By Mr. BAUMAN (for himself, Mr. EILBERG, Mrs. HOLT, Mrs. BOGGS, Mr. FLORIO, Mr. BADILLO, Mr. MCDONALD of Georgia, Mr. GILMAN, Mr. KRUEGER, and Mr. SARASIN):

H.J. Res. 278. Joint resolution authorizing the President to declare the first Sunday in April of each year as National Foster Parents Day; to the Committee on Post Office and Civil Service.

By Mr. DERWINSKI:

H.J. Res. 279. Joint resolution proposing an amendment to the Constitution of the United States with respect to the rights of unborn persons; to the Committee on the Judiciary.

By Mr. FAUNTROY:

H.J. Res. 280. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary.

By Mr. HELSTOSKI (for himself, Mr. O'NEILL, Mr. DANIELSON, Mr. HAWKINS, and Mr. SISK):

H.J. Res. 281. Joint resolution to designate April 24, 1975, as National Day of Remembrance of Man's Inhumanity to Man; to the Committee on Post Office and Civil Service.

By Mr. HUTCHINSON:

H.J. Res. 282. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans Day; to the Committee on Post Office and Civil Service.

By Mr. QUIE (for himself and Mr. UDALL):

H.J. Res. 283. Joint resolution designating the week beginning March 9, 1975, as National Girl Scout Week; to the Committee on Post Office and Civil Service.

By Mr. RHODES:

H.J. Res. 284. Joint resolution directing the Secretary of State and the Secretary of the Interior, through the Bureau of Reclamation, to study the economic and engineering feasibility of acquiring riparian rights from the Republic of Mexico to water in the Gulf of California for the piping and pumping of water from the Gulf of California to Arizona for irrigation purposes, and to acquire a permit to locate a desalinization plant within the territorial limits of the Republic of Mexico; jointly, to the Committees on Foreign Affairs, and Interior and Insular Affairs.

By Mr. SIKES (for himself, Mr. GINN, Mr. MCHUGH, Mr. BOWEN, Mr. COCHRAN, Mr. MCEWEN, Mr. JENRETTE, Mr. FLOOD, Mr. MCDONALD of Georgia, Mr. DICKINSON, Mr. HAMMERSCHMIDT, Mr. BEVILL, Mr. WAGGONNER, Mr. QUIE, Mr. CLEVELAND, Mr. BROYHILL, Mr. HANNAFORD, Mr. MOORE, Mr. BLANCHARD, Mr. ECKHARDT, Mr. LATTA, Mr. FULTON, Mr. COTTER, and Mr. DAN DANIEL):

H.J. Res. 285. Joint resolution asking the President of the United States to declare the fourth Saturday of each September National Hunting and Fishing Day; to the Committee on Post Office and Civil Service.

By Mr. THOMPSON:

H. Res. 275. Resolution providing funds for the expenses of the Committee on Ways and Means; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

44. By the SPEAKER: Memorial of the Legislature of the Commonwealth of Virginia, relative to the Federal Coal Mine Health and Safety Act of 1969; to the Committee on Education and Labor.

45. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to foreign investment in the energy and material resources of the United States; to the Committee on Interstate and Foreign Commerce.

46. Also, memorial of the Legislature of the State of Maine, relative to the U.S. fisheries management jurisdiction; to the Committee on Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. YOUNG of Alaska introduced a bill (H.R. 4345) to amend the act entitled "An Act to authorize the sale of certain public lands in Alaska to the Catholic Bishop of Northern Alaska for use as a mission school," approved August 8, 1953, which was referred to the Committee on Interior and Insular Affairs.

SENATE—*Wednesday, March 5, 1975*

The Senate met at 12 noon and was called to order by the Vice President.

PRAYER

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

O God, our Creator, Redeemer, and Judge, we beseech Thee to forgive those national sins which so easily beset us: our wanton waste of soil and sea, our squandering of energy, our desecration of natural beauty, our heedlessness of scars of nature left to those who come after us, our love of money, our contempt for small things and our worship of big things, the loneliness of life in big cities, the dull complacency of small towns, the degeneracy of our culture, our bad manners, and our indifference to suffering—for these wrongs done and for right things left undone, good Lord, forgive us.

Now send Thy light and Thy truth to heal, cleanse, and renew us, that we may preserve our heritage and wisely "serve the present age, our calling to fulfill." Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, March 4, 1975, be dispensed with.

Mr. ALLEN. Mr. President, reserving the right to object—and I do not want to object—I would like to ask the distinguished majority leader if he plans to ask that the Senate divide the hour prior to the automatic cloture vote, the quorum call preceding the cloture vote, equally between the proponents and the opponents of cloture, as has been the invariable custom since the Senator from Alabama has had the honor to serve the people of Alabama in the Senate.

Mr. MANSFIELD. That is not the majority leader's intention.

Mr. ALLEN. Very well. The Senator is going to force us to go through this charade to use up the hour to prevent——

Mr. ROBERT C. BYRD. Mr. President, does the Senator wish to object or not?

Mr. ALLEN. I was reserving the right to object and was asking a question, if I might be permitted.

Mr. ROBERT C. BYRD. The majority leader has answered the question.

Mr. ALLEN. Very well. I object.

The VICE PRESIDENT. Objection is heard.

The Journal will be read.

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

The VICE PRESIDENT. 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 VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be equally divided between the distinguished assistant majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD), and the distinguished Senator from Alabama (Mr. ALLEN). If this is agreed to, they, of course, can farm out the time to people to whom they want to yield during that period.

The VICE PRESIDENT. Is that the time between now and 1 o'clock?

Mr. ALLEN. Reserving the right to object—and I shall not object, of course—I appreciate the majority leader giving us an opportunity to explain the parliamentary situation regarding the cloture motion. I have no objection.

Mr. CRANSTON. Mr. President, may I make a unanimous-consent request?

Mr. MANSFIELD. Mr. President, I have to object.

The VICE PRESIDENT. Objection is heard.

Is there objection to the reading of the Journal? Shall the Journal be considered as having been read? Without objection, it is so ordered.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate resumed the consideration of the motion to proceed to consider the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

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

Mr. ROBERT C. BYRD. I yield 1 minute to the Senator.

Mr. CRANSTON. Mr. President, I ask unanimous consent that during the consideration of the rule change with respect to rule XXII, Janet Mueller, of my staff, may have the privilege of the floor.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. Mr. President, will the distinguished Senator from Alabama yield 2 minutes to me?

Mr. ALLEN. I yield such time as the distinguished Senator from North Carolina desires.

Mr. HELMS. I thank the Senator from Alabama, and I thank the Chair.

Mr. President, on yesterday, late in the afternoon, when, as I recall, four Senators were in the Chamber, including the Presiding Officer, the distinguished Senator from Alabama gave a detailed review of just where we stand in this rule XXII matter. I fear that Senators, unless their attention is called to it, will not be blessed with this information.

This morning, the distinguished Senator from Alabama and the Senator from North Carolina prepared a very brief "Dear Colleague" letter which we circulated to those Senators who, hopefully, are not beyond redemption on this question. I ask unanimous consent that the full contents of this "Dear Colleague" letter 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., March 5, 1975.

DEAR COLLEAGUE: Please note from the speech below that the precedent as to majority vote cut-off of debate has not been reversed, and that the last Mansfield point of order was never acted on and died with the adjournment of the Senate on Monday, March 3, 1975.

JAMES B. ALLEN.
JESSE HELMS.

[From the Congressional Record, Mar. 4, 1975]

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

Mr. ALLEN. I thank the distinguished Senator from West Virginia for obtaining this time for me to speak with respect to Senate Resolution 4.

I might state that Senate Resolution 4, introduced by its chief sponsors, the Senators from Kansas (Mr. PEARSON) and from Minnesota (Mr. MONDALE), seeks to change the Senate rules without following the rules of the Senate in making that change.

Their argument is that at the start of a Congress, the Constitution gave them the power to amend the rules and cut off debate on the resolution to amend the rules or a motion to proceed to consideration of such a resolution by a majority vote. Of course, the Constitution says nothing of the sort. It merely says that it takes a quorum for the transaction of business, and that both Houses can make their own rules. But the resolution was introduced.

Then, following the introduction of the resolution and the making of a motion to proceed to the consideration of that resolution, that was followed by a motion by the distinguished Senator from Minnesota (Mr. MONDALE) which provided for immediately cutting off the debate on the motion to proceed without any debate, without any amendments, and without any intervening motions.

A point of order was made by the distinguished Senator from Montana (Mr. MANSFIELD) that this was not the method provided by the rules.

As soon as the point of order was made, without any opportunity to discuss the point of order—of course, the point of order was made by prearrangement—a motion to table the point of order was made. The Presiding Officer of the Senate, Vice President ROCKEFELLER, said that since a constitutional question was involved he was going to submit the constitutional question to the Senate. But he did not submit the direct question to the Senate. He said in effect that "Whatever the Senate's ruling is on this motion to table the point of order, I am going to consider that as a decision on what the Senate thinks the Constitution provides, and if the Senate tables the point of order, I am going to put into effect the very provisions of the Mondale resolution forcing the motion to proceed to a vote. I am going to rule that whatever the motion provides, I am going to consider that as having been passed, and if the motion says that there shall be no debate, no amendments, no intervening amendments, even before that motion passes, I am going to put that rule into effect."

And, sure enough, he did, by complete disregard of the rules, by throwing the rule book out of the window.

So the motion to table carried, and Mr. ROCKEFELLER said, in effect that whatever that motion provides, I am going to say it is in effect even before the motion is passed by the Senate.

So that was, in the judgment of the Senator from Alabama, a political decision on the part of the Vice President. It seemed to the Senator from Alabama that the Vice President wanted to reestablish his ultraliberal credentials as an answer to the false impression that he had moved toward the right in recent years. So he has established that position, and has become the ringleader in ramming this rule change through the Senate.

It has been interesting to me, Mr. President, that the original sponsors of this rules change outside the rules have slipped into the background. I did not hear a single one of those Senators have a word to say or a motion to make or a question to ask today, and ever since the leadership of both parties has taken over the pushing of this resolution to change the rule, we have heard nothing from the original sponsors.

Now, Mr. President, when you drive down the highway, in the experience of the Senator from Alabama at any rate, and see a little filling station or cafe there and it says, "Under new management," that makes me a little suspicious—there was something wrong with the first management or they would not be advertising that there is new management. It also makes me just a little bit leery of the new management.

In like fashion, Mr. President, we have a similar situation here. The sponsorship of this resolution is under new management, and I will have to say it is somewhat of an improvement in the management the resolution had prior to the leadership taking it over.

Now, Mr. President, following the tabling of the Mansfield motion, despite the fact that the Mondale motion choking off debate said there could not be intervening motions, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) offered a motion. A point of order was made, a motion to table the point of order was made, and the point of order was tabled. The effect of that, Mr. President, was to say that the Senate had decided that irrespective of the Mondale motion and the point of order as to it and the tabling of the point of order, the Senate felt that motions ought to be allowed.

So obviously, Mr. President, the gag rule Senators did not like the idea of motions being able to be presented and debated and voted on.

So the distinguished majority leader, always willing to comply and oblige, makes another point of order saying that the Mondale motion to break off debate is out of order in barring amendments, debate, and intervening motions, and the motion to table was made as to that point of order. That motion to table passed by a very narrow vote of 46 to 43.

