have an opportunity to offer his amendment to another bill.

Mr. LONG. Definitely.

Please understand that that will have the same problem we have with the Brooke amendment.

Mr. ROBERT C. BYRD. At least he will be here.

Mr. LONG. But Senator BROOKE has the right to offer his amendment again on these two bills.

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. And Senator MCINTYRE will have his opportunity to offer his amendment.

Mr. ROBERT C. BYRD. He will have the opportunity to offer it and to speak to it and defend it.

Mr. LONG. Yes.

Mr. ROBERT C. BYRD. What about Mr. CRANSTON? I have his name also.

Mr. LONG. I am sending for the text of his amendment right now. I will offer it on his behalf.

Mr. ROBERT C. BYRD. Very well.

Mr. LONG. The amendment that Senator CRANSTON wishes to offer has previously been agreed to by the Senate on two occasions. I am sure the Senate would have no objection to agreeing to it again.

Mr. ROBERT C. BYRD. I do not know of any Senator who the Senator from California (Mr. CRANSTON) would rather have offer an amendment on his, Mr. CRANSTON's behalf than the Senator from Louisiana, especially when the Senator from Louisiana is managing the bill.

Mr. LONG. The Senator from California lives in the building right next to me, and I can assure the Senator that I would not be able to go home again if I did not do this for him. I am proud to be his neighbor, and I am confident that he would not object to my adding his amendment to the bill on his behalf.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for his consideration and also for his assurance with respect to the McIntyre bill.

Mr. LONG. Yes.

Mr. DOLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 16, between lines 3 and 4, insert the following new section:

PROFESSIONAL STANDARDS REVIEW ORGANIZATION STARTUP DEADLINE

SEC. 11. (a) Subsections (c)(1) and (f)(1) of Section 1152 of the Social Security Act are amended by changing the date "January 1, 1976," in each to "January 1, 1978,".

(b) The amendments made by the above subsection shall not apply in any area designated in accordance with Section 1152(a)(1) of the Act where—

(1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located, if different, has adopted by resolution or other official procedure a formal policy position of opposition to or non-cooperation with the established program of professional standards review; or

(2) the organization proposed to be designated by the Secretary under Section 1152 has been negatively voted upon in accordance with the provisions of Section 1152(f)(2).

Mr. PROXMIRE. Mr. President, what would this amendment do?

Mr. DOLE. It would simply extend for 2 years the deadline by which profession-

al standards review organizations must be established by local initiative and without preemption by the Secretary of Health, Education, and Welfare.

In view of the slow progress toward development of these institutions and the limited funding available for PSRO contracts, the present startup deadline of January 1, 1976, is, I believe, very unrealistic. Although the Secretary's most recent policy statement on PSRO's indicate that HEW will not move to unilaterally establish these review bodies during the next 12 to 18 months, it seems only fair and prudent that we remove that "pressure" from those associations which are still in the formative stages.

There are only 63 PSRO's actually in operation in the country today and another 57 in various planning stages. It is apparent, therefore, that the current date must be extended if we are to allow independent development of review organizations without HEW interference.

In order to eliminate the creation of a situation in which no action would be pending, my amendment does stipulate that the delay would not be effective in those areas where a formal policy of opposition or nonacceptance has been voted. Although very few in number, I recognize that the Department may, in those instances, have a legitimate basis for going ahead on its own.

Mr. President, I believe the distinguished floor manager, Mr. LONG, is acquainted with the advisability of this proposal and would be willing to accept it. If that is the case, and the Senate should then adopt the provision, it would certainly be my hope the House might give its concurrence.

Mr. President, I yield to the distinguished floor manager for his comments on this proposal.

Mr. LONG. Mr. President, there is a need to extend the time. There is no cost in the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. Mr. President, on behalf of Mr. CRANSTON, Mr. STONE, Mr. RIBICOFF, Mr. PHILIP A. HART, and Mr. PELL, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Insert at the appropriate place in the bill:

SEC. . (a) Title XVIII of the Social Security Act is amended by adding after section 1818 the following new section:

"HOSPITAL INSURANCE FOR INDIVIDUALS, AGE 60 THROUGH 64, WHO ARE ENTITLED TO BENEFITS UNDER SECTION 202 OR WHO ARE SPOUSES OF INDIVIDUALS ENTITLED TO HEALTH INSURANCE

"SEC. 1819. (a) Every individual who—

"(1) has attained the age of 60, but has not attained the age of 65; and

"(2) is either—

"(A) an individual entitled to monthly insurance benefits under section 202 or benefits under the Railroad Retirement Act of 1937, or

"(B) the wife or husband of a person entitled to benefits under this part, or

"(C) an individual entitled to benefits under—

"(i) section 223(a), or

"(ii) subsection (e), (f), (g), or (h), of section 202 based on disability,

but who has not met the conditions of section 226(b)(2); and

"(3) is enrolled under part B of this title shall be eligible to enroll in the insurance program established by this part.

"(b)(1) An individual may enroll only once under this section and only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

"(2) In the case of an individual who satisfies paragraph (1) of subsection (a) of this section and either subparagraph (A) or (C) of paragraph (2) of such subsection, his enrollment period shall begin with whichever of the following is the latest:

"(A) April 1, 1976, or

"(B) the date such individual first meets the conditions in such paragraph (2), or

"(C) the date the Secretary sends notice to such individual that he is entitled to any monthly insurance benefits as specified in subparagraph (a) or (C) of such paragraph (2),

and shall end at the close of the—

"(D) 90th day thereafter, if such enrollment period begins on the date specified in subparagraph (B) or (C) of this paragraph, or

"(E) the 180th day thereafter, if such enrollment period begins on April 1, 1976.

"(3) In the case of an individual satisfying paragraph (1) and paragraph (2)(B) of subsection (a) of this section, his enrollment period shall begin on whichever of the following is the later: (A) April 1, 1976, or (B) the date such individual first meets the conditions specified in such paragraphs, and shall end at the close of the (C) 90th day thereafter, if such enrollment period begins on the date specified in clause (B) of this paragraph or (D) the 180th day thereafter, if such enrollment period begins on April 1, 1976.

"(c)(1) In the case of an individual who enrolls pursuant to the provisions of this section, the coverage period during which he is entitled to benefits under this part shall begin on the first day of the second month after the month in which he enrolls, or July 1, 1976, whichever is later.

"(2) An individual's coverage period shall terminate at the earlier of the following—

"(A) for failure to make timely premium payments, at such time as may be prescribed in regulations which may include a grace period in which over-due premiums may be paid and coverage continued, but such grace period shall not exceed 30 days; except that it may be extended to not to exceed 60 days in any case where the Secretary determines that there was good cause for failure to pay overdue premiums within such 30-day period; or

"(B) at the close of the month following the month in which an individual files a notice with the Secretary that he no longer desires to be enrolled under this section; or

"(C) with the month before the month he no longer meets the conditions specified in subsection (a).

Notwithstanding the preceding provisions of this paragraph, an individual's coverage period shall terminate at such time as such individual becomes eligible for hospital insurance benefits under section 226 of this Act or section 103 of the Social Security Amendments of 1965; and upon such termination such individual shall be deemed, solely for purposes of hospital insurance entitlement, to have filed in such month the application required to establish such entitlement.

"(d)(1) The monthly premium of each individual under this section for each month in his coverage period before July 1977 shall be $40.

"(2) The Secretary shall, during the last calendar quarter of each year beginning in 1976, determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums chargeable to individuals for months occurring in the 12-month period commencing July 1 of the next succeeding year. Such amount shall be actuarily adequate on a per capita basis to meet the estimated amounts of incurred claims and administrative expenses for individuals enrolled under this section during such period; and such amount shall take into consideration underwriting losses or gains incurred during prior years. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest $1, or if midway between multiples of $1, to the next higher multiple of $1.

"(e) Payment of the monthly premiums on behalf of any individual who meets the conditions of subsection (a) may be made by any public or private agency or organization under a contract or other arrangement entered into between it and the Secretary if the Secretary determines that payment of such premiums under such contract or other arrangement is administratively feasible.

"(f)(1) The provisions of section 1840 shall apply to individuals enrolled under this section if such individuals are entitled to monthly insurance benefits under section 202 or 223. The provisions of subsections (e), (f), (g), and (h) of such section 1840 shall apply to any other individual so enrolled.

"(2) Where an individual enrolled under this section meets the provisions of paragraph (2)(B) of subsection (a) (but does not meet the provisions of paragraph (2)(A) or (2)(C) of such subsection) and the person referred to in such paragraph (2)(B) is entitled to monthly insurance benefits under section 202 or section 223, the provisions of section 1840(a)(1) shall apply to such benefits as though such husband or wife were entitled to such benefits, unless such person files a notice with the Secretary that the deductions provisions of such section 1840(a)(1) shall not apply.

"(g) The term 'wife', or 'husband' as used in this section shall have the meaning assigned to those terms by subsection (b) and subsection (f) of section 216, as the case may be, except that the provisions of clause (2) of such subsection (b) and clause (2) of such subsection (f) shall not apply.".

(b) Title XVIII of such Act is further amended by adding after section 1844 the following new section:

"ELIGIBILITY OF INDIVIDUALS, AGE 60 THROUGH 64, WHO ARE ENTITLED TO BENEFITS UNDER SECTION 202 OR WHO ARE SPOUSES OF INDIVIDUALS ENTITLED TO HOSPITAL INSURANCE

"SEC. 1845. (a) Any individual who meets the conditions of paragraph (1) and paragraph (2) of section 1819 (a) shall be eligible to enroll in the insurance program established by this part. The provisions of subsections (b), (c), (e), (f), and (g) of section 1819 shall apply to individuals authorized to enroll under this section.

"(b) An individual's coverage period shall also terminate when (A) he no longer meets the conditions specified in paragraphs (1) and (2) of section 1819(a) or (B) his enrollment under section 1819 is terminated. Where termination occurs pursuant to this subsection, the coverage period shall terminate with the close of whchever of the following months is the earliest: (C) the month before the month the individual attains the age of 65 or (D) the month follow-

ing the month in which such individual no longer meets the conditions of paragraph (2) of section 1819(a) or (E) the month in which his enrollment under section 1819 terminates.

"(c)(1) The monthly premium of each individual under this section for each month in his coverage period before July 1976 shall be 200 per centum of the premium payable by an individual who has attained age 65 for such month.

"(2) The Secretary shall, during December of each year beginning in 1976 determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in the 12-month period commencing July 1 of the next year. Such amount shall be actuarially adequate on a per capita basis to meet the estimated amounts of incurred claims and administrative expenses for individuals enrolled under this section during such period, and such amount shall take into consideration underwriting losses or gains incurred during prior years. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest $1 or if midway between multiples of $1, to the next higher multiple of $1.

"(d) All premiums collected from individuals enrolled pursuant to this section shall be deposited in the Federal Supplementary Medical Insurance Trust Fund.".