Then, Mr. President, after some 11 Senators took the Vice President to task for not complying with the Senate rules in making recognition of Senators and a furor took place here on the floor, the suggestion was made by Mr. LONG that this rules change effort be changed from three-fifths of those present to cut off debate to three-fifths of all those in the Senate, all those elected and having been sworn, the effect of which would be that it would take 60 Senators to cut off debate no matter how many were here.

The effect of the motion to table the second point of order made by Mr. MANSFIELD was to cut the ground out from under the modest success that had been made by the free-debate Senators when the point of order made to Mr. HARRY F. BYRD, JR.'s intervening motion was tabled; for the effort of this tabling was that the Senate ruled that intervening motions were in fact in order.

When the compromise was met with some favor here in the Senate, not with the approval of the Senator from Alabama, or the Senator from North Carolina (Mr. HELMS) or the Senators from Virginia (Mr. HARRY F. BYRD, JR. and Mr. SCOTT) whom I see in the Chamber, the statement was made by the distinguished Senator from Michigan (Mr. GRIFFIN), the assistant minority leader, that they were going to have to reverse this precedent that had been set about a majority cutting off debate at the start of a session or else he would not be for the compromise.

Well, Mr. President, steps were taken, but I want to point out that those steps were ineffectual to accomplish that purpose and, further, that all of those who made that as a condition for accepting the compromise plan and agreeing to vote for cloture on tomorrow, the terms that they insisted on have not been met, because that precedent has not been reversed.

The first motion to choke off debate was made by the distinguished Senator from Minnesota (Mr. MONDALE) on February 20; Mr. MANSFIELD made his point of order then and it was tabled; and Mr. ROCKEFELLER stated the conclusions he drew from that.

Then, it was not until several days later that the point of order was made again to portions of the Mondale motion by Mr. MANSFIELD to cut the ground out from under the right that had been acquired by the free debt Senators to offer a motion.

A motion was made to table the Mansfield point of order, and as I say, it carried by a vote of 46 to 43.

It is true that the Senate did proceed to reconsider the vote by which the second Mansfield point of order was tabled and the Senate did vote to reconsider. Then on the putting again of the motion to table, the Senate refused to table the point of order.

So the point of order was before the Senate. But was a decision made by the Senate? No, it was not made.

At that juncture, immediately after the Senate had refused to table the point of order, meaning that it still had life, but it had to be considered by the Senate, the distinguished assistant majority leader, the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), filed a cloture motion with respect to the motion to proceed to Senate Resolution 4, and then he adjourned the Senate for 5 minutes, the effect of which brought down and killed the second and third parts of the motion to proceed. It killed the Mondale choke-off debate motion, and it killed the point of order.

The point of order has never been acted upon by the Senate and cannot be acted on so we still have these precedents which would be argued as being precedents for cutting off debate on rules changes at the start of a session or any time a majority says they can do it.

The point I am making, Mr. President, is that those Senators who felt that this prece-

dent was being overturned, and thinking that, agreed to vote for cloture and agreed to vote for the compromise, are deluding themselves because the precedents are still there.

Now, Mr. President, we have the further danger. A vote on cloture is coming up tomorrow. Suppose, Mr. President, that a majority, but not a two-thirds majority, votes to invoke cloture, that is, to cut off debate. Suppose the Presiding Officer said it either way, that two-thirds not having voted for cloture, the motion to invoke cloture is not agreed to and then gag-rule Senators would appeal that on the very same precedent that they have established. Suppose he said lacking a two-thirds vote cloture had not been invoked.

You would have the parliamentary question right before you again and a majority of the Senate willing to go against the rule and to choke off debate.

Suppose he ruled, "Now having established this precedent that a majority can cut off debate, even though two-thirds have not voted to invoke cloture, I declare that cloture has been invoked, because a majority of the Members of the Senate have asked for it and under the rules, under my ruling"—not the rules but the Vice President's ruling—"a majority can cut off debate."

So either way you go, Mr. President, the free debate Senators are in for a bad day unless they band together and vote against the cloture on tomorrow, against this compromise. Even then, Mr. President, there is no assurance that they would not ram the rules change through whether they would vote cloture or not. Mark my words. If they fail to get cloture, they are going to contend that it does not take two-thirds under the Constitution.

So it is heads they win, tails we lose, because there is little chance either way the result goes, given the determination of an arrogant majority and a determined presiding officer.

I make these points, Mr. President, just to show that while the Senator from Alabama did not engage in negotiations looking to this so-called compromise, if conditions were in fact exacted that this precedent be overturned—it has not been overturned, and even if it has been overturned momentarily—there is no way to prevent it being raised again.

Mr. President, I would say it would be much better to go down fighting for a principle than to compromise on a halfway measure.

I might say that the New York Times of March 1 refers to this as a "Dubious Compromise." I ask unanimous consent to have this article printed in the RECORD.

It says that the gag-rule Senators should not accept this because they could have gotten more.

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

[From the New York Times, Mar. 1, 1975]

DUBIOUS COMPROMISE

After winning an historic victory for the fundamental principle of majority rule, the United States Senate seems about to surrender that principle to bully-boy tactics.

A week ago, a bipartisan majority sustained Vice President Rockefeller's ruling that a new Senate cannot be bound by the rules of a previous Senate and can adopt new rules by majority vote. But Senator James Allen, Alabama Democrat, would not accept defeat. He continued his defense of the filibuster, and for five days paralyzed the Senate with an endless round of frivolous and dilatory motions.

On Wednesday, Vice President Rockefeller finally refused to entertain a parliamentary inquiry from Senator Allen, a refusal which is within a presiding officer's discretion. Right-wing veterans led by Senators Goldwater, Arizona Republican, and Long, Louisiana Democrat, then launched a concerted and verbally violent attack on Mr. Rockefeller, accusing him of unfairness and of attempting to "bulldoze" Senator Allen into submisison.

Instead of countering these patently untrue charges, the Senate reformers chose that moment to cave in and accept a "compromise" offered by Senator Long. The reformers had been seeking to reduce the majority needed to invoke cloture from two-thirds to three-fifths of those present and voting. The compromise would substitute a "constitutional" three-fifths of the total membership of the Senate, that is, sixty votes.

Since the full Senate is rarely present for any vote, the disadvantage of this new rule as compared to what the reformers were seeking—and had actually won a week ago—is readily apparent. Thus, if eighty Senators showed up for a vote, three-fifths of that number—48—could impose cloture. Under the Long compromise, sixty votes would be needed.

Even worse, the Long compromise further provides that in the future, the rule can be changed only by a two-thirds majority. That stultifies the reformers' victory of a week ago when for the first time a majority sustained the Vice President's ruling that no Senate can tie the hands of a future Senate in that fashion.

If Senate liberals in both parties vote for this compromise next week, as they now appear willing to do, they will be surrendering to the obfuscating and intimidating tactics of one man and a diehard minority. Only Vice President Rockefeller seems to be emerging from this fracas with honor. Under false and unrelenting attack, he met his first test as the Senate's presiding officer with fidelity to principle and dignified self-restraint.

Mr. ALLEN. Mr. President, I ask unanimous consent that there be printed in the RECORD at this point another article dated Monday, March 3, 1975, from the New York Times. This time by an independent columnist, Mr. William Safire.

I want to read a portion of it first. Here is a disinterested assessment of Mr. ROCKEFELLER'S actions—

"With a majority steamroller piloted by Mr. Rockefeller, a member of the minority—Senator Long—senses defeat and is suggesting a milder formula to stop dissent. He is wrong; once the gates are lowered, nothing he writes in his resolution—

And I wish the Senator were here at this time——

"is going to keep succeeding majorities from making it possible for a simple majority to cut off debate. And then you might as well not have a Senate at all."

That is what the Senator from Alabama, the Senator from North Carolina (Mr. HELMS), and the Senators from Virginia, (Mr. HARRY F. BYRD and Mr. WILLIAM L. SCOTT) and many others have been arguing here in the Chamber. This is the start of a chain reaction that will end up with majority cloture because majority cloture has already been applied in this session.

Mr. President, the title of this article is "Crushing Dissent in the Senate." You can crush dissent in the Senate and you are letting the country in for very bad times and very bad situations where the rights of the minority here in the U.S. Senate will be run over roughshod, even as we have seen in this Chamber in the last 2 weeks. That is a pretty good example of what a ruthless majority and a ruthless Presiding Officer can do to achieve whatever ends they might desire.

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

[From the New York Times, March 3, 1975]

CRUSHING DISSENT IN THE SENATE

(By William Safire)

WASHINGTON.—Good men, nobly motivated by the spirit of reform, can do more harm to our political system than the worst villains lusting after power.

A serious attempt is being made in the Senate this week to alter the compromise made at the Constitutional Convention of 1787. At that time, representatives of the smaller states were fearful of a "tyranny of the majority" in a legislature reflecting the population as a whole. Contrariwise, the states with large populations were not about to give in to demands that all states have equal votes.

So the checks-and-balances compromise of a bicameral, or two-house, legislature was struck: "Majority rule," based on population, would be the character of the House of Representatives; and "deliberation" or minority protection based on the same number of Senators from each state, chosen by state legislatures, would be the character of the Senate.

For two centuries, the Senate has helped make the Democratic experiment work by preventing the excesses of democracy. Time after time, lonely dissenters—right and wrong—have used the Senate's rules to delay, to restrain, to force some adjustment to minority demands. Ultimately, the theory went, the majority would rule, but not until the passions of the moment—or of the year—had passed.

In the course of time, the Senate agreed to attune itself more closely to the popular will by permitting direct election of Senators by the people, and they agreed to limit debate by a two-thirds vote, treating the veto of a minority the same as a veto by the President.

All along, however, Senators remembered what a senate was for, why it had been created in the first place; to protect the minority, to ensure deliberation, to make it impossible to crush dissent under the steamroller of democratic majority rule.

Now there is a move to make the Senate into a kind of slower House of Representatives. The Senators who want to change the rules to make it possible to cut off debate with only a three-fifths vote say this will make it harder for a minority to obstruct progressive legislation. And so it will.

The majoritarians say the filibuster is anti-democratic. They are absolutely right, if a democracy is the absolute rule of the majority. And the majoritarians say they will let the majority talk for weeks under the new rules, on the majority's kind of sufferance, as if talking—and not checking majority power—were the central issue.

Helping to crash through the resistance to this radical change in character of the Senate is its new presiding officer, Vice President Rockefeller. He ruled in favor of the anti-dissenters at the start, which was not unprecedented; but then he went on to refuse to recognize Senators who wanted to oppose the motion.

When Senator James Allen rose with a parliamentary inquiry, Mr. Rockefeller pretended not to hear or to see, and instead went to a vote the majority wanted. Once again, Mr. Rockefeller sees enormous mischief in delay.

With the majority steamroller piloted by Mr. Rockefeller, a member of the minority—Senator Long—senses defeat and is suggesting a milder formula for stopping dissent. He is wrong; once the gates are lowered, nothing he writes into his resolution is going to keep succeeding majorities from making it possible for a simple majority to cut off debate.

And then you might as well not have a Senate at all.

Senators Mondale and Pearson, who designed this steamroller, are men with the best of intentions who want only to turn the Senate into a more active body, more capable of defying a President, more able to exert leadership. With much logic, they can point out how a minority in the Senate was able to obstruct the rights of a black majority for generations.

But they are fiddling with the foundations of a good system in order to improve the chances for this year's legislation. The automatic supporters of good-guy reformers might want to consider the day when the other side is in the saddle.

Might it not be possible, only a decade or so hence, for the political picture to change so that a revived "silent majority" is reflected by a conservative Senate and House, a conservative President, and a conservative Supreme Court?

It could happen here. And then some little group of willful men, or some willful group of little men, or some fighting band of big men, will arise in the Senate to dissent from the popular tide. Brave liberals all, they will fling their voices and their votes in the way of right-wing retrogression, perhaps led by a white-haired Fritz Mondale battling to save the victories of the seventies.

And their dissent will be choked off by a simple majority cloture, their resistance flattened by the monstrous steamroller of their own invention. Poetic injustice will triumph, the temporary majority will rule, and the spirit of the United States Senate will be dead.

Mr. ALLEN. Mr. MANSFIELD, in the early days of this debate, denounced this effort to try to amend the Senate rule but not following the Senate rules in amending those rules. He said they excuse it by saying that the laudable ends justify the means. He said, "I reject that. I reject unworthy means employed to achieve what they consider to be a desirable result."

Mr. President, I am hopeful that we will unite against this effort to ram cloture down our throats. As I say, the danger there also is even if they do not invoke cloture, by a majority vote they will say that cloture has been invoked anyhow.

Another thing I want to point out is that there is some lack of understanding among people who were not familiar with what was going on here in the Senate from 12 until 2 o'clock. The point was that during that time it was possible that an original resolution by the distinguished assistant majority leader which does put into effect the compromise plan could have been brought up. I know the distinguished Senator from West Virginia is sincere in supporting it. If that had been allowed to come up even for a minute, the cloture motion would have been filed on that and we would have had the cloture vote on that on Thursday. As it is now, we can keep the situation on an even keel and not allow the distinguished assistant majority leader to bring up his resolution and file cloture. We will have two cloture votes: one on the motion to proceed to the consideration of Senate Resolution 4, and then, when and if that is voted, another cloture motion would be filed as to Senate Resolution 4. That would be voted on on Friday.

So it was necessary that this whole 2-hour period be occupied with priority matters before we got to the matter of the distinguished Senator from West Virginia. We are going to try to keep that from ever being the pending business until this matter has been disposed of.

When you are chasing big game sometimes you see a rabbit cross your trail and you forget your big game and go off after that rabbit. I am just hopeful that Members of the Senate who favor free debate will not chase this rabbit of compromise. I do not believe they are going to get the compromise through cloture; because even if cloture is not invoked, it is my firm judgment and opinion that a majority will ram it through anyhow.

Those are the remarks that I want to make for the RECORD. I appreciate the senior Senator from West Virginia (Mr. ROBERT C. BYRD) allowing me to address—if not the Members of the Senate—the CONGRESSIONAL RECORD and the public record, and the public in general, on this issue.

Mr. ALLEN. I yield myself such time as I may require.

Mr. President, on yesterday, near the end of the day's session, the distinguished Senator from West Virginia got unanimous consent that the Senator from Alabama might speak for 30 minutes on the parliamentary situation, and he did speak extemporaneously. In order to conserve time, the Senator from Alabama is going to read a portion of his extemporaneous speech of yesterday, pointing out the parliamentary situation at this time, pointing out that those Senators who think that the precedent that has been set as to a majority choking off debate having been reversed in the Senate are deluding themselves. Those who have agreed to this so-called compromise settlement of the rules issue—those who agreed to go along on the understanding that the precedent was reversed—have every right, it seems to the Senator from Alabama, to have pointed out that the precedent has not been reversed, and they are under no obligation to go along with the compromise.

On yesterday, the Senator from Alabama had this to say:

When the compromise was met with some favor here in the Senate, not with the approval of the Senator from Alabama, or the Senator from North Carolina (Mr. HELMS) or the Senators from Virginia (Mr. HARRY F. BYRD, JR. and Mr. SCOTT) whom I see in the Chamber, the statement was made by the distinguished Senator from Michigan (Mr. GRIFFIN), the assistant minority leader, that they were going to have to reverse this precedent that had been set about a majority cutting off debate at the start of a session or else he would not be for the compromise—

That was the understanding that the Senator from Alabama drew from the remarks of the distinguished Senator from Michigan (Mr. GRIFFIN)—

Well, Mr. President, steps were taken, but I want to point out that those steps were ineffectual to accomplish that purpose and, further, that all of those who made that as a condition for accepting the compromise plan and agreeing to vote for cloture on tomorrow—

Today, of course—

the terms that they insisted on have not been met, because that precedent has not been reversed.

The first motion to choke off debate was made by the distinguished Senator from Minnesota (Mr. MONDALE) on February 20; Mr. MANSFIELD made his point of order then and it was tabled; and Mr. ROCKEFELLER stated the conclusions he drew from that.

Then, it was not until several days later that the point of order was made again to portions of the Mondale motion by Mr. MANSFIELD to cut the ground out from under the right that had been acquired by the free debt Senators to offer a motion.

A motion was made to table the Mansfield point of order, and as I say, it carried by a vote of 46 to 43.

It is true that the Senate did proceed to reconsider the vote by which the second Mansfield point of order was tabled and the Senate did vote to reconsider. Then on the putting again of the motion to table, the Senate refused to table the point of order—

Mr. President, let us analyze and see if anything has been reversed—

So the point of order was before the Senate. But was a decision made by the Senate? No, it was not made.

At that juncture, immediately after the Senate had refused to table the point of order, meaning that it still had life, but it had to be considered by the Senate, the distinguished assistant majority leader, the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), filed a cloture motion with respect to the motion to proceed to Senate Resolution 4, and then he adjourned the Senate for 5 minutes, the effect of which brought down and killed the second and third parts of the motion to proceed. It killed the Mondale choke-off debate motion, and it killed the point of order.

That, I assume, is unquestioned. So the point of order was killed without ever being acted on by the Senate. It was just withdrawn from the Senate's consideration by action of the distinguished assistant majority leader—

The point of order has never been acted upon by the Senate and cannot be acted on—

Because it is not before the Senate now. It was killed by the adjournment of the Senate—

So we still have these precedents which would be argued as being precedents for cutting off debate on rules changes at the start of a session or any time a majority says they can do it.

The point I am making, Mr. President, is that, those Senators who felt that this precedent was being overturned—

And I make my remarks specifically to the Senators on the floor who may be deluding themselves that this precedent has been overruled—

The point I am making, Mr. President, is that those Senators who felt that this precedent was being overturned, and thinking that, agreed to vote for cloture and agreed to vote for the compromise, are deluding themselves because the precedents are still there.

Now, Mr. President, we have the further danger.

I want Senators to understand just what they are voting for when they vote for cloture. I hope the distinguished Vice President will keep the chair, because a little later I wish to propound a parliamentary inquiry to the distinguished Vice President, if he will recognize the Senator from Alabama for that purpose.

The VICE PRESIDENT. I am delighted to.

Mr. ALLEN. Mr. President, we have the further danger—a vote on cloture is coming up—as I said yesterday, "on tomorrow"—it is coming up in just a few minutes—

Suppose, Mr. President, that a majority, but not a two-thirds majority, votes to invoke cloture, that is, to cut off debate. Suppose the Presiding Officer said it either way,

that two-thirds not having voted for cloture, the motion to invoke cloture is not agreed to and then gag rule Senators would appeal that on the very same precedent that they have established. Suppose he said lacking a two-thirds vote cloture had not been invoked.

He is going to be called upon to make a ruling on that provided the vote falls short of two-thirds:

You would have the parliamentary question right before you again and a majority of the Senate willing to go against the rule and to choke off debate.

Suppose he ruled, "Now having established this precedent that a majority can cut off debate, even though two-thirds have not voted to invoke cloture, I declare that cloture has been invoked,

Or this is the Vice President speaking in a hypothetical situation—

because a majority of the Members of the Senate have asked for it and under the rules, under my ruling"—not the rules but the Vice President's ruling—"a majority can cut off debate."

So either way you go, Mr. President, the free debate Senators are in for a bad day unless they band together and vote against the cloture on tomorrow, against this compromise. Even then, Mr. President, there is no assurance that they would not ram the rules change through whether they would vote cloture or not. Mark my words. If they fail to get cloture—

That is, if they fail to get two-thirds—

they are going to contend that it does not take two-thirds under the Constitution.

That very same contention was made in 1957 by the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from Montana (Mr. MANSFIELD) moved to table the appeal and the Senate did table the appeal—

So it is heads they win, tails we lose, because there is little chance either way the result goes, given the determination of an arrogant majority and a determined presiding officer.

I make these points, Mr. President, just to show that while the Senator from Alabama did not engage in negotiations looking to this so-called compromise, if conditions were in fact exacted that this precedent be overturned—it has not been overturned—it has not been overturned, and even if it has been overturned momentarily—there is no way to prevent it being raised again.

Mr. President, I would say it would be much better to go down fighting for a principle than to compromise on a half-way measure.

Mr. President, I make the parliamentary inquiry: when the question is submitted to the Senate in just a few minutes under the cloture petition before the Senate, will it take a two-thirds vote to end the debate?

The VICE PRESIDENT. In answer to the Senator from Alabama, if the motion is made under cloture rule XXII, then it will take a two-thirds vote to be operative.

Mr. ALLEN. I am asking specifically on the vote that is to be put to the Senate at approximately 1:15. Will that particular vote, no matter where it comes from, require a two-thirds majority to close off debate?

The VICE PRESIDENT. If cloture has been filed under the rule, the answer is "yes."

Mr. ALLEN. I thank the distinguished Presiding Officer, and I reserve the remainder of my time.

Mr. GRIFFIN. Will the distinguished Senator from West Virginia yield me some time?

Mr. ROBERT C. BYRD. Yes. I yield 5 minutes.

Mr. GRIFFIN. I have listened with attention to the argument made by the distinguished Senator from Alabama. At one point during the debate I did indicate my view that it would be important to a compromise to reverse the earlier action of the Senate with respect to the Mansfield point of order. I would like to say to the Senator from Alabama and to others that, in the context in which we are operating, I believe we went as far as we could go, as a practical matter, and the effect of the action taken was to reverse the situation that earlier prevailed.

As the Senator from Alabama has already pointed out, the crucial ruling of the Chair related to the effect of a vote by the Senate to lay on the table a point of order of the Senator from Montana. Certainly there is a lot of room for argument concerning the appropriateness of such a ruling by the Chair.

The fact is that the Senate did reconsider its earlier vote on the motion to lay the point of order on the table, and the Senate proceeded to reverse its earlier decision on that question accordingly to the extent that any significance was attached by the Chair to that earlier vote, it was rescinded or upset.

Now, the Senator from Alabama has pointed out that, after voting to reconsider, and after voting down the motion to lay on the table, the Senate did not then proceed to vote on the point of order itself.

However, it seems to me that we are at the same point where we were before the point of order was interposed, and the situation is as it existed back in 1967, when the Senate did take that third step, and did, by a majority vote, rule valid the point of order, which on that occasion was made by the late Senator from Illinois, Mr. Dirksen.

The precedent established in 1967 is still in effect. To the extent that precedents are meaningful, it can be said that when a majority of the Senate in 1967 voted to sustain a point of order similar to that made by the Senator from Montana, a precedent was established which is still in effect.

Of course, it must be pointed out that, once the vote on the motion to table had been reconsidered and reversed, the point of order then would have been debatable—if those working for the compromise had elected to seek a vote on the point of order itself.