Mr. LONG. Mr. President, this amendment was originally included in the Social Security Act Amendments of 1972 (H.R. 1) as reported from the Finance Committee. It also was adopted by the Senate in the 93d Congress as a floor amendment to H.R. 3153, the Social Security Act Amendments of 1973. This amendment is designed to enable certain individuals who have not yet reached age 65 to buy-in to parts A and B of medicare by payment of equal-to-cost premiums with no additional cost to the American taxpayer or burden to the Federal budget.

The Senator from Florida (Mr. STONE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. HART), the Senator from Rhode Island (Mr. PELL), the Senator from Wyoming (Mr. MCGEE), and the Senator from Tennessee (Mr. BROCK) join Senator CRANSTON in sponsoring this amendment.

The need for this legislation stems from the fact that medicare eligibility generally does not begin until age 65 yet many older persons lose their group health coverage when they retire before the age of 65. They are forced to enroll in high cost individual health policies with extremely limited and inadequate coverage—and even those are almost never available to individuals over 60 years old—or to forego any coverage whatsoever, gambling that they will stay healthy at least until they reach 65 when they become eligible for medicare.

Even if they are able to purchase coverage, it is at a prohibitive cost and in many cases excludes coverage of preexisting conditions. I am unaware of any health insurance currently available for this age group which is anywhere near as good a buy as medicare.

This provision is identical to that currently in the statute governing "buy-in" provisions for those over 65 not covered by social security.

The "buy-in" procedure we propose today is also similar to that allowing States to "buy-in" to medicare on behalf of their retired public employees 65 years or older.

Mr. President, adequate health care coverage is a matter of the greatest concern to Americans reaching retirement age. This legislation addresses that concern and provides a mechanism for a substantial number of particularly hard-pressed older Americans to take full advantage of the benefits under the medicare program.

The Senate having already twice passed this bill, I would hope that this third effort, if sucessful, will convince the other body of the Senate's commitment to bringing better health care to our senior citizens.

Mr. President, I hope the Senate will agree to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

BUY-IN AMENDMENT TO MEDICARE

Mr. CRANSTON. Mr. President, this amendment No. 1287 to H.R. 10284 was originally included in the Social Security Amendments of 1972—H.R. 1—as reported from the Finance Committee. It also was adopted by the Senate in the 93d Congress as a floor amendment to H.R. 3153, the Social Security Act Amendments of 1973. This amendment is designed to enable certain individuals who have not yet reached age 65 to "buy in" to parts A and B of medicare by payment of equal-to-cost premiums with no additional cost to the American taxpayer or burden to the Federal budget.

Mr. President, I am pleased that the Senator from Florida (Mr. STONE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Rhode Island (Mr. PELL), the Senator from Wyoming (Mr. MCGEE), and the Senator from Tennessee (Mr. BROCK) join me in sponsoring this amendment.

The need for this legislation stems from the fact that medicare eligibility does not begin until age 65—except for those disabled social security beneficiaries and individuals suffering from chronic kidney disease to whom medicare coverage was extended as the result of Public Law 92-603—yet many older persons lose their group health coverage when they retire before the age of 65. They are forced to enroll in high cost individual health policies with extremely limited and inadequate coverage—and even those are almost never available to individuals over 60 years old—or to forego any coverage whatsoever, gambling that they will stay healthy at least until they reach 65 when they become eligible for medicare.

Even if they are able to purchase coverage, it is at a prohibitive cost and in many cases excludes coverage of preexisting conditions. I am unaware of any health insurance currently available for this age group which is anywhere near as good a buy as medicare.

This is an intolerable situation, Mr. President, and I believe that we can effectively counteract it through the enactment of the measure we are proposing today. This amendment provides that if one spouse is over 65 and enrolled in medicare, the other spouse, if at least 60 years old, would be able to enroll in the program and receive equivalent benefits at cost.

In addition, these benefits would be made available to those receiving social security benefits who are 62 years of age and over; a divorced mother or widow between the ages of 60 and 64 if she is caring for a child under age 18 who is receiving payments based on the worker's record; the dependent parents between the ages of 60 and 64 of a deceased worker; and individuals between the ages of 60 and 64 who are retired on social security disability.

Persons in this last category whose disability persists for 2 years are eligible for medicare coverage now under existing law. Under the amendment we are offering today, these individuals would be able to "buy in" to medicare without waiting 2 years if they are over 60 years old.

Mr. President, our proposal would allow each of these categories of individuals, at a total cost of approximately $54 per month each in the first year of operation to enroll in part A of medicare—the hospital insurance benefits—if they also enroll in part B, supplementary medical insurance. The monthly premium for part A coverage would be $40 and for part B, approximately $14 or 200 percent of the current part B premiums—one-half of which the Government presently underwrites for medicare beneficiaries. This Federal subsidy would not apply to those individual who "buy in" to medicare. These individuals would be permitted to enroll in these programs anytime they are or become eligible during a 90-day period following receipt of notice of eligibility from the Social Security Commissioner.

We have mandated that any individual "buying in" to medicare must "buy in" to both part A and part B in order to reduce the potential excessive utilization of part A that might occur if that were the only coverage available to an individual. With coverage of both hospital benefits and ambulatory care benefits, the individual will have an opportunity to utilize the most cost effective and appropriate means of treatment for his ailment. Otherwise, if enrolled only under part A, an incentive might be created for overutilization of the most expensive kinds of in-hospital services.

This provision is identical to that currently in the statute governing "buy in" provisions for those over 65 not covered by social security added by Public Law 92-603.

Premium costs after the first year of operation for part A coverage would be set at a level which the Secretary determines, based on the estimated cost of hospital insurance protection for persons eligible to enroll plus amounts sufficient to cover administrative expenses and underwriting losses or gains, if any. This premium would be adjusted annually to reflect both the experience of the group and any changes in costs. It is conceiva-

ble that experience will show the part A premium should be less than the $40 which we propose for the first year of operation of this program.

That figure is based on the premium charged by HEW currently to individuals over 65 who wish to enroll in medicare and who are not eligible for social security. The group we propose to enroll is a younger and, presumably, healthier group so one would expect the premium to be less.

Though in 1972 the Senate Finance Committee clearly recognized the need for this extension of medicare coverage, and recognized that it would provide important health insurance benefits at no cost to the Government, this provision was deleted from the bill by the conference committee, and not included in the final version of the Social Security Amendments of 1972 as signed by the President.

At that time I was advised by the Finance Committee that the major factor in its deletion was simply the lack of opportunity, given the time constraints under which we were all operating in the concluding days of that Congress, for the House to evaluate this Senate provision thoroughly.

Subsequently, in the 93d Congress, the Finance Committee again recommended support for the "buy in" provision when I offered it as an amendment to H.R. 3153 and it was adopted by the Senate during floor consideration of that act. Unfortunately, as you know, the House was unwilling to come to conference on H.R. 3153 and the bill was allowed to die with adjournment of the 93d Congress.

Mr. President, adequate health care coverage is a matter of the greatest concern to Americans reaching retirement age. This legislation addresses that concern and provides a mechanism for a substantial number of particularly hard-pressed older Americans to take full advantage of the benefits under the medicare program.

The Senate having already twice passed this bill, I would hope that this third effort, if successful, will convince the other body of the Senate's commitment to bringing better health care to our senior citizens.

Mr. President, I ask unanimous consent that an excerpt describing these provisions from the Senate Finance Committee report on H.R. 1, the Social Security Amendments of 1972, (S. Rep. No. 92–1230) be printed in the RECORD at this point.

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

EXCERPT FROM REPORT NO. 92–1230

MEDICARE COVERAGE FOR CERTAIN INDIVIDUALS AGED 60–64

(Sec. 214 of the bill)

Present law provides hospital insurance protection for persons aged 65 and over who are insured or are deemed to be insured for cash benefits under the social security or railroad retirement programs. Essentially, all persons aged 65 and over are eligible to enroll for medical insurance (part B) without regard to insured status. The committee has approved a provision in the House bill which would permit persons aged 65 and over who are not insured or deemed insured for cash benefits to enroll in part A at a premium rate equal to the cost of their protection.

The committee is concerned that many social security and railroad retirement cash beneficiaries aged 60–64 and spouses aged 60–64 of medicare beneficiaries find it difficult to obtain adequate private health insurance at a rate which they can afford. Frequently these older persons—retired workers, wives, husbands, widows, widowers, mothers, parents, brothers and sisters, for example—have been dependent for health insurance protection on their own group coverage or that of a related worker who is now retired or deceased. It is a difficult task for such older persons to secure comparable protection at affordable cost when they are not connected with the labor force.

The committee, therefore, has added to the House bill a provision which would make medicare protection (both part A and part B) available on an optional basis at cost to spouses aged 60–64 of medicare beneficiaries; others aged 60–64 who are entitled to retirement, wife's, husband's, widow's, widower's, mother's, parent's, or brother's and sister's benefits under social security and the railroad retirement programs; and disability beneficiaries aged 60–64 not otherwise eligible for medicare because they have not been entitled to cash disability benefits for 24 months. The availability of medicare protection would be limited to persons aged 60–64 because the committee believes that people under age 60 who are not disabled generally have relatively little difficulty in obtaining private health insurance. About 6 million persons aged 60–64 would be potentially eligible to enroll for medicare as spouses of medicare beneficiaries or as beneficiaries entitled to the benefits specified above.

Persons who elect to avail themselves of medicare protection under this provision would pay the full cost of such protection. Enrollees would pay a monthly part A premium based upon the estimated cost of hospital insurance protection for persons eligible to enroll plus amounts sufficient to cover administrative expenses and underwriting losses or gains, if any; such premium would be $33 a month through June 1974 and would be adjusted for each 12-month period thereafter to reflect both the experience of the group and any changes in costs.

The monthly premium for persons in the group who enroll for part B would be twice the premium paid by an individual who has attained age 65 until June 1974 and would be adjusted for each 12-month period thereafter to reflect the estimated cost of supplementary medical insurance protection for persons eligible to enroll under the provisions plus amounts sufficient to cover administrative expenses and underwriting losses or gains, if any. Aliens who have been in the United States less than 5 years and persons who have been convicted of certain subversive crimes would be excluded from participation under this provision, just as they are excluded from enrolling for supplementary medical insurance.

The committee bill would require, as it requires under the provision in the bill making medicare protection available to uninsured persons aged 65 and over, that in order for persons to be eligible to enroll for hospital insurance they must be enrolled for supplementary medical insurance. If a person terminates his supplementary medical insurance, his hospital insurance coverage under this provision would be automatically terminated effective the same date as his supplementary medical insurance termination. The committee believes that such a restriction is necessary to reduce the possibility of excessive utilization of the more expensive hospital insurance coverage as might occur if an individual were enrolled for hospital insurance (covering primarily institutional care) but not for supplementary medical insurance (covering primarily outpatient care).

Coverage would be initially available as of July 1, 1973, to enrolled eligible persons.