If we had taken that route, I wonder whether and how soon the Senate would have been permitted an opportunity to vote on the point of order itself.

Insofar as this Senator is concerned, I believe we did achieve what was essential and necessary. We did reverse the earlier unfortunate action of the Senate by reconsidering and voting down the motion to lay on the table the point of order.

I do not wish to suggest that the Senator from Alabama has no point at all to his argument. He makes a point worth noting. Of course, I was conscious of the fact that the Senate did not proceed to a vote on the point of order. But weighing the advantages and disadvantages of taking that route, I came to the conclusion—a different conclusion than the Senator from Alabama—that those who do not like the Mondale resolution would fare much better if we accept the compromise—would otherwise be the case.

Mr. ALLEN. Mr. President, will the Senator yield on my time?

Mr. GRIFFIN. I am glad to yield.

The VICE PRESIDENT. The 5 minutes of the Senator from Michigan has expired.

Mr. ALLEN. I asked the Senator to yield on my time.

The Senator from Michigan says that we are now back where we were following the 1967 ruling, where the Senate failed to lay on the table the point of order which was similar to the point that the distinguished Senator from Montana (Mr. MANSFIELD) made.

I believe, however, that the Senator overlooks the precedent that was established on February 20, when the Mondale majority debate choke-off motion was made. The point of order was made by the distinguished Senator from Montana at that time, and the motion to lay on the table was made, on February 20, and it did carry.

The only thing that would have reversed that precedent would have been action on the point of order. So the point of order reversing the tabling of the second Mansfield point of order is all that has been reversed, and not the February 20 precedent. So it would take action on the point of order, which died when the distinguished Senator from West Virginia made the motion to adjourn and the Senate did adjourn.

The live precedent right now, if they are looking for a precedent—I do not think they need it, Mr. President; it has been demonstrated—but the live precedent is the precedent of February 20, and the Senator from Alabama says that that precedent has not been overruled and would not be overruled unless this point of order that Senator MANSFIELD made, the second point of order he made, was acted on. So we are still operating under the February 20 precedent.

Mr. GRIFFIN. Mr. President, will the Senator from Alabama yield to me?

Mr. ALLEN. Yes.

Mr. GRIFFIN. It would seem that the Senator's argument would have more validity if, on February 20, the Senate had actually voted on the point of order. But the Senate did not do that.

Mr. ALLEN. Well, the Senate voted on the tabling motion.

Mr. GRIFFIN. That is right.

Mr. ALLEN. And the distinguished Presiding Officer said he was going to use that vote to determine the Senate's feeling about the constitutionality of the Mondale debate choke-off motion.

Mr. GRIFFIN. So the crucial point, it seems to me, is the motion to lay on the

table and the interpretation which the Chair has attached the Senate's vote.

Mr. ALLEN. Yes, but if the——

Mr. GRIFFIN. Now, in view of his interpretation, it was very important and significant that the Senate reconsidered its vote on the motion to table the point of order on this most recent occasion, and reversed itself.

Mr. ALLEN. Yes, but it still never passed on the point of order, to reverse the damage that was done on February 20. I just wanted to call that to the Senate's attention.

Mr. GRIFFIN. I cannot say that the Senator is not reciting facts accurately, but I do not attach the same significance to them. It seems to me it is a highly technical kind of argument. In terms of substance and intent, the Senate has done what is necessary to reverse—very emphatically and very dramatically—the action taken earlier. And we can continue to point out that in 1967, the Senate, by majority vote, did sustain a similar point of order. That precedent still stand and I, for one, I want to leave that argument on the RECORD, I think it is a good posture for the Senate to be in.

Mr. ALLEN. The Senator from Alabama maintains that the only way to reverse the February 20 precedent would have been to have acted on the point of order itself. Had the Senate acted on that point of order and stated that the debate on the so-called motion was out of order, then that would reverse February 20. But the distinguished assistant majority leader saw to it that the Senate had no opportunity to vote on the point of order, because he moved to adjourn the Senate for 5 minutes. That had the effect of killing the point of order without the Senate having an opportunity to act on it.

Mr. CURTIS. Mr. President, will the distinguished Senator from West Virginia yield to me?

Mr. ALLEN. I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. CURTIS. Mr. President, the junior Senator from Nebraska is very disturbed. I lent my support toward a compromise, because I was afraid that the Senate was drifting into a situation where we would no longer be the Senate of the United States, but just another body where the Presiding Officer and a majority would be in control, and that we would not be a deliberative body. I did not want that to happen.

I thought the compromise consisted of two parts: one, a reversal of the precedents or near precedents that were established; and the other one to go not to a two-thirds vote but to a three-fifths constitutional requirement.

I disagreed with the rulings of the Chair. The Vice President, in essence, ruled, as I understand, that when we voted on a motion to table a point of order that the tabling motion constituted a vote on the merits of the point of order.

Mr. ALLEN. On the merits of the motion.

Mr. CURTIS. The merits of the motion, yes.

That is not true. If a point of order is made and then tabled, the Senate is in the same position as if the point of order had never been made. So the vote should be submitted on the motion itself. That was not done.

I was of the opinion that part of the agreement here was that the procedure would be corrected, and then the three-fifths constitutional majority would prevail. I would like to ask the distinguished Senator from Alabama what vote would be necessary in order to clearly correct the procedures to which he has objected.

Mr. ALLEN. As the Senator from Nebraska says, when the distinguished assistant majority leader adjourned the Senate or the Senate adjourned in response to his request, that killed this point of order. It is no longer, without a decision on its merits.

Mr. CURTIS. What vote was that?

Mr. ALLEN. That was the point of order made by the distinguished Senator from Montana (Mr. MANSFIELD). The action that was taken——

Mr. CURTIS. It is that point of order that should be ruled upon.

Mr. ALLEN. That point of order should have been ruled upon.

Mr. CURTIS. All right.

Mr. President, I ask unanimous consent that notwithstanding the order for a cloture vote, at the time of the cloture vote that the Mansfield point of order be debated for 30 minutes, and that a vote be taken upon it before we proceed to the cloture vote.

At this point, Mr. BUMPERS assumed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 5 minutes. Much has been said with respect to the point of order raised by the distinguished majority leader to certain portions of the Mondale motion; the fact that that point of order was tabled; that the vote was reconsidered by which the vote was tabled; that the Senate proceeded to untable the majority leader's point of order; and that I then moved to adjourn the Senate for 5 minutes on Monday.

I think, as we have seen demonstrated here, various interpretations can be placed upon what happened, depending upon one's personal point of view, and the cause that one seeks to further.

I happen to agree with the distinguished Senator from Michigan when he said that the Senate marched up the hill, tabled the Mansfield point of order, and then marched back down the hill when it reconsidered the vote, and when it untabled the Mansfield point of order. In so doing, the Senate reversed its previous vote to table the Mansfield point of order.

Now, the reason we did not go further at that point was, as the distinguished Republican whip has stated, the point of order was back before the Senate and would have been debatable. The Senate had reversed itself, and had shown an inclination to move in a new direction on the point of order, by having untabled the point of order. The point of order was then left to stand with no further action thereon.

The Senate had been in session for several calendar days, and it was the desire of the leadership of the Senate to seek to have the resolution, Senate Resolution 93—which had been introduced late last week—come over under the rule. Only an adjournment would initiate that procedure.

Mr. CURTIS. Mr. President, will the distinguished assistant majority leader yield for an observation with respect to his reservation?

Mr. ROBERT C. BYRD. Would the Senator let me complete my statement?

Mr. CURTIS. I would like to point out, because I believe he is in error——

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I yield if I have made an incorrect statement.

Mr. CURTIS. He rose on a reservation of a point of order on my unanimous-consent request.

The PRESIDING OFFICER. The time is under the Senator's control, and he yielded himself 5 minutes.

Mr. CURTIS. I would like to clarify myself for just 1 minute.

Mr. ROBERT C. BYRD. Yes.

Mr. CURTIS. Is it not true that under the unanimous consent I proposed it would avoid a long debate on this and would clarify the situation? That is why I hoped that by unanimous consent it could be agreed to.

Mr. ROBERT C. BYRD. Well, still reserving the right to object, Mr. President, it was desirable, in the view of the leadership, that the Senate adjourn so that the machinery could begin moving whereby Senate Resolution 93 would come over under the rule. There were other reasons, as well. For example, the leadership expected an objection to the request to suspend the reading of the Journal—which had been building up for several days. By adjourning for 5 minutes and having the Journal read on Monday evening, the Senate saved a day and cleared the way for morning business on Tuesday to open the door for Senate Resolution 93 to come up under the rule, which did not occur because the opponents were successful in running the clock for the first 2 hours. In any event, the Senate did reverse its previous action tabling the Mansfield point of order.

Now, Mr. President, I want to say that aside from all the talk about precedents this Senate has been lately moving in a very dangerous direction. Six weeks ago, I would not have given 10 cents for the chance of any action on the resolution offered by the distinguished Senator from Minnesota (Mr. MONDALE). But within the last 2 weeks I have seen a precipitous change in the mood of this Senate, and I feel that that mood bodes no good for those who are determined to prevent a change in Senate rule XXII.

I have expressed my opposition to the Mondale motion in no uncertain terms. But, regardless of the most recent precedent or any other precedent, may I say to my colleagues that if the Senate does

not change Senate rule XXII now, and change it in a way that will bring about an equitable, fair, and moderate result, a different kind of result will ultimately but surely eventuate.

Now, in my judgment, the Senator from Minnesota and his colleagues can invoke majority cloture on this Senate—if not now I am afraid that it will be invoked later.

May I point to an event which occurred in the Senate in 1969.

Have my 5 minutes expired?

The PRESIDING OFFICER. The Senator's 5 minutes have just expired.

Mr. ROBERT C. BYRD. Mr. President——

Mr. CURTIS. Mr. President, I ask——

Mr. ROBERT C. BYRD. Mr. President——

Mr. CURTIS. A unanimous-consent request.

Mr. ROBERT C. BYRD. Well, Mr. President, my inclination is not to object——

Mr. CURTIS. Well, I am afraid that it will be objected to as time goes on.

Mr. ROBERT C. BYRD. No, I think as times goes on, the chances are it will not be objected to.

Mr. CURTIS. Perhaps the Senator is right. Some may appear that are not in the discussion.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will allow me.

Mr. President, on January 16, 1969, Vice President HUMPHREY was in the Chair. He directed the clerk to call the roll to ascertain the presence of a quorum, and after a quorum had been ascertained the cloture motion was restated to the Senate, and, under the rule, the Senate proceeded to vote by yeas and nays on the question. "Is it the sense of the Senate that the debate shall be brought to a close?"

Fifty-one Senators voted "yea," 47 "nay."

The Vice President announced the motion was agreed to, as follows:

The VICE PRESIDENT. Under the provisions of article I, section 5, of the Constitution and those provisions of Senate rule XXII and other rules not in conflict with this constitutional provision, the Chair announces that 51 Senators having voted yea and 47 Senators having voted nay, cloture has been invoked on the motion to proceed to the consideration of Senate Resolution 11, and debate will proceed under the limitation provisions of rule XX. (CONGRESSIONAL RECORD, vol. 115, pt. 1, p. 994.)