Mr. FANNIN. Mr. President, I send to the desk an amendment which I have joined with Senator TALMADGE in sponsoring and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the proper place in the bill, insert the following new section:

UTILIZATION REVIEW UNDER MEDICAID

SEC. . (a) Section 1903(g)(1)(C) of the Social Security Act is amended to read as follows:

"(C) such State has in effect a continuous program of review of utilization pursuant to section 1902(a)(30) whereby each admission is reviewed or screened in accordance with criteria established by medical and other professional personnel and (i) the information developed from such review or screening, and (ii) the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, who are not themselves directly responsible for the care of the patient involved and who do not have a significant financial interest in any such institution and who are not, except in the case of a hospital, employed by the institution providing the care involved; and, any such sample may be of any size up to 100 percent of all admissions and must be of sufficient size to serve the purpose of (iii) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (iv) subjecting admissions to early or more extensive review where information indicated that such consideration is warranted; and".

(b) The amendment made by subsection (a) shall take effect on the first day of the first calendar month which begins not less than 90 days after the date of enactment of this Act.

Mr. FANNIN. Mr. President, the chairman is familiar with this amendment. It is offered on behalf of myself, Senator TALMADGE, and Senator DOLE.

Mr. President, this amendment deals with utilization review requirements in the medicare and medicaid statutes.

In 1972 the Congress spent a good deal of time on amendments to the medicare and medicaid programs. At this time there was a great deal of interest in the need for improved utilization and peer review activities in order to assist in controlling the cost and quality of services rendered under the programs.

In drafting the PSRO provision and other utilization review provisions in medicare and medicaid, the Committee on Finance sought to draft meaningful and substantive review requirements and yet sought to give the reviewing physicians latitude in how the review would

be carried out. For example, throughout the PSRO statute, and the other utilization review requirements in medicare and medicaid, we attempted to indicate that review was not to be done on just a token basis, but rather that substantial numbers of cases were to be reviewed and, further, that all cases were to be reviewed through the use of a screening process. We tried, however, to leave room in the statute so that we did not require by statute the direct review of each and every patient and admission.

It has been brought to our attention that there was one place in the statute where the review of each hospitalization under the medicaid program appears called for and, because of a cross reference in the statute, this review of each case would apply to the medicare program also. The Department has recently issued utilization review regulations aimed at implementing these provisions of law. The draft regulations met heavy objection and were eventually withdrawn by the Department of Health, Education, and Welfare. New regulations are currently being drafted. A number of groups, including both the American Hospital Association and the American Medical Association, have objected to the provision in the utilization review regulations calling for direct review of each admission. However, the Department has been bound by statute to call for such review.

Since, as I have pointed out above, such review is beyond the scope of what we intended, my amendment to medicaid would make it clear that 100-percent review was not mandated by law and that, rather than requiring 100-percent review of all cases, sample reviews would be carried out to keep a careful eye on the patterns of care being offered, and to subject problem patterns to early and extensive review. Where a particular problem exists, the amendment allows 100-percent review to be performed. Furthermore, the language allows for 100-percent review at the early stages of a program when the patterns of care are as yet unknown. In general, and over the long run, this amendment would allow utilization review to be carried out in the fashion that is most cost-effective.

Of course, the utilization review activities described in the amendment will be taken over by PSRO's in an area as the PSRO's become active and are found capable by the Secretary of assuming such responsibilities.

Mr. LONG. Mr. President, I am led to believe that this is such a popular amendment that it would be well to ask that my name be added as a cosponsor. I ask unanimous consent that my name be added as a cosponsor of the amendment.

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

Mr. FANNIN. I thank the distinguished chairman.

Mr. LONG. Mr. President, as I understand it, the law now would appear to require a 100-percent review of these medicaid claims. I do not think we really intended that. In many cases, a simple screening is adequate; and if someone finds that there is an irregularity or something wrong with a claim, they could look at it more closely. The idea of requiring that everything in a claim be reviewed is not what we had in mind when we passed the law. It is a technical error that should be corrected. Otherwise, there would be needless cost and a great deal of unnecessary paperwork.

Mr. FANNIN. I thank the Senator. It will bring about a great deal of saving.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I have an amendment at the desk which I submit on behalf of myself and Senator CHURCH.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following:

That section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN IRRIGATION DAMS.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c)(4)(G) if—

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

"(2) the water so released is available on reasonable demand to members of the general public.".

SEC. 2. The amendments made by the first section of this Act shall apply to obligations issued after the date of the enactment of this Act.

Mr. McCLURE. Mr. President, this is the same amendment that was offered to the other bill, and it was fully explained at that time. I hope the Senator can accept this amendment.

Mr. LONG. Mr. President, if I understand what the Senator is seeking, he is seeking to add the same amendment as has already been added to the social security bill. He is seeking to do that in the event that the social security bill might not become law while this one might.

Mr. McCLURE. The Senator is correct.

Mr. LONG. I would then like to do the same thing with the Virgin Islands bill.

Mr. McCLURE. I have no objection.

Mr. PROXMIRE. Mr. President, I have great sympathy with the Senators from Idaho, who have made a very good case with their proposed legislation. But it seems to me that this is a bad precedent. Are we going to do this on every bill that comes up? I think that if any bill has a chance of passage, it is the social security bill. Everybody is for it. It would have every chance of going through. Perhaps if it were my State, I might try to do the same, but it seems to me that there would be no end to this.

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

Mr. PROXMIRE. I yield.

Mr. McCLURE. The Senator from Idaho would not ordinarily do this just because he happens to have a bill he would like to get passed. This particular matter has an absolutely critical time question involved in it. There is no next year for us on this one. If anything happens to the one bill that is moving, then the entire arrangement that has been put together so meticulously and with so much pain and so much effort comes apart.

All that I and my colleague from Idaho are seeking to do is to make certain that there is a bill that gets through and that carries this provision, without it getting lost. If it does not get through and get to the President and signed by the President, the entire arrangement comes apart. It is just that critical. We do not have a second chance on it.

Mr. LONG. Mr. President, in view of the eloquent statement the Senator has made, I will not insist on offering the Virgin Islands bill as an amendment to his amendment.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. I send to the desk an amendment in behalf of Senator MONDALE.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Add at the end thereof the following new section:

"TECHNICAL AMENDMENT RELATING TO JUDICIAL REVIEW AVAILABLE TO PROVIDERS OF SERVICES"

"SEC. 5. Section 3 of P.L. 93-484 is amended by redesignating subsection (b) therefor as subsection (c), and inserting the following new subsection:

"(b) Notwithstanding any other provision of law, section 1878 of the Social Security Act shall not be construed as affecting any right to judicial review which may otherwise be available under law to providers of services with respect to cost reports for accounting periods ending prior to June 30, 1973."

Mr. LONG. Mr. President, this is a technical amendment that was previously passed through the Senate to protect a legal right. It is something we have passed before, but we have passed it on a bill that failed to become law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

The bill (H.R. 10284) was passed.

Mr. LONG. Just in case the House should ask for a conference on this matter, I move that the Senate insist on its amendments, request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. HARTKE, Mr. CURTIS, and Mr. FANNIN conferees on the part of the Senate.

The title was amended so as to read:

An Act to amend title XVIII of the Social Security Act, and for other purposes.

Mr. LONG. 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.

Mr. LONG. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 10284.

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

Mr. LONG. I thank the distinguished acting majority leader (Mr. ROBERT C. BYRD) and the distinguished Senator from Wisconsin (Mr. PROXMIRE) for their helpful cooperation in considering and passing these measures, as well as the other Senators who have participated in this discussion tonight. It is a difficult problem when the committee is limited by the action in the other body. We on the Committee on Finance oftentimes find ourselves frustrated by the fact that the committees on the other side handling revenue bills take a long time in getting those bills to us. Their failure to act early in a session and, sometimes, failure to act on a measure entirely in a session, oftentimes frustrates us and presents us from offering the Senate an opportunity to do as much fine work as the Senate would like to do.

I appreciate the cooperation of the Senators in helping us pass some very needed and desirable legislation here tonight. It is true that none of these measures has any great impact on individual, but they are vital to those people affected.

Mr. FANNIN. Mr. President, I commend the distinguished chairman of our committee, the Senator from Louisiana, for his very capable and diligent work on these measures. These bills are very important and he was willing to devote long days and many, many hours to getting these bills to the floor. On the floor, he has carried them in a very commendable manner. I very much appreciate the splendid work he has done.

Mr. LONG. Mr. President, I thank the distinguished Senator. I very much appreciate the great contribution the Senator from Arizona has made. He has been a very busy man and has done a great deal of work for Congress and for his Nation.

I only regret that some of the other committees have not agreed with him as much as the Senate Committee on Finance has. I think the Nation would be better off if the other committees had seen fit to see things his way as often as the Committee on Finance has.

Mr. FANNIN. Mr. President, I want to thank the majority and minority staff for the work they have done.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, the Senate has now been in session for 12 hours and 40 minutes.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 539, 541, 543, and 544.

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

REDUCTION IN SPENDING LEVELS

The concurrent resolution (S. Con. Res. 79) declaring the commitment of the Senate to comply with the Congressional Budget and Impoundment Control Act of 1974 and to reduce spending levels was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That Congress reaffirms its commitment to following the procedures established by the Congressional Budget and Impoundment Control Act of 1974. The Senate recognizes and approves the President's determination to reduce spending levels in order to reduce the national deficit, and requests that the President expedite his submission to the Congress of specific spending cut proposals. The Senate further declares its intention to seek to counterbalance future tax reductions enacted by the Congress by restricting the growth of spending.

WILLARD H. ALLEN, JR., AND NICOLE J. ALLEN

The Senate proceeded to consider the bill (S. 209) for the relief of Willard H. Allen, Jr., and Nicole J. Allen which had been reported from the Committee on the Judiciary with amendments, as follows:

On page 1, in line 6, strike "$10,000" and insert "$6,476";

On page 1, in line 8, strike out "for reimbursement of expenses they incurred as the result of an error by personnel of the Bureau of Indian Affairs";

On page 2, in line 4, strike "25" and insert "10";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $6,476 to Willard H. Allen, Junior, and Nicole J. Allen of Brighton, Colorado, in full settlement of all their claims against the United States in connection with a defective sale to them of restricted Indian land in the Wind River Reservation, Wyoming.

SEC. 2. No part of the amount appropriated by this Act in excess of 10 per centum thereof may be paid to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $2,000, imprisonment not to exceed one year, or both.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–566) explaining the purposes of the measure.

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

PURPOSE

The purpose of S. 209, as amended, is to authorize the Secretary of the Treasury to pay Willard H. Allen, Jr., and Nicole J. Allen the sum of $6,476 in full satisfaction of their claim. The bill prohibits payment of agent or attorney fees in excess of 19 percentum of the funds authorized to be appropriated by this Act and impose a penalty for violation of the limitation.

BACKGROUND AND NEED

While employed by the Indian Health Service (Department of Health, Education, and Welfare) on the Wind River Reservation, Wyoming, Willard H. Allen offered the sum of $6,476 for 20 acres of restricted Indian land owned by Stanford St. Clair. The award was made on May 22, 1972, when the sale was approved by the Bureau of Indian Affairs, and the deed issued.