Mr. Holland, of Florida took an appeal from the ruling of the Chair. The Vice President immediately applied rule XXII in all respects but the two-thirds requirement holding that the appeal was not debatable. The Chair put the question, "Is the decision of the Chair to stand as the judgment of the Senate?" The Senate, by a vote of 45 yeas to 53 nays refused to sustain the decision of the Chair. Thus cloture not having been invoked, the Senate continued the debate on the motion to take up.

So in that instance, the Vice President ruled that, although two-thirds of the Senate had not voted to invoke cloture, the majority having voted to invoke cloture, cloture was invoked.

Now, Mr. Holland took an appeal. Fortunately, the Senate upheld the appeal and refused to sustain the decision of the Chair.

Now, Mr. President, that could happen again at a future time with a Presiding Officer ruling that a majority could invoke cloture and, that, cloture being invoked, no appeal would be debatable under rule XXII. Any appeal from the ruling of the Chair could be tabled by majority vote, the Chair's ruling would have been sustained, and you would have it—majority cloture.

Now, it has been demonstrated time and time again here recently that there are more than 51 votes wanting a rules change, and the compromise that has been offered is a reasonable compromise. It is equitable, it is fair, it is balanced, and I say that the Senate had better think twice before it refuses to go in this direction.

I do not want majority cloture. I believe that if this compromise is adopted, this battle will not recur again 2 years from now and 2 years from then, and that we will not be faced again with majority cloture in the near future.

Mr. President, I do not object to the——

Mr. CLARK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Mr. President, I yield 5 minutes—how much time does the Senator from Alabama have?

Mr. ROBERT C. BYRD. Would the Senator from Alabama allow me? The Senator from Louisiana had asked me to yield. Would the Senator, before he yields, allow me to yield to Senator LONG?

Mr. ALLEN. If the Senator from Mississippi has no objection.

Mr. ROBERT C. BYRD. Would the Senator from Mississippi——

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Let the Senator proceed first.

Mr. LONG. The point I wanted to make was merely that there have been Senators in this body who have sought to accommodate those with whom they could not agree, those who changed their votes in order to reconsider the vote by which the appeal from the ruling of the Vice President was laid on the table. They did so, not because they thought they were wrong. They did so, in my judgment, because they hoped that as men of good will they could help bring together a fair compromise.

I believe if no compromise can be worked up they will feel they must join with the majority they fought to begin with. The Senator from Louisiana is seeking to work for a compromise, a rule that hopefully the Senate would be willing to live with in the future.

Now, I am satisfied that when matters of this type reach this point, the losers will be those who place themselves in the position of being unreasonable, not willing to accommodate the majority, not willing to accommodate people who are sympathetic to what they are trying to do and who are trying to do that which men of good will would try to suggest to bring together contending forces and try to settle for something less than what many want, but which is the best mix of everybody's position that can be agreed upon and to let the Senate work its will. Those who project the image of being unreasonable at a point like this are going to lose.

What I fear is that they are going to lose the whole blamed thing and wind up losing, if not today, before this fight is over—and it may take 2 years before it is over with—but they will wind up losing the entire right of those in the minority to maintain their debate while they are in the minority long enough to convince a majority of their position.

That, I think, is what we ought to keep very much in mind in all this.

I will be very disappointed, Mr. President, if, having worked for a compromise, it fails to work out because I think what will result will be that the majority will feel that they have no choice but to forge ahead now or at some future point within 2 years and change the rule by a simple majority proceeding such as that which the Senator from West Virginia (Mr. ROBERT C. BYRD) referred to in his very logical speech.

When that happens, even though the rule may say we have 60 percent cloture, as a practical matter, under majority cloture they would have done something I hoped never would happen in the Senate, and something that we ought to seek to avoid. They have abolished something that should be preserved in the Senate, and that is a right of a minority to make itself heard and to become a majority by persuading people that there is a great deal to be said, even the right for them to prevail for awhile, perhaps a period of years, while the people of this Nation consider the contending arguments of both sides, in the last analysis, and make the decision, rather than somebody running roughshod over the other.

Mr. ALLEN. Mr. President I yield 4 minutes to the distinguished Senator from Mississippi.

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

The PRESIDING OFFICER. The Senator from West Virginia has 3 minutes.

Mr. ROBERT C. BYRD. I yield 2 minutes of the 3 to the Senator.

Mr. STENNIS. I thank the Senator, and if the Chair would call me at the end of 5 minutes, that would be only 1 minute from the Senator from West Virginia.

Now, Mr. President, as I understood the Senator from Louisiana, I do not disagree with him except in his one single point of the wisdom of yielding just because we are in an unhappy situation.

Mr. President, for just a minute or two may we have quiet?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Mr. President, I have been told by men who were in his presence that when Woodrow Wilson, the former President, asked the Congress for a declaration of war against Germany in 1917, he said that he wanted his friends and associates to know that he knew, when he did that act, that our Nation would never be the same again. Using his words, regardless of what the parliamen-

tary situation is, if this body ever goes to what we call a majority cloture, for whatever reason, the Senate will never be the same again.

Senate Resolution 4, however stated about three-fifths, is just another forward step in that direction of majority cloture, whatever you may say otherwise.

I believe the effective thing to do is to defeat this cloture motion and then keep on trying to defeat the proponents of the resolution, the Vice President, and anyone else who may be in the Chair.

I am inclined to believe if we vote now on Senate Resolution 4, even though amended, just because we are in a tight place, that is just adding fuel to the fire and we will be in a tight place again. I say that based upon my being here when we yielded from the motion to take up the bill to two-thirds, and finally to two-thirds of those present and voting. This is just another step.

Let us remember as we look down the vista of time the Senate will never have the distinctive feature again. It will never be a so-called deliberative body. It will never live up to that standard, even as much as it does now. We get credit now for being more of a deliberative body than we actually are, but this will be the turning point.

The PRESIDING OFFICER. The time of the Senator from Mississippi has expired.

Mr. STENNIS. I was yielded 4 minutes plus 1.

Mr. ROBERT C. BYRD. I yield whatever remaining time I may have, Mr. President.

The PRESIDING OFFICER. The Senator from Mississippi has 3 more minutes.

Mr. STENNIS. Let us not make any mistake about it. Everyone will soon find out that we are degrading and downgrading the position of this body. I tell you when the people finally realize that, when they have the chance to find it out—and they do not realize it as of this moment, though in my opinion they have been made to realize it in other cases—they will not like it. Many of them will raise up, in my opinion.

This is the body that takes the hacking, though sometimes it is just the majority; it takes the criticism; it takes the bludgeons of office in order to hold the line so that somewhere in the Government—somewhere—there will be someone who can stand up and cause the country to take a second thought.

There is no doubt in my mind that this rule XXII is what saved the Supreme Court from being packed in 1937. There could not have been a more momentous and far-reaching precedent set than that would have been.

Mr. President, I believe we ought to quit talking about what the situation is, what they may do on some other vote, and stop this where we are. One stroke of the pen by the Vice President has already struck away, held for naught, for nothing, almost 200 years of precedents that this body has abided by.

It certainly is time to stand up and say we will stop this thing right now, if we can, and then if there is another resolution to change the rules that is their prerogative

Mr. President, may we have a semblance of deliberation?

Mr. LONG. Will the Senator yield?

Mr. STENNIS. If I have any time I will be glad to yield.

Mr. LONG. When I first came here, debate could not be shut off with 99 votes. Does the Senator contend we made a mistake?

Mr. STENNIS. I said it was changed on us.

I have been here as long as the Senator has, and he has been a great warrior. He is now. I have no quarrel with him.

Mr. President, I thank the Senator.

Mr. ALLEN. I yield 2 minutes to the distinguished Senator from North Carolina.

Mr. MORGAN. Mr. President, I thank the distinguished Senator from Alabama.

I will say for the RECORD I would have hoped we could have agreed to the request of the distinguished Senator from Nebraska, for I had understood the proposed compromise to be just as he has stated. While I had not made any firm commitments to anyone, I think I had led the Senator from Louisiana to believe that if the compromise were agreed to, as I understood it to be, I would vote for cloture and for whatever parliamentary rules or proceedings would have been necessary to accomplish the compromise.

I believe the distinguished Senator from Alabama understood that I would, although I had not told him so.

I have discussed the matter this morning with the Senator from West Virginia.

Mr. President, I am afraid that if we proceed to the compromise without voting on the point of order of the distinguished Senator from Montana, we will have the three-fifths rule only by the sufference of the Vice President and the majority leader of the Senate, and that they can change it any time they want to.

I would simply say, Mr. President, to all of those I have discused it with that unless we do proceed to vote on the point of order of the Senator from Montana in an affirmative sort of way, I will vote for cloture and will not vote for the compromise.

Mr. ALLEN. Does the Senator mean against cloture?

Mr. MORGAN. Against cloture, that is right.

I think the mere fact that the Senator from Iowa has objected to the request of the Senator from Nebraska is a clear indication that the proponents of Senate Resolution 4 intend at a later date to use the ruling as a precedent to cut off debate by a majority.

For that reason, I want to make clear to those with whom I have talked as to my reasons for voting against cloture this afternoon unless the point of order is later voted on.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. How much time does the Senator from Alabama have?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. ALLEN. Mr. President, the precedent as to majority vote cutoff of debate has not been reversed, I say to the Members of the Senate. The last Mansfield point of order was never acted upon and died with the adjournment of the Senate on Monday, March 3, 1975. I have inserted the speech that I made yesterday in the RECORD. I do not want any Senator to act under any misapprehension of the facts. There has been no reversal of the precedent. The Senate, by its precedents, and by the action of the Vice President, has decided that a majority can cut off debate. That precedent has not been reversed. I am hopeful that those Senators who are opposed to majority cloture will vote against cloture when the roll is called in about 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time for debate be extended an additional 10 minutes, to be equally divided between Mr. ALLEN and myself.

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

Does the Senator wish the Senator from Alabama to retain the floor for 5 minutes?

Mr. ROBERT C. BYRD. Mr. President, I again say that Senators can argue these precedents any way they wish. They can place any interpretations on these recent precedents that they want to place. But at any time that 51 Members of the Senate are determined to change the rule and if they have a friendly Presiding Officer, and if the leadership of the Senate joins them—especially if it is the joint leadership—that rule will be changed, and Senators can be faced with majority cloture.

I again call attention to the position taken by the Vice President in 1969.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I would particularly call this to the attention of my good friend, the very able Senator from North Carolina (Mr. MORGAN).

A vote to invoke cloture was taken. Fifty-one Senators voted "yea"—that was a majority. Forty-seven Senators voted "nay." The Vice President announced that the motion was agreed to, as follows:

Under the provisions of Article I, Section 5 of the Constitution and those provisions of Senate rule XXII, and other rules not in conflict with this constitutional provision, the Chair announces that, 51 Senators having voted yea and 47 Senators having voted nay, cloture has been invoked on the motion to proceed to the consideration of Senate Resolution 11, and debate will proceed under the limitation of the provisions of rule XXII.

So the Chair ruled in that situation that cloture had been invoked by majority vote.

Mr. CURTIS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

Mr. CURTIS. Mr. President, I ask unanimous consent that before the vote is taken on cloture, the Mansfield point of order be submitted to the Senate, under a limitation of 10 minutes of de-

bate, 5 minutes to a side, prior to proceeding with the cloture vote.

The PRESIDING OFFICER (Mr. GARY W. HART). Is there objection?

Mr. ROBERT C. BYRD. And that a vote then occur.

Mr. CURTIS. And that a vote then occur on the point of order.