Bureau of Indian Affairs officials at the Area Office in Billings, Montana, learned later in the year that Mr. Allen was employed by the Indian Health Service; and the sale, therefore, was declared null and void by the Bureau, pursuant to the Act of June 30, 1834 (4 Stat. 738), which prohibits any trading with Indians by persons employed in the Indian service.

By the time the sale was declared null and void, Mr. St. Clair had used the funds to discharge a mortgage held by the Tribal Credit Program on the land in question. Mr. St. Clair did not have sufficient funds or resources to reimburse the Allens.

Early in 1973, Mr. St. Clair died; the estate was settled but the assets of the estate, aside from the restricted land, were insufficient to satisfy the outstanding obligation. The Bureau of Indian Affairs contends that it cannot legally force the sale of restricted or trust land in order to satisfy any outstanding obligations.

Since the Bureau of Indian Affairs contends that neither the Wind River Tribes nor the heirs of Mr. St. Clair can be held liable for the obligation, the only recourse for the Allens was to seek legislative relief as proposed in S. 209.

LEGISLATIVE HISTORY

S. 209 was introduced by Senator McGee on January 17, 1975. The bill was originally referred to the Committee on the Judiciary; but that Committee discharged its responsibility, and referred the measure to the Committee on Interior and Insular Affairs on January 23, 1975.

A hearing was held before the Subcommittee on Indian Affairs on S. 209 on April 24, 1975. At that hearing, Administration witnesses testified that Bureau of Indian Affairs officials at the Wind River Reservation should have discovered that Mr. Allen was not eligible to purchase trust Indian land, and his offer, therefore, should have been rejected. The Indian Health Service, through a written communication to the Subcommittee, confirmed that they have no formal orientation procedures which would inform their employees of the statutory provisions restricting their ability to trade with Indians. Notwithstanding this deficiency in the

Indian Health Service's orientation procedures, the Bureau argues that Mr. Allen should have been aware of the prohibition contained in the 1834 Act.

The Department of the Interior recommends against enactment of S. 209. However, the Department states further that it would have no objection to the enactment of the measure, if the Congress should determine that the circumstances of this case warrant a grant of relief, if it is amended to limit the amount of the relief to the purchase price of $6,476 only, and if the amount authorized for payment to an attorney or agency is limited to 10 per cent of the recovery, the customary amount allowed in this type of bill.

S. 209 was first considered by the full Committee in open markup session on May 14, 1975. At that time there appeared to be a consensus among the Members that the heirs of Mr. St. Clair may have been unjustly enriched by the Allen transaction. As a result they were reluctant to approve the bill authorizing the United States to compensate the Allens.

The Committee deferred action on the proposed measure and instructed Committee staff to explore four specific questions as follows:

1. Did the Allens have any legal claim against Mr. St. Clair or his estate while in probate or did they have any claim against the heirs subsequent to probate?

2. Do the Allens have any right of subrogation which could be enforced by the Secretary or any Court against the Tribe for recovery of the amount paid to retire the Tribe's mortgage on the land?

3. Do the Allens have any claim against the United States as a result of the transaction which could be brought in the Court of Claims under existing law?

4. What would be the legal consequences for the United States, the Allens, and the heirs of Mr. St. Clair if legislation were to be enacted (a) authorizing Secretarial sale of the land and payment from the proceeds to the Allens; (b) authorizing Secretarial issuance of a patent in fee to the heirs of Mr. St. Clair; (c) authorizing judicial action to establish a lien against the land or other assets of the heirs of Mr. St. Clair; and (d) validating the May 1972 sale.

The Committee questions were submitted to the Departmental Solicitor for his views and comments. In a lengthy written response to Senator Hansen, the Department stated that there are no legal means by which the heirs of Mr. St. Clair could be required to compensate the Allens without subjecting the United States to liability to the heirs; that the Allens did not appear to have any right of subrogation against the Tribe which could be enforced by action of the Secretary or any court; that the Allens did not have any claim against the United States which could be brought in the Court of Claims or otherwise under existing law; and that legislation which would authorize the Secretary to sell the restricted land in question and pay the Allens from the proceeds would be of questionable constitutional validity. Under such circumstances, the United States could be held liable for a Fifth Amendment taking of the heirs' title to the land. The Department cited several statutory prohibitions and court cases to support their conclusions in their response to the questions.

The American Law Division, Congressional Research Service, was also requested to review the circumstances surrounding the Allens' claim and provide the Committee with a legal analysis. Their analysis parallels that of the Departmental Solicitor.

VETERANS AND SURVIVORS PENSION INTERIM ADJUSTMENT ACT OF 1975

The Senate proceeded to consider the bill (H.R. 10355) to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes, which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Veterans and Survivors Pension Interim Adjustment Act of 1975".

TITLE I—INTERIM ADJUSTMENT IN CURRENT STATUTORY PENSION PROVISIONS

SEC. 101. Effectvie January 1, 1976, title 38, United States Code, is amended as follows:

(1) chapter 1 of title 38, United States Code, is amended—

(A) by striking out in paragraph (3) of section 101 "widow", "woman", "wife", "his", "him", "man", and "herself" each time they appear and inserting in lieu thereof "surviving spouse", "person of the opposite sex", "spouse", "the veteran's", "person", and "himself or herself", respectively;

(B) by striking out in the second sentence of paragraph (4) of section 101 "his support" and "his spouse" and inserting in lieu thereof "the person's support" and "the veteran's spouse", respectively;

(C) by striking out in paragraph (5) of section 101 "his" and inserting in lieu thereof "the veteran's";

(D) by striking out in paragraph (13) of section 101 "widow" and inserting in lieu thereof "surviving spouse";

(E) by striking out in paragraph (14) of section 101 "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(F) by striking out in paragragh (15) of section 101 "widow" and inserting in lieu thereof "surviving spouse"; and

(G) by adding at the end of section 101 the following new paragraph:

"(31) The term 'spouse' means a person of the opposite sex who is a wife or husband and the term 'surviving spouse' means a preson of the opposite sex who is a widow or widower."; and

(2) chapter 15 of title 38, United States Code, is amended—

(A) by inserting in subsection (a) of section 503 "and" after the semicolon at the end of clause (16) of such subsection;

(B) by striking out in subsection (a) of section 541 "widow" and inserting in lieu thereof "surviving spouse" and by striking out "his" preceding the word "death";

(C) by striking out in subsection (e) of section 541 the language preceding clause (1) of such subsection and inserting in lieu thereof "No pension shall be paid to a surviving spouse of a veteran under this section unless the spouse was married to the veteran—" and by amending subclause (D) of clause (1) of such subsection, to read as follows: "(D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran; or";

(D) by striking out in section 542 "widow" and inserting in lieu thereof "surviving spouse" and by striking out "his" preceding the word "death";

(E) by striking out in section 543 "widow" and inserting in lieu thereof "surviving spouse";

(F) by repealing sections 510 and 531;

(G) by striking out in the heading of subchapter III "Widows" and inserting in lieu thereof

"Surviving Spouses";

(H) by striking out in the catchline of section 541 "Widows" and inserting in lieu thereof "Surviving Spouses";

(I) by striking out in the subheading of subchatper III immediately following section 543 "WIDOWS' and inserting in lieu thereof "SURVIVING SPOUSES"; and

(J) by amending the table of sections at the beginning of such chapter 15—

(i) by striking out

"510. Confederate forces veterans.";

(ii) by striking out

"SUBCHAPTER III—PENSIONS TO WIDOWS AND CHILDREN";

and inserting in lieu thereof

"SUBCHAPTER III—PENSIONS TO SURVIVING SPOUSES AND CHILDREN";

(iii) by striking out

"531. Widows of Mexican War veterans.";

(iv) by striking out

"541. Widows of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans."

and inserting in lieu thereof

"541. Surviving spouses of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans."; and

(v) by striking out

"Widows of Veterans of All Periods of War"

and inserting in lieu thereof

"Surviving Spouses of Veterans of All Periods of War".

SEC. 102. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 521 of title 38, United States Code, is amended—

(1) by amending subsections (b) and (c) to read as follows:

"(b)(1) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of such veteran's spouse) and has no child, pension shall be paid to the veteran according to the following formula:

"The monthly rate of pension shall be $173 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	1,200
.06	1,200	1,700
.07	1,700	2,000
.08	2,000	3,300

"(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $3,300.

"(c)(1) If the vetern is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child or children, pension shall be paid to the veteran according to the following formula:

"The monthly rate of pension for a veteran shall be— $186 if such veteran has one such dependent; $191 if such veteran has two such dependents; and $196 if such veteran has three or more such dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,300
.04	1,300	2,800
.05	2,800	3,200
.06	3,200	3,800
.08	3,800	4,500

"(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $4,500.";

(2) by striking out in subsection (d) "him" and "$123" and inserting in lieu thereof "such veteran" and "$133", respectively; and

(3) by striking out in subsection (e) "his", "him", and "$49" and inserting in lieu thereof "such veteran's", "such veteran", and "$53", respectively.

SEC. 103. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 541 of title 38, United States Code, is amended—

(1) by amending subsections (b) and (c) to read as follows:

"(b)(1) If there is no child, pension shall be paid to the surviving spouse according to the following formula:

"The monthly rate of pension shall be $173 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,500
.05	1,500	2,700
.06	2,700	3,300

"(2) In no case may the amount of pension payable to any surviving spouse under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $3,300.

"(c)(1) If there is a surviving spouse and one child, pension shall be paid to the surviving spouse according to the following formula:

"The monthly rate of pension shall be $139 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$700
.01	$700	1,100
.02	1,100	1,800
.03	1,800	2,700
.04	2,700	3,500
.05	3,500	4,500

"(2) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $4,500.

"(3) Whenever the monthly rate payable to any surviving spouse under paragraph (1) of this subsection is less than the amount which would be payable for one child under section 542 of this title if the surviving spouse were not entitled, the surviving spouse shall be paid at the child's rate."; and

(2) by striking out in subsection (d) "widow" and "$20" and inserting in lieu thereof "surviving spouse" and "$22", respectively.

SEC. 104. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 542 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "$49" and "$20" and inserting in lieu thereof "$53" and "$22", respectively; and

(2) by striking out in subsection (c) "$2,400" and inserting in lieu thereof "$2,700".

SEC. 105. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 544 of title 38, United States Code, is amended to read as follows:

"§ 544. Aid and attendance allowance

"If any surviving spouse is entitled to pension under this subchapter and is in need of regular aid and attendance, the monthly rate of pension payable to the surviving spouse shall be increased by $69.".