Mr. CLARK. Mr. President, reserving the right to object, I ask the Senator from Nebraska if he will withhold that request for 3 or 4 minutes, until we have had an opportunity to confer with some other Senators. We have a 10-minute delay, have we not?

Mr. ROBERT C. BYRD. Yes.

Mr. CURTIS. I will agree that the Chair can delay in putting my unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time thus taken not come out of my 5 minutes.

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

Mr. ROBERT C. BYRD. Mr. President, I say again that the Chair in 1969 ruled on that particular occasion that a majority vote was sufficient to invoke cloture. An appeal was taken. The Chair put the question:

Is the decision of the Chair to stand as the judgment of the Senate?

The Chair applied rule XXII in all respects except that part of the cloture rule that holds that an appeal is not debatable.

So in that instance, debate on an appeal was allowed. But the Chair could just as well have held otherwise. The Chair could also have arbitrarily applied that part of rule XXII; and in a future case, if an arbitrary Chair were to hold that appeals were not debatable, a motion to table could immediately be made, the appeal could be tabled by a majority vote, and the Chair would be sustained, and the Senate would have majority cloture. That can happen. It did not happen in the 1969 instance to which I have alluded, because the appeal was upheld. The Chair was not sustained in that instance. But the next time, we cannot be sure that an arbitrary ruling by the Chair will not be sustained in support of majority cloture.

If we adopt this compromise, however, I think it will constitute insurance that majority cloture will not occur. If the compromise is turned down, I am afraid that the Senate is going to continue this debilitating exercise until some kind of majority cloture, or, in any event, cloture to a lesser extent than a three-fifths constitutional majority, will become the rule.

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

Mr. ROBERT C. BYRD. If I have any time remaining, I shall be glad to yield to the Senator.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. MORGAN. Is it not true that if we have an arbitrary Chair or Presiding Officer and a majority of the Members of the Senate vote with him, to uphold him, debate can be cut off, regardless of what rule we have?

Mr. ROBERT C. BYRD. The Senator is correct. But I think if the Senate will show in this instance that it is moving in good faith toward a moderate change in this rule—in view of the many serious questions that confront this country today, and on which action needs to be taken soon—the situation to which the Senator from North Carolina refers is not nearly as likely as it may be otherwise.

Mr. MORGAN. Mr. President, I would simply say that I think that most Presiding Officers would listen in good faith to any precedent that the Senate may determine. If we could today uphold the Senator from Montana's point of order, I think it would be persuasive on any succeeding Presiding Officer or even the present Presiding Officer.

Mr. ALLEN. Mr. President, how much time does the Senator from Alabama have?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield, without losing his right to the floor and without the time being charged against him.

Mr. ALLEN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I yield 1 minute to the Senator from Nebraska, so that he may repeat his unanimous-consent request.

Mr. CURTIS. Mr. President, I ask unanimous consent that prior to the vote on cloture there be a vote on the Mansfield point of order—I refer to the point of order pointed out by the distinguished Senator from Alabama as not having been voted upon; that it be a 10-minute limit on debate, 5 minutes on a side; that after the rollcall, we proceed with the cloture vote now under consideration.

Mr. ROBERT C. BYRD. And that no tabling motion be in order to the Mansfield point of order.

Mr. CURTIS. Yes.

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

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. If the Mansfield point of order is not before the Senate and the motion as to which point of order was made is now dead, and the motion to proceed to the consideration of Senate Resolution 4 is dead, by the Senator from West Virginia adjourning the Senate on Monday, how are we going to vote on a point of order made as to something that is not existent? I have no objection to this charade, but of what effect would it be? A point of order as to what? Nothing is pending before the Senate. That is the trouble.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ALLEN. I will yield in a moment.

When this question should have been voted on was when the Senate reconsidered the tabling motion to the second Mansfield point of order, then refused to table that point of order, and they had no opportunity to vote on it, because the Senator from West Virginia adjourned the Senate. So that point of order is not before the Senate.

How are you going to breathe life into it, to make it worth anything as a precedent?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. ROBERT C. BYRD. The unanimous-consent request has just been agreed to, that the Senate will vote on that point of order. Does the Senator not want to vote on that point of order?

Mr. ALLEN. I want to vote on it. I want the point of order made to something that is alive. Will we also resurrect the motion to proceed to the consideration of Senate Resolution 4, and also resurrect the Mondale motion?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. ROBERT C. BYRD. The Senator has made much about the recent precedent in which the Senate did not proceed to vote on the Mansfield point of order.

Mr. ALLEN. That is right.

Mr. ROBERT C. BYRD. The Senator appears to be unwilling to let the Senate vote now on that point of order, because that would stand as a precedent.

Mr. ALLEN. No, the Senator draws the wrong conclusion from that. What the Senator from Alabama wants is also to revive here before the Senate matters as to which the point of order was made. They are not before the Senate. Let us also revive them and get us back in the same position we were in prior to the Senator from West Virginia adjourning the Senate and killing the point of order.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. ALLEN. Yes. I want to vote on the question, but I want it to be meaningful.

Mr. ROBERT C. BYRD. The Senator wants to go all the way back to the Mondale motion?

Mr. ALLEN. That was what the point of order——

Mr. ROBERT C. BYRD. Which is debatable. And all the way back to the motion of the Senator from Alabama.

Mr. ALLEN. No, the Senator is wrong about that. What I mean is I want something to be there. If the Senator cares, what is the sense of it?

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. The Senate will be voting on the Mansfield point of order.

Mr. ALLEN. As to what?

Mr. ROBERT C. BYRD. For the sake of establishing a precedent that the Senator from Alabama wishes to have on the record.

Mr. ALLEN. Very well. Of course, the Senator knows it is just a charade and worth nothing except to get some Senators back in line that seem to be about to jump the traces.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. ALLEN. Yes, I yield.

Mr. ROBERT C. BYRD. What happened yesterday morning? Was that a charade when the Senator offered to

amend the Journal to include the prayer of St. Francis of Assisi, and when the Senator wanted to amend the Journal to include the Lord's Prayer? Was that a charade?

[Laughter.]

The PRESIDING OFFICER. The Senate will be in order.

Mr. ALLEN. The Senator, as the Senator well knows, was using up the time to prevent the Senator from West Virginia getting his cloture motion.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. That was a charade?

Mr. ALLEN. If that is what the Senator says, it was a charade participated in by the Senator from West Virginia.

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

Mr. MANSFIELD. I ask for the yeas and nays on the Curtis motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on the Mansfield point of order.

Who yields time?

Mr. ALLEN. Mr. President, what Mansfield point of order? He has made several.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be equally divided between the Senator from Nebraska (Mr. CURTIS) and the Senator from West Virginia, the assistant majority leader.

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

Who yields time?

Mr. CURTIS. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, the unanimous-consent request was made for the purpose of correcting a defect in the procedure as raised by the distinguished Senator from Alabama. Around this Chamber for several days, there has been talk of a compromise. I lent my support to that. I thought it was in two parts: One, that we correct the procedure which many of us objected to, and the quid pro quo was that we would then consider and, no doubt, it would be up to the individual Senator's decision, but accept a three-fifths constitutional majority.

The Senator from Alabama pointed out that we had not proceeded with all the steps in order to correct the procedural matters that had been raised by those rulings of the Chair and subsequent actions to which we objected. Therefore, I ask that we now vote on whether or not to sustain the Chair as to the Mansfield amendment. I think it is fully understood. I am ready to yield back the remainder of my time, or I will relinquish to anybody else who wishes to be heard.

Mr. ROBERT C. BYRD. Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 3 minutes.

A moment ago, I referred to the effort of the distinguished Senator from Alabama on yesterday to have the Lord's Prayer printed in the Journal as an amendment to the Journal. May I say, for the RECORD, that I moved to table the Senator's amendment. My purpose in moving to table that amendment was that the amendment itself was debatable. We were engaged at that time in a race against the clock, the hour of 2 o'clock yesterday being the cutoff point for resolutions coming over under the rule. So I think the explanation for my tabling motion should be in the RECORD.

Mr. President, I ask unanimous consent that the vote today on the Mansfield point of order appear in the permanent RECORD of Monday, March 3, following the vote against tabling the Mansfield point of order, and just prior to my offering the cloture motion on that date, so that in the permanent RECORD, the outcome of today's vote will appear as a part of the entire proceeding.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Will the Senator from Nebraska yield me 1 minute?

Mr. CURTIS. I yield.

Mr. ALLEN. Would the Chair, for the information of the Senator, state what the Mansfield point of order is and as to what it is directed?

The PRESIDING OFFICER. The Mansfield point of order was directed against that part of the motion by the Senator from Minnesota that provided that the motion would not be debatable, subject to intervening motions, or amendment.

Mr. ALLEN. It was not directed against that part of the Mondale debate choke-off motion that said that a majority could cut off debate?

The PRESIDING OFFICER. It was directed against what the Chair just stated.

Mr. ALLEN. And not what the Senator from Alabama has just stated?

The PRESIDING OFFICER. And nothing else.

Mr. CRANSTON. Mr. President, on Monday last, I voted to reconsider my earlier position to table the Mansfield point of order and then I voted against tabling the Mansfield point of order.

Today I am voting to uphold the Mansfield point of order for the very same reasons I cited on Monday.

We have the opportunity to amend rule 22 if we can get the reasonable leadership compromise up for a vote. Upholding the Mansfield point of order only adds one tree to the jungle of precedents we reside in. But above and beyond that jungle stands the Constitution. And no precedent can reverse the fact that the Constitution supersedes the rules of the Senate—and that the constitutional right to make its rules cannot be challenged.

Mr. ROBERT C. BYRD. I yield back my time.

Mr. CURTIS. I yield back my time.

The PRESIDING OFFICER. The question is on the point of order. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. HOLLINGS) is necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—53

Abourezk	Eastland	Montoya
Allen	Fannin	Morgan
Baker	Fong	Nunn
Bartlett	Ford	Pastore
Beall	Garn	Roth
Bellmon	Goldwater	Scott,
Biden	Gravel	William L.
Brock	Griffin	Sparkman
Buckley	Hansen	Stennis
Bumpers	Hart, Gary W.	Stevens
Byrd,	Helms	Stone
Harry F., Jr.	Hruska	Symington
Byrd, Robert C.	Huddleston	Talmadge
Cannon	Johnston	Thurmond
Chiles	Laxalt	Tower
Cranston	Long	Weicker
Curtis	Mansfield	Young
Dole	McClure	
Domenici	McGee	

NAYS—43

Bayh	Humphrey	Packwood
Bentsen	Inouye	Pearson
Brooke	Jackson	Pell
Burdick	Javits	Percy
Case	Kennedy	Proxmire
Church	Leahy	Randolph
Clark	Magnuson	Ribicoff
Culver	Mathias	Schweiker
Eagleton	McGovern	Scott, Hugh
Glenn	McIntyre	Stafford
Hart, Philip A.	Metcalf	Stevenson
Hartke	Mondale	Tunney
Haskell	Moss	Williams
Hatfield	Muskie	
Hathaway	Nelson	

NOT VOTING—3

Hollings	McClellan	Taft

So Mr. MANSFIELD's point of order was sustained.

CLOTURE MOTION

The VICE PRESIDENT. The time for debate having expired, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the motion to proceed to the consideration of S. Res. 4, amending Rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Robert C. Byrd, Jr., Jennings Randolph, Robert P. Griffin, John O. Pastore, Edmund S. Muskie, Charles McC. Mathias, Jacob K. Javits, Ted Stevens, Edward W. Brooke, Clifford P. Case, James B. Pearson, Gaylord Nelson, William D. Hathaway, Alan Cranston, Walter F. Mondale, Dick Clark, Warren G. Magnuson, Mike Mansfield.

ORDER VITIATING REQUIREMENT FOR A QUORUM UNDER RULE XXII

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the rule XXII requirement for a quorum be vitiated.

The VICE PRESIDENT. Without objection, it is so ordered.

VOTE

The VICE PRESIDENT. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of Senate Resolution 4, amending rule XXII of the Standing Rules of the Senate with respect to limitation of debate, shall be brought to a close.

The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CANNON (after having voted in the affirmative). Mr. President, on this vote I have a pair with the distinguished Senator from South Carolina (Mr. HOLLINGS). If he were present and voting, he would vote "nay." I have already voted "aye." I, therefore, withdraw my vote.

Mr. MANSFIELD (after having voted in the affirmative). Mr. President, I, too, have a pair with the distinguished Senator from South Carolina (Mr. HOLLINGS). If he were present and voting, he would vote "nay." I have already voted "aye," and I, therefore, withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. HOLLINGS) is necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The yeas and nays resulted—yeas 73, nays 21, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—73

Abourezk	Hart, Philip A.	Muskie
Bayh	Hartke	Nelson
Beall	Haskell	Nunn
Bentsen	Hatfield	Packwood
Biden	Hathaway	Pastore
Brooke	Hruska	Pearson
Bumpers	Huddleston	Pell
Burdick	Humphrey	Percy
Byrd, Robert C.	Inouye	Proxmire
Case	Jackson	Randolph
Chiles	Javits	Ribicoff
Church	Johnston	Roth
Clark	Kennedy	Schweiker
Cranston	Laxalt	Scott, Hugh
Culver	Leahy	Stafford
Curtis	Long	Stevens
Dole	Magnuson	Stevenson
Domenici	Mathias	Stone
Eagleton	McGee	Symington
Ford	McGovern	Tunney
Garn	McIntyre	Weicker
Glenn	Metcalf	Williams
Gravel	Mondale	Young
Griffin	Montoya	
Hart, Gary W.	Moss	

NAYS—21

Allen	Bellmon	Byrd,
Baker	Brock	Harry F., Jr.
Bartlett	Buckley	Eastland
Fannin	McClure	Stennis
Fong	Morgan	Talmadge
Goldwater	Scott,	Thurmond
Hansen	William L.	Tower
Helms	Sparkman	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Cannon, for Mansfield, for

NOT VOTING—3

Hollings	McClellan	Taft

The VICE PRESIDENT. On this vote the yeas are 73, the nays are 21. Two-thirds of the Senators present and voting having voted in the affirmative, the cloture motion is agreed to.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to consider the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The question is now on the motion to proceed to the consideration of Senate Resolution 4.

Mr. ALLEN. Mr. President——

The VICE PRESIDENT. The Senator from Alabama.

Mr. ALLEN. Mr. President, how much time does the Senator from Alabama have?

The VICE PRESIDENT. One hour.

Mr. ALLEN. Mr. President, I yield myself 30 minutes.

The VICE PRESIDENT. The Senator from Alabama has the floor. May we have order?

Mr. ALLEN. May we have order in the Senate and in the galleries?

The VICE PRESIDENT. The Senate will please be in order. The Senator from Alabama has the floor.

Mr. ALLEN. Mr. President, in the judgment of the Senator from Alabama this is a sad day in the history of the U.S. Senate. It is quite obvious that we are moving toward, and in fact have already reached, a point where we can do, and will cut off free debate in the U.S. Senate by a majority vote.

Whatever rights the minority in the Senate might have they hold merely through the sufferance of the majority.

This whole cloture vote exercise has been merely an effort to give legitimacy, or the stamp of legitimacy, to the original action of those gag rule Senators who sought, and, from a practical standpoint, succeeded, in cutting off debate by a majority vote. It was only when there was a rebellion here in the U.S. Senate against the tactics which were being used to ram this rules change through that the gag rule Senators backed off. They stepped out of the picture. They moved into the shadows, into the background, and turned this issue over to the joint leadership.

Mr. President, it reminds me of the time when you might be riding down a highway and see a little filling station or a cafe off on the side of the road, with a little hand-drawn sign which says "Under New Management."

Your immediate inclination is not to stop at that place because if they have to put up a sign saying that the place is under new management, chances are that the original management was not the type of management that you would like to have in an establishment that you might patronize. You have a little bit of suspicion about the new management as well.

Mr. President, the effort to ram Senate Resolution 4 through by cutting off debate by a majority vote, and the steamroller and strong-arm tactics that were used to ram that measure up to the point where it was almost on the verge of having debate cut off, became so distasteful in the eyes of the public that they backed off from it. They said, "No, we will agree on a compromise. We will agree on 60 to vote cloture instead of three-fifths of those Senators present."

Immediately, the sponsors of the gag-rule effort moved out of the picture and turned it over to the leadership.

Mr. President, the Senator from Alabama did not participate in this effort to compromise this matter. There can be no compromise with principle. If we first concede that we have to operate under the rules, then any effort outside of the rules to amend the rules should not be countenanced. If the rule book says that it takes two-thirds to cut off debate, then we should not give the stamp of approval to efforts cut off debate in a manner not provided by the rules.

Where do we stand from now on? We stand at the tender mercies—shall I say—of a ruthless majority.

That is just the purpose of a provision for a two-thirds vote of cutting off debate, that a minority might have protection against a ruthless and arrogant majority.

Mr. President, I pay tribute to the 20 other Senators who stood by their convictions on this matter. We soon will vote, I assume, to proceed to the consideration of Senate Resolution 4. I assume that they will allow an amendment, putting in the so-called compromise.

But the fact remains that this concession to the minority is just given at the sufferance of the majority. They just reached the conclusion that public opinion would not support this effort to amend the rules by a method not provided for in the rules. So they dropped that effort and said they were going to go the cloture route—that is, cut off debate by a two-thirds vote.

Mr. President, if they had gone the cloture route to start with, there is no chance whatsoever that cloture would have been invoked: because on the very first vote we had of any consequence, the vote was only 46 to 43 to cut off debate by a majority vote, and it would take only 34 votes to prevent the cutoff of debate.

Mr. President, the great English parliamentarian, Mr. Onslow, the ablest among the speakers of the House of Commons, had this to say about the rules of a parliamentary body:

> And whether these forms be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is, that there may be a unanimity of proceeding in business, not subject to the caprice of the speaker—

And, I might say parenthetically, the Presiding Officer of the Senate.

or capriciousness of the members. It is very material that order, decency and regularity be preserved in a dignified public body.

Mr. President, if we had any assurance that there would be protection in this constitutional three-fifths, that might not be so bad.

The New York Times, as a matter of fact, denounces the gag rule Senators for agreeing to this compromise.

The trouble is that it is like cutting off a dog's tail an inch at a time. It is a constitutional three-fifths today, a majority of the Senate. At the next session—or tomorrow, for that matter—they could change this to a majority cloture.

Mr. President, there is not a thing in the world to prevent a resolution to cut off debate, not by 60 percent but by 40 percent. Make the motion, have a point of order made, have the Chair submit it, have the majority ram it through, and then you would cut off debate by 40 percent. Why have any provision at all to cut off debate?

We are operating merely at the sufferance of the majority, and we have seen that the majority can be pretty ruthless around here. When you couple that with a friendly Presiding Officer, what chance does that leave a Senator or Senators who wish to comply with the rules?

Mr. President, we went through a charade here in acting on a point of order that should have been acted upon on March 3. Of course, many of the gag rule Senators voted for that, knowing that it was worthless, knowing that if the Members of the Senate cave in to their requirements with a club over the head, they will have their way from now on. Personally, the Senator from Alabama would rather have stood by our guns, had the three-fifths of the Senators present authorized to cut off debate, than to have agreed on a halfway compromise that puts the stamp of legitimacy on this effort by gag rule Senators to go contrary to the rules and, by the strength of a majority, to ram through their requirements.

So the effect of this whole charade has been that this majority, with a favorable ruling from the President of the Senate, has voted to disregard the rules. Having proved that they could make this change with a majority vote, but seeing that it was just a little too raw for the public to take, they backed off on it and agreed on a so-called compromise.

Mr. President having, in effect, given the stamp of legitimacy to this effort by gag-rule Senators, we will be in a much more precarious position at the next Congress when an effort is made to change these rules again.

Mr. President, I stated that the New York Times spoke disapprovingly of this compromise. In effect, they said, "You have the battle won; you have rammed it through. Why did you give back part of your victory?"

Well, the New York Times believes in a little free speech, and they have columnists who do not necessarily agree with the editorial policy of the Times. On March 3 of this year, a very interesting article by Mr. William Safire appeared opposite the editorial page. It was entitled "Crushing Dissent in the Senate." That is what we are seeing—the crushing of dissent. You are a majority or you do not get in the game. If your opinion is contrary to that of the majority, your effort to state your views is going to be choked off. In a few days, the rule is going to be 60 percent to cut off debate, and then, the Senator from Alabama fears, 50 percent; and he has stated it is possible to go to 40 percent of Senators to cut off debate, if that matter is presented to the Senate by the Presiding Officer.

Let us see what Mr. Safire said:

For two centuries, the Senate has helped make the Democratic experiment work by preventing the excesses of democracy. Time after time, lonely dissenters—right and wrong—have used the Senate's rules to delay, to restrain, to force some adjustment to minority demands. Ultimately, the theory went, the majority would rule, but not until the passions of the moment—or of the year—had passed.

In the course of time, the Senate agreed to attune itself more closely to the popular will by permitting direct election of Senators by the people, and they agreed to limit debate by a two-thirds vote, treating the veto of a minority the same as a veto by the President.

So it is not so unusual to have a two-thirds vote to be the requirement for cutting off debate.

All along, however, Senators remembered what a Senate was for, why it had been created in the first place: to protect the minority, to ensure deliberation, to make it impossible to crush dissent under the steamroller of democratic majority rule.

That is what we have seen here in the Senate. I add that parenthetically.

With the majority steamroller piloted by Mr. Rockefeller, a member of the minority—Senator Long—senses defeat and is suggesting a milder formula for stopping dissent. He is wrong; once the gates are lowered, nothing he writes into his resolution is going to keep succeeding majorities from making it possible for a simple majority to cut off debate. And then you might as well not have a Senate at all.

So that is what we are faced with, Mr. President, the cutting off of the right of free debate in the U.S. Senate.

The U.S. Senate is the only parliamentary body in the world that has a provision that does give some measure of free discussion. This effort is making the Senate just another House of Representatives. I say that not by the way of disparagement, but by way of commenting on the fact that in the House, there is no way to have a full discussion of the issue; whereas here, in the Senate, there is an opportunity to discuss, to reason, to shape legislation, to slow down the steamroller, to say, "Stop, let us consider this legislation that is being proposed. Let us not ram it through."

I have not seen any matter that was subjected to free debate, the free offering of amendments, that has not emerged from the legislative process a better bill than the bill first offered.

Mr. President, the right of free debate in the Senate is a time-honored right. That right is being taken away, not just from Senators. Individual Senators are of little importance in this issue. Whether the Senator from Alabama is allowed to debate as long as he wants to is not important, but whether the right of the people to have their views expressed here, in the Senate, the right of the people of Alabama and the people of other States to have their views expressed here, on the floor of the Senate, without having a gag rule applied—that is important.