SEC. 106. Effective January 1, 1976, chapter 15 of title 38, United States Code, is amended—

(1) by striking out in section 501(2) "him" and inserting in lieu thereof "such veteran";

(2) by striking out in subsections (a), (b), and (c) of section 502 "he" and "his" each time they appear and inserting in lieu thereof "such person" and "such veteran's", respectively;

(3) by striking out in section 503(a)(7) "wife", "his", and "widow" and inserting in lieu thereof "spouse", "such veteran's", and "surviving spouse", respectively;

(4) by striking out in subclauses (A), (B), and (C) of section 503(a)(7) "his" each time it appears and inserting in lieu thereof "such veteran's";

(5) by striking out in subclauses (A) and (B) of section 503(a)(9) "his", "widow", and "wife" each time they appear and inserting in lieu thereof "such veteran's", "surviving spouse", and "spouse", respectively;

(6) by striking out in section 503(a)(14) "his widow" and inserting in lieu thereof "such veteran's surviving spouse";

(7) by striking out in section 503(a)(16) "his" and inserting in lieu thereof "such employee's";

(8) by striking out in section 503(c) "widow" and inserting in lieu thereof "surviving spouse";

(9) by striking out in section 505(a) "his" each time it appears and inserting in lieu thereof "such individual's";

(10) by striking out in section 505(b) "his wife" and inserting in lieu thereof "such veteran's spouse";

(11) by striking out in section 505(c), including clauses (1) and (2), "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(12) by striking out in section 506(a)(1) "he" and inserting in lieu thereof "the Administrator";

(13) by striking out in section 506(a)(2) "him", "he", and "his" each time they appear and inserting in lieu thereof "the Administrator", "such person", and "such person's", respectively;

(14) by striking out in section 506(a)(3) "his" each time it appears and inserting in lieu thereof "such person's";

(15) by striking out in section 507 ", in his discretion,"; by striking out in such section "his wife" and inserting in lieu thereof "such veteran's spouse"; and by striking out in such section "wife" the second time it appears and inserting in lieu thereof "spouse";

(16) by striking out in subsections (b) and (c) of section 511 "he" each time it appears and inserting in lieu thereof "such veteran";

(17) by striking out in subsections (a) and (b) of section 512 "he" each time it appears and inserting in lieu thereof "such veteran";

(18) by striking out in section 521(g) "he" and inserting in lieu thereof "such veteran";

(19) by striking out in section 523(b) "him" and inserting in lieu thereof "such veteran";

(20) by striking out in section 532(a) "widow", "she", "wife", and "his" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(21) by striking out in subsections (b) and (c) of section 532 "widow" and "he" each time they appear and inserting in lieu thereof "surviving spouse" and "such veteran", respectively;

(22) by striking out in section 532(d) "widow", "she", and "him" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(23) by striking out in the catchline of section 532 "Widows" and inserting in lieu thereof "Surviving spouses";

(24) by striking out in the table of sections at the beginning of such chapter 15

"532. Widows of Civil War veterans."

and inserting in lieu thereof

"532. Surviving spouses of Civil War veterans.";

(25) by striking out in section 533 "widow" and inserting in lieu thereof "surviving spouse";

(26) by striking out in section 534(a) "widow", "she", "wife", and "his" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(27) by striking out in section 534(b) "widow" and inserting in lieu thereof "surviving spouse";

(28) by striking out in section 534(c) "widow", "she", and "him" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(29) by striking out in the catchline of section 534 "Widows" and inserting in lieu thereof "Surviving spouses";

(30) by striking out in the table of sections at the beginning of such chapter 15

"534. Widows of Indian War veterans."

and inserting in lieu thereof

"534. Surviving spouses of Indian War veterans.";

(31) by striking out in section 535 "widow" and inserting in lieu thereof "surviving spouse";

(32) by striking out in section 536(a) "widow", "she", "wife", and "his" and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(33) by striking out in subsections (b) and (c) of section 536 "widow", "she", and "him" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(34) by striking out in section 536(d)(1) "widow", "she", and "widows" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "surviving spouses", respectively;

(35) by striking out in section 536(d)(2) "widow" and inserting in lieu thereof "surviving spouse";

(36) by striking out in clauses (A) and (B) of section 536(d)(2) "her" and "widow" each time they appear and inserting in lieu thereof "such surviving spouse" and "surviving spouse", respectively;

(37) by striking out in the catchline of section 536 "Widows" and inserting in lieu thereof "Surviving spouses";

(38) by striking out in the table of sections at the beginning of such chapter 15

"536. Widows of Spanish-American War veterans."

and inserting in lieu thereof

"536. Surviving spouses of Spanish-American War veterans.";

(39) by striking out in section 537 "widow" and inserting in lieu thereof "surviving spouse";

(40) by striking out in subclauses (A), (B), and (C) of section 541(e)(1) "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(41) by striking out in section 560(b) "himself" and "his" and inserting in lieu thereof "such person" and "such person's", respectively;

(42) by striking out in subsections (a) and (b) of section 561 "his", "him", and "he" each time they appear and inserting in lieu thereof "such person's", "such person", and "such person", respectively;

(43) by striking out in section 561(c) "by him";

(44) by striking out in section 562(a) "him" and inserting in lieu thereof "the Administrator" and

(45) by striking out in subsections (b) and (d) of section 562 "he" each time it appears and inserting in lieu thereof "such person".

SEC. 107. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 4 of Public Law 90–275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $2,900 and $4,200, instead of $2,600 and $3,900, respectively.".

TITLE II—INTERIM ADJUSTMENTS IN CURRENT STATUTORY PROVISIONS RELATING TO DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

SEC. 201. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 415 of title 38, United States Code, is amended—

(1) by redesignating paragraph (2) of subsection (b) as paragraph (4) of subsection (b) and by striking out the redesignated paragraph (4) of subsection (b) "he", "him", and "his" each time they appear and inserting in lieu thereof "such parent", "such parent", and "such parent's", respectively;

(2) by amending paragraph (1) of subsection (b) to read as follows:

"(b)(1) Except as provided in paragraph (4) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to the parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $133 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.03	$800	1,000
.04	1,000	1,200
.05	1,200	1,500
.06	1,500	1,700
.08	1,700	3,300

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,300.";

(3) by amending subsections (c) and (d) to read as follows:

"(c)(1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, dependency and indemnity compenstion shall be paid to each parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $93 reduced by—	For each $1 of annual income of such parent	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.04	1,100	1,600
.05	1,600	2,400
.06	2,400	3,300

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,300.

"(d)(1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $90 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,300
.03	2,300	3,300
.04	3,300	4,500

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under this subsection to a parent if the total combined annual income of the parent and such parent's spouse exceeds $4,500.";

(4) by striking out in subsection (e) "him" each time it appears and inserting in lieu thereof "the Administrator";

(5) by striking out in subsection (f) "he" and inserting in lieu thereof "the Administrator";

(6) by striking out in subsection (g)(1)(J)(ii) "his" and inserting in lieu thereof "such veteran's"; and

(7) by striking out in subsection (h) "$64" and inserting in lieu thereof "$69".

SEC. 202. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 322 of title 38, United States Code, is amended by striking out in subsection (b) "$64" and inserting in lieu thereof "$69".

Mr. THURMOND. Mr. President, I rise in support of H.R. 10355, as amended, the Veterans and Survivors Pension Act of 1975.

On December 15, the Senate passed a more generous pension reform act, which included the provisions of H.R. 10355. That bill, S. 2635, is now pending before the House of Representatives.

Unfortunately, we have been informed that the House of Representatives will be unable to take up this measure before we adjourn for the Christmas recess. If a pension bill is not passed before we go home, as a result of this past year's social security increases, over 1 million veterans and widows are scheduled to have their pensions reduced on January 1, 1976. Another 40,000 will be dropped from the pension rolls completely if the income limitations are not increased. Therefore, in the pending bill, we are increasing the income limitations by $300, and providing a cost-of-living increase of 8 percent.

H.R. 10355 does not contain the provisions which are aimed at reforming the current pension laws. However, let me state again my firm view that we need pension reform. By following this course of action, I am led to believe that the House of Representatives will look seriously at the issue of pension reform in the early days of the next session.

Mr. President, the current pension system is filled with inequities. We have labored under the promise of pension reform for the last 3 years. We need to act on a final solution early next year.

Finally, Mr. President, I want to commend the distinguished chairman of the Veterans' Affairs Committee (Mr. HARTKE) and the distinguished ranking minority member (Mr. HANSEN) for their hard work on pension reform. The effort in the Senate has been a bipartisan one, and I am confident that this will be the case in the next session.

Mr. President, it is with some disappointment to me that we are not sending the President a veterans' pension reform bill. Reluctantly, I am supporting the interim measure before us today, but with full expectation that pension reform will be considered in both Houses of the Congress early next year.

Mr. President, I, therefore, urge my colleagues to support this measure.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–568), explaining the purposes of the measure.

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

BACKGROUND AND DISCUSSION

Current pension benefits and characteristics of pensioners

Under current law, a veteran may be eligible for pension benefits if:

First, he served in the armed forces at least 90 days, including at least 1 day of service during wartime;

Second, his income does not exceed the limits specified in the law—currently $3,000 if the veteran is single and $4,200 if he has a dependent;

Third, he is permanently and totally disabled (for the purposes of the pension law, veterans age 65 or older are defined as totally disabled); and

Fourth, his net worth is not excessive as determined by the Veterans' Administration.

Widows and children of deceased wartime veterans are also eligible for pension benefits if they qualify on the basis of need.

As provided by Public Law 93–527, for an eligible veteran without dependents, the monthly pension rates range from $5 to $160 with a limitation on countable annual income of $3,000. Monthly rates of $14 to $172 are provided for veterans with dependents

where the annual countable income does not exceed $4,200. Widows with no children are subject to the same income limitations as veterans alone although the pension rates vary from $5 to $108. The $4,200 annual income limitation for veterans with dependents also applies to widows with children. The rates for widows with one child range from $49 to $128; the applicable rate is increased by $20 per month for each child in excess of one.

Curently, there are approximately 2 million veterans and widows receiving pension of whom 1,000,963 are veterans and the remainder are their widows. The present cost of the non-service-connected pension program is approximately $2.8 billion a year. The following table shows the distribution of all active compensation, dependency, and indemnity compensation and pension cash as of September 1975:

TABLE 1.—ACTIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES, ALL WARS AND REGULAR ESTABLISHMENT, MONTH OF SEPTEMBER, 1975

Entitlement	Disability, total cases	Death, total cases	Death beneficiaries			
			Total	Widows	Children	Parents
Total	3,235,722	1,622,840	2,218,466	1,179,628	866,157	172,681
Service connected	2,221,514	368,676	491,961	211,012	108,268	172,681
Compensation	2,221,514	90,225	101,539	206	37	101,296
Dependency and indemnity compensation		273,519	380,004	206,202	108,030	65,772
Dependency and indemnity compensation and compensation		4,932	10,418	4,604	201	5,613
Non-service-connected	1,013,824	1,254,135	1,726,475	968,600	757,875	
Public Law 86-211	911,448	1,159,480	1,630,655	875,239	755,416	
Prior law	102,376	94,655	95,820	93,361	2,459	
Special acts	41	29	30	16	14	
Retired emergency officers	342					
Retired Reserve officers	1					
World War II	1,888,830	726,253	1,053,447	433,324	508,656	111,467
Service connected	1,303,265	191,189	222,256	95,073	15,716	111,467
Compensation	1,303,265	71,767	79,788	112	16	79,660
Dependency and indemnity compensation		115,768	134,833	91,499	15,611	27,723
Dependency and indemnity compensation and compensation		3,654	7,635	3,462	89	4,084
Non-Service-connected	585,565	535,064	831,191	338,251	492,940	
Public Law 86-211	576,344	532,032	827,959	335,237	492,722	
Prior law	9,221	3,032	3,232	3,014	218	
World War I	419,194	614,648	630,385	602,722	27,283	380
Service connected	53,519	34,880	35,496	34,027	1,089	380
Compensation	53,519	186	198	55	1	142
Dependency and indemnity compensation		34,690	35,290	33,968	1,088	234
Dependency and indemnity compensation and compensation		4	8	4		4
Non-service-connected	365,332	579,768	594,889	568,695	26,194	
Public Law 86-211	273,711	507,486	521,873	496,488	25,385	
Prior law	91,621	72,282	73,016	72,207	809	
Special acts	1					
Retired emergency officers	342					
Korean conflict	293,663	136,363	287,116	49,252	213,544	24,320
Service connected	239,869	39,381	51,373	18,728	8,325	24,320
Compensation	239,869	14,798	17,535	14	2	17,519
Dependency and indemnity compensation		23,620	31,777	17,841	8,294	5,642
Dependency and indemnity compensation and compensation		963	2,061	873	29	1,159
Non-service-connected	53,794	96,982	235,743	30,524	205,219	
Public Law 86-211	52,779	96,914	235,651	30,458	205,193	
Prior law	1,015	68	92	66	26	
Vietnam era	438,407	72,344	153,528	38,372	93,135	22,021
Service connected	430,561	54,852	114,032	30,861	61,150	22,021
Compensation	430,561	26	38	9	14	15
Dependency and indemnity compensation		54,802	113,915	30,835	61,100	21,980
Dependency and indemnity compensation and compensation		24	79	17	36	26
Non-service-connected	7,846	17,492	39,496	7,511	31,985	
Public Law 86-211	7,846	17,492	39,496	7,511	31,985	
Regular establishment	194,324	48,122	68,547	32,095	21,959	14,493
Service connected	194,283	48,110	68,535	32,083	21,959	14,493
Compensation	194,283	3,448	3,980	16	4	3,960
Dependency and indemnity compensation		44,375	63,920	31,819	21,908	10,193
Dependency and indemnity compensation and compensation		287	635	248	47	340
Special acts	40	12	12	12		
Retired Reserve officers	1					
Spanish-American War	929	24,078	24,394	23,048	1,346	

TABLE 1.—ACTIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES, ALL WARS AND REGULAR ESTABLISHMENT, MONTH OF SEPTEMBER, 1975—Continued

Entitlement	Disability, total cases	Death, total cases	Death beneficiaries			
			Total	Widows	Children	Parents
Service connected	9	253	258	236	22	
Compensation	9					
Dependency and indemnity compensation		253	258	236	22	
Non-service-connected	920	23,816	24,127	22,809	1,318	
Public Law 86-211	401	4,989	5,100	4,985	115	
Prior law	519	18,827	19,027	17,824	1,203	
Special acts		9	9	3	6	
Mexican Border Service	375	569	578	562	16	
Servic connected	8	2	2	2		
Compensation	8					
Dependency and indemnity compensation		2	2	2		
Non-service-connected	367	567	576	560	16	
Public Law 86-211	367	567	576	560	16	
Indian wars		78	79	64	15	
Service connected		1	1		1	
Dependency and indemnity compensation		1	1		1	
Non-service-connected		76	77	63	14	
Prior law		76	77	63	14	
Special acts		1	1	1		
Civil War		385	392	189	203	
Service-connected		8	8	2	6	
Dependency and indemnity compensation		8	8	2	6	
Non-service-connected		370	376	187	189	
Prior law		370	376	187	189	
Special acts		7	8		8	

Source: Reports and Statistics Service Office Controller, Oct. 6, 1975.

The following tables illustrate the historical development of both current law pensions and protected or "old law" pensions for veterans:

TABLE 2.—HISTORICAL DEVELOPMENT OF PROTECTED LAW PENSION FOR VETERANS

Law and effective date	Income limits		Rates of pension				Aid and attendance	Housebound
	Single	With dependent	Single	1 dependent	2 dependents	3 dependents		
WW VA, July 1, 1933	$1,000	$2,500	$30	$30	$30	$30		
Public Law 77-601, June 10, 1942	1,000	2,500	$40	$40	$40	$40		
Public Law 78-313, May 27, 1944	1,000	2,500	$50, age 65 or after 10 yr $60.	$50, age 65 or after 10 yr $60.	$50, age 65 or after 10 yr $60.	$50, age 65 or after 10 yr $60.		
Public Law 79-662, Sept. 1, 1946	1,000	2,500	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.		
Public Law 82-149, Nov. 1, 1951	1,000	2,500	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$120.00	
Public Law 82-356, Public Law 82-357, July 1, 1952	1,400	2,700	$63, age 65 or after 10 yr $75.	$63, age 65 or after 10 yr $75.	$63, age 65 or after 10 yr $75.	$63, age 65 or after 10 yr $75.	129.00	
Public Law 83-698, Oct. 1, 1954	1,400	2,700	$66.15, age 65 or $78.75.	$66.15, age 65 or $78.75.	$66.15, age 65 or $78.75.	$66.15, age 65 or $78.75.	135.45	
Public Law 90-77, Oct. 1, 1967	1,400	2,700	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 90-275, Jan. 1, 1969	1,600	2,900	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 91-588, Jan. 1, 1971	1,900	3,200	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 92-198, Jan. 1, 1972	2,200	3,500	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 93-527, Jan. 1, 1975	2,600	3,900	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100

TABLE 3.—HISTORICAL DEVELOPMENT OF CURRENT LAW PENSION FOR VETERANS

Law and effective date	Income limits		Rates of pension				Aid and attendance	Housebound
	Single	With dependent	Single	1 dependent	2 dependents	3 dependents		
Public Law 86-211, July 1, 1960	$1,800	$3,000	$85 down to $40	$90 down to $45	$95 down to $45	$100 down to $45	$70 added	
Public Law 88-664, Jan. 1, 1965	1,800	3,000	$100 down to $43	$105 down to $48	$110 down to $48	$115 down to $48	$100 added	$35 added.
Public Law 90-77, Oct. 1, 1967	1,800	3,000	$104 down to $45	$109 down to $50	$114 down to $50	$119 down to $50	$100 added	$40 added.
Public Law 90-275, Apr. 1, 1968	2,000	3,200	$110 down to $29	$120 down to $34	$125 down to $34	$130 down to $34	$100 added	$40 added.
Public Law 91-588, Jan. 1, 1971	2,300	3,500	$121 down to $29	$132 down to $34	$137 down to $34	$142 down to $34	$110 added	$44 added.
Public Law 92-198, Jan. 1, 1972	2,600	3,800	$130 down to $22	$140 down to $33	$145 down to $38	$150 down to $43	$110 added	$44 added.
Public Law 93-177, Jan. 1, 1974	2,600	3,800	$143 down to $28	$154 down to $39	$159 down to $44	$164 down to $49	$110 added	$44 added
Public Law 93-527, Jan. 1, 1975	3,000	4,200	$160 down to $5	$172 down to $14	$177 down to $19	$182 down to $24	$123 added	$49 added.

Over 11 percent of veterans and 15⅓ percent of pension widows reported no other outside income other than pension, thus leaving these recipients far below the poverty level. The annual income of pensioners (other than their pensions and excludable income) is shown in the following tables:

TABLE 4.—ALL VETERANS ON PENSION ROLLS, APR. 20, 1975

Annual income not over—	Total	Old law	New law	Annual income not over—	Total	Old law	New law
$100	158,507	9,121	149,386	$2,200	33,351	4,672	28,679
$200	4,229	656	3,573	$2,300	37,995	5,359	32,606
$300	4,233	576	3,657	$2,400	39,391	6,686	32,705
$400	3,424	540	2,884	$2,500	39,860	4,621	35,239
$500	3,648	452	3,196	$2,600	42,534	5,355	37,179
$600	3,155	429	2,726	$2,700	39,321	3,388	35,933
$700	3,296	434	2,862	$2,800	35,343	2,803	32,540
$800	2,766	386	2,380	$2,900	26,312	2,817	23,495
$900	8,524	482	8,042	$3,000	26,248	2,937	23,311
$1,000	15,057	795	14,262	$3,100	20,882	2,867	18,015
$1,100	37,638	3,219	34,419	$3,200	18,504	2,939	15,565
$1,200	18,966	1,570	17,396	$3,300	16,306	2,842	13,464
$1,300	18,946	1,627	17,319	$3,400	14,480	2,898	11,582
$1,400	21,777	2,025	19,752	$3,500	13,942	2,899	11,043
$1,500	28,581	2,676	25,905	$3,600	12,790	2,257	10,533
$1,600	29,112	2,754	26,358	$3,700	11,549	1,972	9,577
$1,700	33,439	3,436	30,003	$3,800	12,621	1,448	11,173
$1,800	31,524	3,520	28,004	$3,900 to $4,200	28,919	1,115	27,804
$1,900	34,390	4,183	30,207				
$2,000	33,722	4,401	29,321	Total	1,000,963	108,232	892,731
$2,100	35,604	5,028	30,576				

TABLE 5.—ALL WIDOWS ON PENSION ROLLS, APR. 20, 1975

Annual income not over—	Total	Old law	New law	Annual income not over—	Total	Old law	New law
$100	126,514	2,001	124,513	$2,200	44,530	8,713	35,817
$200	4,987	153	4,834	$2,300	40,565	6,432	34,133
$300	6,460	147	6,313	$2,400	45,388	7,979	37,409
$400	5,695	142	5,553	$2,500	36,656	3,783	32,873
$500	6,200	162	6,038	$2,600	38,456	2,517	35,939
$600	7,576	238	7,338	$2,700	28,395	28	28,367
$700	7,510	283	7,227	$2,800	21,787	41	21,746
$800	8,137	259	7,878	$2,900	11,822	34	11,788
$900	10,838	334	10,504	$3,000	7,319	37	7,282
$1,000	28,745	1,133	27,612	$3,100	2,071	30	2,041
$1,100	53,584	2,180	51,404	$3,200	1,191	27	1,884
$1,200	26,162	1,603	24,559	$3,300	1,681	28	1,653
$1,300	27,936	1,943	25,993	$3,400	1,630	17	1,613
$1,400	31,472	2,789	28,683	$3,500	1,595	21	1,574
$1,500	37,419	3,555	33,864	$3,600	1,533	14	1,519
$1,600	37,068	3,734	33,334	$3,700	1,376	24	1,352
$1,700	38,291	4,239	34,052	$3,800	2,271	5	2,226
$1,800	39,942	4,869	35,073	$3,900 to $4,200	4,588	15	4,573
$1,900	42,548	5,652	36,896				
$2,000	45,682	5,971	39,711	Total	931,575	77,356	854,219
$2,100	45,185	6,209	38,976				

Scheduled Pension Reductions on January 1, 1976

A prospective pension reduction faces a majority of our veterans and widows.

Most pensioners are elderly—and the most common source of income available to them is social security. The average social security payment now received by veteran pensioners is reported as $187 monthly. The figure for widows was placed at $157 monthly. The following table shows the number of non-service-connected pensioners receiving OASI benefits broken down by age grouping and average benefit:

TABLE 6.—NON-SERVICE-CONNECTED PENSIONERS WITH OLD AGE SURVIVORS INSURANCE

Veterans	Number with OASI [1]	Total caseload	Percent with OASI [1]	Average OASI [1]
Less than 65	275,700	448,800	61.4	$2,447
65 to 69	106,300	113,100	94.0	2,103
70 to 74	54,600	58,600	93.1	2,012
75 to 79	181,600	200,700	90.5	2,191
80 and over	165,600	196,700	84.2	2,061
Total veterans	783,800	1,017,900	77.0	2,229
Survivors	945,700	1,250,990	75.6	1,883

[1] Source: 1 percent sample of AIQ's; March 1975.

Note: No age breakout is available for survivors.

Solely because of the 8 percent cost-of-living increases in social security benefits this year, on January 1, 1976, 1,327,176 veterans and widows, or approximately 53.1 percent of all pensioners, are scheduled to sustain annual pension reductions averaging $98. Another 41,845 veterans and widows will be dropped from the pension rolls altogether. The number reduced or terminated by category and the average annual reduction in pension is shown in the following table:

TABLE 7.—ESTIMATED EFFECTS OF 8 PERCENT INCREASE AS OF JAN. 1, 1976 (NEW LAW ONLY)

	Number reduced pension	Average annual reduction	Number termination
With no change in law:			
Veteran alone	225,567	$117	6,602
Veteran with dependent	467,339	123	17,805
Widow alone	526,391	79	16,748
Widow with dependent	107,879	44	690
Total	1,327,176	98	41,845

Note: Data supplied by Veterans' Administration.

In addition, it is estimated that if there is no change in annual income limitations, another 12,000 pensioners under the old law provision program will be ineligible for that program.

Interim pension increases effective January 1, 1976

As a result of changes in the Consumer Price Index and because of the large number of veterans and survivors who will sustain pension reductions on January 1, 1976, the bill provides for interim adjustments in the current program effective January 1, 1976.

An 8-percent increase in the rates payable and a $300 increase in the maximum annual income limitations are provided for veterans and survivors in the current program.

Similarly, maximum annual income limitations for the "old law" pensioners are increased by $300. An 8-percent increase in rates and increase in the annual income limitations are authorized also for needy parents receiving dependency and indemnity compensation.

Finally, aid and attendance allowances for "housebound" are increased by 8 percent. Thus, under the current program the maximum rate for a veteran without dependents would be increased from $160 to $173 a month, whlie the rate for a veteran with a dependent would be increased from $172 to $186. The following tables show the rates currently payable and those proposed.

TABLE 8.—PENSION PROPOSAL

Income not over	Veteran alone		Veteran and 1 dependent		Widow alone		Widow with 1 dependent	
	Current	Bill	Current	Bill	Current	Bill	Current	Bill
$300	$160	$173			$108	$117		
$400	157	170			107	116		
$500	154	167	$172	$186	106	115		
$600	150	163	170	184	105	114		
$700	146	159	168	182	102	111	$128	$139
$800	142	154	165	179	99	108	127	138
$900	138	149	162	176	96	105	126	137
$1,000	133	144	159	173	92	101	125	136
$1,100	128	139	156	170	88	97	124	135
$1,200	123	134	153	167	84	93	122	133
$1,300	118	128	150	164	80	89	120	131
$1,400	113	122	147	160	76	85	118	129
$1,500	108	116	144	156	72	81	116	127
$1,600	102	110	141	152	68	76	114	125
$1,700	96	104	138	148	64	71	112	123
$1,800	90	97	135	144	60	66	110	121
$1,900	84	90	131	140	56	61	108	118
$2,000	77	83	127	136	52	56	106	115
$2,100	70	75	123	132	48	51	104	112
$2,200	63	67	119	128	43	46	101	109
$2,300	56	59	115	124	38	41	98	106
$2,400	48	51	111	120	33	36	95	103
$2,500	40	43	107	116	28	31	92	100
$2,600	32	35	103	112	23	26	89	97
$2,700	24	27	99	108	18	21	86	94
$2,800	16	19	95	104	13	15	83	90
$2,900	8	11	91	99	8	9	80	86
$3,000	5	5	87	94	5	5	77	82
$3,100		5	82	89		5	73	78
$3,200		5	77	84		5	69	74
$3,300		5	72	78		5	65	70
$3,400			67	72			61	66
$3,500			62	66			57	62
$3,600			56	60			53	57
$3,700			50	54			49	53
$3,800			44	48			49	53
$3,900			37	40			49	53
$4,000			30	32			49	53
$4,100			22	24			49	53
$4,200			14	16			49	53
$4,300				8				53
$4,400				5				53
$4,500				5				53

TABLE 9.—DIC PARENTS.

Income not over	1 parent		2 parents not together		2 parents together	
	Current	Bill	Current	Bill	Current	Bill
$300						
$400						
$500						
$600						
$700						
$800	$123	$133	$86	$93		
$900	120	130	84	91		
$1,000	117	127	82	89	$83	$90
$1,100	113	123	80	87	82	88
$1,200	109	119	76	83	80	86
$1,300	105	114	72	79	78	84
$1,400	100	109	68	75	76	82
$1,500	95	104	64	71	74	80
$1,600	90	98	60	67	72	78
$1,700	84	92	56	62	70	76
$1,800	78	84	52	57	68	74
$1,900	71	76	48	52	66	72
$2,000	64	68	44	47	64	70
$2,100	56	60	40	42	62	68
$2,200	48	52	35	37	60	66
$2,300	40	44	30	32	58	64
$2,400	32	36	25	27	56	61
$2,500	24	28	20	21	54	58
$2,600	16	20	14	15	51	55
$2,700	8	12	8	9	48	52
$2,800	4	5	4	5	45	49
$2,900	4	5		5	42	46
$3,000	4	5		5	39	43
$3,100		5		5	36	47
$3,200		5		5	33	30
$3,300		5		5	30	34
$3,400					27	30
$3,500					24	26
$3,600					20	22
$3,700					16	18
$3,800					12	14
$3,900					8	10
$4,000					4	6
$4,100					4	5
$4,200					4	5
$4,300						5
$4,400						5
$4,500						5

According to information supplied by the Veterans' Administration, if the interim adjustments contained in this measure are enacted, none of the 41,845 veterans or survivors currently scheduled to be terminated because of social security increases will be dropped. Further, 1,098,566 veterans, widows and dependents can expect to receive an average annual gain in pension of approximately $94.

And although no veteran or survivor will sustain a loss in aggregate income, solely as a result of social security increases, it should be explicitly acknowledged that even if provisions contained in titles II and IV are enacted, 655,000 veterans and survivors will sustain some reduction in pension despite such adjustments. The following tables show the projected gains and losses with respect to the current pension population if H.R. 10355 is enacted into law.

TABLE 10.—ESTIMATED EFFECTS OF 8 PERCENT OASI INCREASE AS OF JAN. 1, 1976 (NEW LAW ONLY) AND OF S. 2635

With no change in law:	Number gaining pension	Average annual gain	Number reduced pension	Average annual reduction	Number gaining aggregate	Average annual gain	Number reduction aggregate	Average annual reduction	Number terminating
Veteran alone	0	0	225,567	$117	230,568	$48	0	0	6,602
Veteran w/dependent	0	0	467,339	123	464,738	136	0	0	17,805
Widow alone	0	0	526,391	79	530,528	82	0	0	16,748
Widow w/dependent	0	0	107,879	44	120,884	104	0	0	690
Total	0	0	1,327,176	98	1,346,718	97	0	0	41,845
With enactment of Title II of S. 2635:									
Veteran alone	202,825	$122	130,597	93	333,927	119	0	0	0
Veteran w/dependent	364,175	93	202,319	111	567,505	125	0	0	0
Widow alone	400,171	76	308,983	60	709,852	77	0	0	0
Widow w/dependent	131,395	110	13,369	18	145,063	136	0	0	0
Total	1,098,566	94	655,268	82	1,756,247	105	0	0	0

Note: It is estimated that if there is no change in income limitations, 12,000 pensioners under the old law would have excessive income because of the 8 percent OASI increase, and that the vast majority of those would elect to come under new law.

COST ESTIMATES

The Veterans' Administration estimates the fiscal 1976 cost attributable to H.R. 10355 to be $100.1 million. Costs for the Transition Quarter are estimated at $50 million. These figures have been included in the reestimates for "function 700-Veteran Benefits" as passed by both the House and the Senate in their respective versions of the Second Concurrent Budget Resolution currently pending in conference.

LEWIS AND CLARK NATIONAL FORESTS, MONTANA

The Senate proceeded to consider the bill (S. 392) to designate certain lands in the Flathead and the Lewis and Clark National Forests in Montana as wilderness, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That the Secretary of Agriculture, in accordance with provisions of subsection 3(d) of the Wilderness Act (78 Stat. 890, 892), relating to public notice, public hearings, and review by State and other agencies, shall review, as to their suitability or nonsuitability for preservation as wilderness, certain lands (hereinafter referred to as the "study area") in the Flathead and Lewis and Clark National Forests, Montana, which comprise approximately three hundred seventy-eight thousand acres, and which are generally depicted on a map entitled "Great Bear Wilderness—Proposed", and dated November 1975. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and House of Representatives his recommendations with respect to the designation of the study area or portions thereof as wilderness on or before the expiration of the one year period following the date of enactment of this Act. Any recommendation of the resident that such study area or portions thereof shall be designated as wilderness and, therefore, as a component of the National Wilderness Preservation System, shall become effective only if so provided by an Act of Congress.

SEC. 2. During the one year review period provided by section 1 and for a period of four years after the recommendations of the President are submitted to the Congress, the Secretary of Agriculture shall manage and protect the study area in such a manner so as not to preclude its possible future designation by the Congress as wilderness. Nothing contained herein shall limit the President in proposing as part of this recommendation to the Congress, the designation as wilderness of any additional lands adjacent to the study area.

SEC. 3. In conducting his review pursuant to section 1, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall identify any potential utility corridors within or contiguous to the study area, review any adverse effects such corridors may have on the wilderness character of such area, determine whether any such corridor is necessary, and, if a determination of necessity is made, select a route and design which will minimize such effects. Nothing in this section shall be construed as prohibiting the siting of any such corridor within the boundaries of any area recommended by the President for wilderness preservation pursuant to this Act or designated as wilderness by the Congress.

SEC. 4. (a) The Secretary of Agriculture shall consult with the Blackfeet Tribe throughout all phases of the review required pursuant to section 1. All information collected during said review, including information obtained in the mineral survey, related to that portion of the study area under the Blackfeet Treaty Rights Agreement of 1895 shall be made available promptly and without cost to the Blackfeet Tribe.

(b) During the review period, the Secretary of Agriculture in consultation with the Secretary of the Interior shall make every effort to initiate and carry to completion a program to permit the Blackfeet Tribe to obtain rights of concomitant value on land outside the study area to those possessed by the tribe within that portion of the study area under the Blackfeet Treaty Rights Agreement of 1895, or to otherwise release such land from said rights in a manner satisfactory to the tribe.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to study certain lands in the Flathead and Lewis and Clark National Forests, Montana, for possible inclusion in the National Wilderness Preservation System.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–569), explaining the purposes of the measure.

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

I. PURPOSE AND DESCRIPTION OF S. 392, AS INTRODUCED, AND THE COMMITTEE AMENDMENT TO THE TEXT

S. 392, as amended, would designate an approximately 378,000 acre area known as the Great Bear Wilderness, in the Flathead and Lewis and Clark National Forests in the State of Montana to be studied for its eligibility to be included in the National Wilderness Preservation System. S. 392, as introduced by Senators Metcalf and Mansfield, would have immediately designated the Great Bear Wilderness area as a component of that system.

WILDERNESS STUDY AND INTERIM PROTECTION

Although the 378,000 acres appear to be of wilderness quality, the Committee noted that no official wilderness study, as contemplated in the Wilderness Act (78 Stat. 890), had been conducted. The Committee, therefore, amended S. 392 to require a one year wilderness study (Section 1 of the Committee amendment). The short period of the study was considered not to be burdensome because most of the data needed for the study has already been gathered pursuant to the Forest Service's Roadless Area Review and Evaluation and their unit planning for the area. For example, the Forest Service has indicated that the mineral survey work on most of the Great Bear area will be completed by early 1976.

As the area is generally acknowledged to be of wilderness quality, the Committee amendment includes a strict mandate to the Secretary of Agriculture to manage the area so as to protect that quality during the study period and for four years after the submission of the President's recommendation to Congress—a period of sufficient length to permit enactment of legislation designating the Great Bear Wilderness area as a component of the National Wilderness Preservation System, should such legislation then appear warranted (Section 2 of the Committee amendment).

In addition to the study and interim protection provisions, the Committee amendment contains two additional provisions not included in S. 392, as introduced:

TRANSMISSION CORRIDOR

The Bonneville Power Administration advised the Committee as to the potential need for a transmission corridor right-of-way in the vicinity of the proposed Great Bear Wilderness. While a wilderness study would normally consider such an issue, section 3 of the Committee amendment includes specific provisions directing the Secretary of Agriculture, in consultation with the Secretary of Interior, to (1) identify potential utility corridors within or contiguous to the study area; (2) review adverse effects such corridors may have on the wilderness character of such lands; and (3) determine whether any corridor is necessary, and, if a determination of necessity is made, select a route and design which will minimize such effects.

Section 3 of the Committee amendment is designed to ensure that adequate consideration is given to the power corridor issue during the study period and that the Committee has the information necessary to make a decision on this matter when the study is completed and the President's recommendation is forwarded to the Congress.

BLACKFEET TREATY RIGHTS AGREEMENT

Approximately 20,000 of the 378,000 acres included in the study area are lands subject to a Treaty Rights Agreement entered into between the United States and the Blackfeet Tribe of Indians in 1895. That Agreement was subsequently ratified by Congress, Act of June 10, 1896, 29 Stat. 353. In the

Agreement of 1895 the Blackfeet Tribe of Indians ceded nearly 1,000,000,000 acres of land, running from its present boundary west to the Continental Divide and south from the Canadian Border to Birch Creek. The Blackfeet Indians reserved the rights to hunt, fish, and gather timber on this extensive area so long as it remained public lands of the United States. The 20,000 acres included in the study area thus represents a small portion of the area over which the Blackfeet Tribe has asserted these treaty claims. The Blackfeet have never exercised any of their rights under the treaty in this particular area.

Section 4 of the Committee amendment directs the Forest Service to work closely with and make resource data available to the Blackfeet Tribe during the study period (subsection (a)). The Committee amendment also directs the Secretary of Agriculture, in consultation with the Secretary of the Interior, to actively pursue a program to permit the Tribe to obtain rights of concomitant value on land outside the study area or to otherwise release this 20,000 acres of land from these asserted rights in a manner satisfactory to the Tribe (subsection (b)).

II. LOCATION, DESCRIPTION AND ATTRIBUTES OF THE AREA

The Great Bear Wilderness area is located in the Flathead and Lewis and Clark National Forests, Montana. This 378,000 acre area is a starkly beautiful mountainous area which supports populations of bear, elk, lynx, moose, mountain goat, coyote, ducks, grouse, and many nongame wildlife species. The mountains, valleys, and streams of the proposed wilderness are unexcelled for hiking, hunting, backpacking, horseback trips, fishing, ski touring, whitewater boating, photography, and other outdoor activities. The Great Bear Wilderness area consists entirely of public lands unspoiled by the hand of man. Within the proposed boundary are lands where man can find solitude, gain awareness, develop his spirit of adventure, or simply renew himself. These are priceless values which are increasingly difficult to obtain.

The public lands and waters of the Great Bear Wilderness proposal presently provide habitat for two species of America's diminishing wilderness wildlife—the grizzly bear and the west slope cutthroat trout.

The steep mountainous terrain of the headwaters of the Middle Fork of the Flathead shelter one of the last free-moving grizzly bear populations in the continental United States. Grizzlies are true wilderness animals and without wild they will perish. The grizzly faces extinction mainly because man has steadily taken his habitat through logging, roading, dam construction and other developmental activities. The proposed Great Bear Wilderness will provide a vital habitat link between Glacier National Park and the Bob Marshall Wilderness.

In fact, with the Lincoln-Scapegoat Wilderness to the south of the Bob Marshall, the Great Bear Wilderness links together one of the largest unroaded ecosystems left in the United States. Within this vast ecosystem, large animals such as the grizzly bear are able to conduct daily movements and seasonal migrations unimpeded. They can make use of several habitats and interact with an entire spectrum of native predators and competitors.

The west slope cutthroat trout has been reduced to threatened species status due to destruction of spawning habitat throughout its former range. There are three major forks in the Flathead River system—South, North and Middle. Dams, mining, and subdivision development have greatly reduced the water quality of the North and South Forks. The survival of this native trout species and other important sport fish in the Flathead River system is dependent on protection of the upper Middle Fork watershed. This objective would be accomplished were the Great Bear Wilderness to be designated as a result of the study mandated by S. 392, as ordered reported.

III. LEGISLATIVE HISTORY

S. 392 was introduced by Senator Metcalf, for himself and Senator Mansfield, on January 27, 1975. The Subcommittee on the Environment and Land Resources held a hearing on the measure on May 20, 1975. On December 12, 1975 the Committee on Interior and Insular Affairs, by unanimous voice vote, and with a quorum present, ordered S. 392, as amended, reported to the Senate.

IV. COST

In accordance with subsection (a) of section 255 of the Legislative Reorganization Act, the following is a statement of estimated costs which would be incurred in the implementation of S. 392, as ordered reported: As much of the study has already been conducted in the form of Forest Service intensive planning for the area, the study is not expected to be costly. Section 5 of the measure authorizes the appropriation of such funds as are necessary to conduct the study.

V. COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs, in open markup session on December 12, 1975, with a quorum present, unanimously recommended that S. 392, as amended, be enacted.

VI. EXECUTIVE COMMUNICATIONS

The reports of the Federal agencies to the Committee concerning S. 392, are set forth in full, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 11, 1975.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate.

DEAR MR. CHAIRMAN: As you requested here is the report of the Department of Agriculture on S. 392, a bill "To designate certain lands in the Flathead and the Lewis and Clark National Forests in Montana as wilderness."

The Department of Agriculture recommends that S. 392 not be enacted.

S. 392 would designate as wilderness certain lands comprising about 378,200 acres in the Flathead and the Lewis and Clark National Forests, Montana. The area would be known as the "Great Bear Wilderness" and would be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131–1136).

Most of the area that would be designated as wilderness by S. 392 was included in the recent Forest Service review of all national forest roadless areas containing 5,000 acres or more. Nationwide, 1,449 national forest roadless acres containing about 56 million acres were systematically evaluated. Of this number, 219 roadless areas totaling about 5.2 million acres are located in Montana. Each of the areas was rated as to its potential wilderness quality using criteria such as scenic quality, isolation, size and variety of potential wilderness experience. The procedure also evaluated other resource values that would be foregone by wilderness designation.

In Montana, 36 roadless areas containing about 1.6 million acres were selected as wilderness study areas. Two of the selected areas, Middle Fork Continental Divide containing 302,700 acres and Rocky Mountain Face Continental Divide containing 65,000 acres, are substantially within the area that would be designated as wilderness by S. 392. The enclosed supplemental statement summarizes the relationship between the acreage that would be designated as wilderness by S. 392 and the acreage included in our roadless area review of the Great Bear area.

The Forest Service land-use planning process provides the basis and context for the study of national forest areas. Public involvement is an important part of that process. Of the 378,200 acres proposed in S. 392 for wilderness designation, 291,800 acres are within five planning units of the Flathead National Forest and 86,400 acres are within the Rocky Mountain Division of the Lewis and Clark National Forest. Field inventory work is scheduled to begin on the Flathead National Forest planning units in 1979, and the planning process is expected to be completed in 1983. A Draft Environmental Statement analyzing management alternatives for the Rocky Mountain Division will be completed this year.

As a part of the overall land-use planning process, a detailed study of the two associated wilderness study areas will be undertaken to determine their suitability or nonsuitability for possible inclusion in the National Wilderness Preservation System. Contiguous lands will also be considered. The U.S. Geological Survey and the Bureau of Mines have completed fieldwork on a mineral survey of the two wilderness study areas within the Great Bear area. Preliminary recommendations concerning wilderness designation will be presented to the public for additional evaluation and comment. Upon completion of the detailed study and review of public response, we will recommend wilderness designation for any areas we believe should be added to the National System.

During the entire study process, the wilderness study areas will be managed so as to protect them from activities that would change the land characteristics in such a way as to disqualify the areas from wilderness designation.

The area that would be designated as wilderness by S. 392 includes 20,000 acres which are included in the Blackfeet Treaty Rights Agreement of 1895. This Agreement allows the Tribe to cut and remove timber for houses, fences, and other purposes. This area was included as a part of the Badger Creek Roadless Area in our roadless area review, but we did not select it for further wilderness study because of the commitments established under the Blackfeet Agreement. Permitted uses under the agreement would not be compatible with wilderness designation.

We strongly recommend that Congress not designate additional wilderness in the Great Bear area until studies of all resource values, including wilderness values, are completed. Based on the results of the studies now underway or to be undertaken, a more deliberate, orderly decision can be made as to the desirability of adding any specific area to the National Wilderness Preservation System.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

RECESS UNTIL 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 9:10 p.m. the Senate recessed until Thursday, December 18, 1975 at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate December 17, 1975:

SUPREME COURT OF THE UNITED STATES

John Paul Stevens, of Illinois, to be an Associate Justice of the Supreme Court of the United States.