I am not worried whether the Senator from Alabama personally is allowed to speak. It is no great amount of pleasure to speak for extended periods on the Senate floor. But the right of the people to have their representatives speak is important. That is what we are in the process of killing in the Senate today.

Mr. President, I fear that I must comment on the procedure that has taken place to bring us to this unhappy result that is clear for all to see. Senate Resolution 4, setting the modification in the Senate rules from two-thirds requirement to invoke cloture down to a three-fifths requirement, three-fifths of those present, was introduced on the first day of the session. Then, on February 20, it was brought up and a resolution was offered by gag rule Senators. Then a motion made to proceed to the consideration of that resolution. Then a motion was filed saying that debate on the motion to proceed that had never even started, would be brought immediately to a close, that there be no amendment, that there be no intervening motion, that it not be amended.

A point of order was made by the distinguished Senator from Montana that that effort was outside the rules, as clearly it was, because it provided for a majority cutoff of debate, as distinguished from the two-thirds required by the rules. Without any opportunity to discuss the point of order, a motion was made to table the point of order. Then the Vice President stated this, or this in effect, that a constitutional question was involved about whether the Senate had the right to change its rules at the start of a session and that that right could not be cut off by debate and that a majority could cut off debate. Of course, the Constitution does not say that. It merely says that it takes a quorum to transact business and that both houses can make their own rules. But the Vice President stated that he was going to take this vote on the motion to table the point of order as being the Senates decision on whether this motion to proceed to immediate vote on the motion to proceed should be put without debate and without amendment. And without intervening motion. He said that either way they voted on the motion to table, he was going to regard their decision on the validity of the motion and of the provisions therein.

Here comes the strange part of his ruling. He said that if the Senate votes to table the point of order, he is going to regard these provisions of the motion that had not even been voted on as being binding on the Senate.

Now, how could there be such a ruling as that? He is going to put into effect a motion that is before the Senate and has never been acted on. He says, "If you table a point of order, I am going to treat as self-executing"—this is the effect of

what he said—"I am going to consider as being self-executing these provisions of the motion saying there won't be any debate, there won't be any amendments, there won't be any motion." How in the world can we activate a motion until we act on it?

This is the strange ruling that we had.

So the Senate tabled the point of order, and the Vice President put that far-fetched, as we say down in my part of the country, construction on the action of the Senate.

So, Mr. President, ever since the ruling of the Vice President we have been fighting a rear-guard action to try to head off this steamroller, and it has been pretty hard to do. With a determined majority, determined to ram this measure through, with a Presiding Officer lending assistance to their efforts by his rulings, with the leadership of both parties at least favoring the compromise, it has been rather difficult to head off this effort. But the warning the Senator from Alabama wants to make is that this is not the last of the efforts to amend the Senate rules. We will never go back to the two-thirds; of course not. But there is danger of going to a majority for the debate cutoff. In fact, we have already reached that point; whatever the majority says, irrespective of the rules, is going to be put into effect.

The VICE PRESIDENT. The Senator from Alabama limited himself to one-half hour, which has expired. Does he care to take his other half hour at this time?

QUORUM CALL

Mr. ALLEN. No. In view of the absenteeism in the Chamber, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 15 Leg.]

Allen	Hart, Gary W.	McGee
Byrd, Harry F., Jr.	Helms	Tower
Byrd, Robert C.	Leahy	Young
	Mansfield	

The PRESIDING OFFICER (Mr. TOWER). A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

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

The PRESIDING OFFICER. A quorum is present.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to consider the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ALLEN. Mr. President, let me first call for the yeas and nays on final passage.

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

Mr. ALLEN. That being true, Mr. President, I have no recourse but to suggest the absence of a quorum; and as soon as a sufficient number of Senators come in, I will ask to call off the quorum call.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator will have ample opportunity to get the yeas and nays, I assure him.

Mr. ALLEN. I would like to have that understood, so that if the Senator from Alabama should step out of the Chamber, we will not have a quick voice vote.

Mr. ROBERT C. BYRD. I assure the Senator that if he does step out of the Chamber, we will not have a quick voice vote.

Mr. ALLEN. The Senator is not planning to step out of the Chamber.

[Laughter.]

Mr. ROBERT C. BYRD. I assure the Senator that if something unforeseen should require his being called from the floor, he will not be caught with a voice vote.

Mr. ALLEN. Very well. Under those circumstances, I withhold the request for a quorum call.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER (Mr. BAKER). The Senator from North Carolina is recognized. How much time does the Senator yield himself

Mr. HELMS. As much time as I may require.

Mr. President, I ask unanimous consent that a member of my staff, Dr. James P. Lucier, be accorded the privilege of the floor during the pending business.

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

Mr. HELMS. Mr. President, perhaps the most unfortunate aspect of this latest assault on rule XXII is the fact that the American people, by and large, do not understand what they have at stake. The news media, for the most part, have attempted—perhaps successfully so—to portray what has been going on in the Senate for the past month as an idle exercise, indeed a waste of time. Mr. President, nothing could be further from the truth.

I say to the Presiding Officer and other Senators present that there never has been a filibuster against stopping forced busing of schoolchildren. There never has been a filibuster against a move by my liberal friends to balance the budget of the Federal Government. The truth is, of course, that our liberal friends rammed through the Senate their ideas about forced busing, and excessive Federal spending—and they did it even with the two-thirds requirement for cloture. How much more of this sort of thing will they ram through the Senate when they can gag the minority with a three-fifths vote?

Speaking of the Federal budget, one thinks immediately of the Federal debt, which is now in the neighborhood of a half trillion dollars. We have a proposal by the administration which is a considerably modest one by the big-spending standards of those who are trying to thrust a revision of rule XXII upon us. They consider it a modest deficit that the President of the United States is proposing—that is to say, a $52 billion deficit in 1 year's time.

I would say to the American people, if it were possible for this Senator to get their ear, that if they want sanity returned to their country, if they want to put an end to the profligacy of the Federal Government—the waste, the extravagance, the Federal controls about which they have complained to me so often and at such great length—then it is not the Senator from Alabama, nor the Senator from North Carolina, nor anybody else who opposes this latest assault on rule XXII, who has brought this kind of travail upon the people of America. That is precisely what this issue is all about. How much more travail can the American people endure?

Mr. President, this is a liberal versus a conservative matter. It cannot be cast in any other mold. Viewing it in that light, I think all of us had better take a look at what the American people think of their Government. When I say "Government," I mean all three branches—the executive, the legislative, and the judicial.

In a survey taken after the election of last year, 70 percent of the American people said, "I still favor a party system, I suppose." But 50 percent of the American people polled said they could not tell any difference in the parties. There was a dramatic increase in the alienation from the political system for the past 10 years reflected in this poll and in an earlier poll taken last year. For the first time, a majority of the American people thought that the average person does not have any say about what the Government does.

Mr. President, that poll was accurate. Debate does not seem to matter in the Senate. Look around. If you use both hands, you can count every Senator present in the Chamber at this time. We might as well seal these doors and fill this Chamber with water and make a swimming pool of it, so that visitors to Washington can at least have some recreation for their tax dollars [Laughter.]

If we are going to have two bodies of Congress operating under the same rules, then why have a Senate of the United States? Let us save the money, the money, the enormous amount of money, that it costs to operate the U.S. Senate. Let us go to a unicameral system. If all we are going to do is flood unwise legislation through the Senate—and that is what is going to happen; that is what is at stake in this matter, Mr. President—then let us not kid the American people any more. Let us tell them that the U.S. Senate is no longer a deliberative body, or a body of restraint and reason. Let us at least be honest with them.

Returning to the poll that I mentioned a moment ago, it showed that for the first time, the feeling that the people running the Government did not know what they were doing exactly equaled the feeling that they did. That aspect of the poll may have given us the better of it, Mr. President. [Laughter.]

For the first time, the feeling that quite a lot of people running the Government were crooked surpassed the feeling that not many were crooked, and the belief that a few big interests were running the Government went as high as 70 percent. In fact, nearly 60 percent of the sample thought that public officials did not care what the people thought and that the Government could not be trusted.

Yet the people, those who were surveyed in this poll, probably believe in large measure that, well, the Senate of the United States has been engaging in a sort of useless activity for the past month. But they do not understand the tyranny of the majority. I think it was Senator THURMOND, the distinguished Senator from South Carolina, who said on this floor just the other day that it was a majority who crucified Christ. We have seen an example here in the past week wherein all that was needed was a majority of Senators and a very complaisant Vice President of the United States. Frankly, this Senator felt that the referee was playing on the opposition team.

Mr. President, if democracy means anything at all in the purest sense, it means that the majority ought to have its way over the minority except—and we ought to draw a line under the word "except"—with conditions applied. No one committed to our republican form of government—and that is "republican" with a little "r"—no one committed to our republican form of government, least of all those who framed it, could disagree with this basic maxim. But here is where the "except" comes in.

The principle of majority rule, far from answering every question concerning what the Republican government ought to be like, itself poses some vexing ones. For example, what kind of majority should rule? Geographic? Economic? Ideological? Should one suppose there is, in our Nation, one majority on all issues and one minority on all issues, or that there are as many majorities and minorities as there are issues? Probably the latter, Mr. President.

Should the majority express itself through one or more institutions? Should the majority triumph in the same way, with the same ease on all issues?

No, Mr. President. Commonsense should tell us. That is what the Founding Fathers had in mind when they envisioned the Senate of the United States. My good friend and colleague from North Carolina (Mr. MORGAN), who is on the floor at this time, well knows that when the Senate was established by the Founding Fathers, there was no limitation of debate at all—for the very reason that I pointed out at the outset of my remarks. No, the existing two-thirds rule is a fairly recent development. Commonsense should tell us, Mr. President—commonsense—just as commonsense told the Founding Fathers that appropriate answers to these questions are not self-evident; that the majority must be counted in different ways for different purposes; and that one should be skeptical of doctrinaire positions.

Yet what do we have in the Senate today? I am not being personally critical of any Senator. I have my own moments of didacticism just like anybody else. far too many of them. But I have the uneasy feeling that too many people in leadership positions really do not care about how much of the taxpayers' money we spend or how much debt we run up, just so politicians can look to the next election instead of the next generation. And, really, Mr. President, that is what this rule XXII fight is all about—to give the minority, though we may be, a chance to say whoa. To give the minority in this Senate a chance to restrain the grasping hand of Federal bureaucracy, Federal controls and Federal spending.

Let us not kid ourselves. If the sponsors of this resolution felt that they had the votes to pass an absolute majority rule, they would go like Blalock's bull and pass it. But the fact is, Mr. President, that they do not yet have the votes.

Three Senators have come to me in the last 2 days and said, "I got hooked on a commitment on this thing, I have to go through with it. But you are right: Rule XXII should be left intact."

One Senator even went so far as to say, "I wish we could have a secret ballot on this question." Of course, we cannot.

The Founding Fathers' commonsense, Mr. President, their statesmanship, exercised with the kind of foresight and diligence and honesty that are so rare today, settled on a rather complex understanding of majoritarianism. The Founding Fathers said: The majority is going to express itself in many ways, not run roughshod over the minority. Through an elected President, one majority rules on all issues for 4 years. The people are represented in the House of Representatives where majorities and minorities form and dissolve on every issue. But the Founding Fathers provided, Mr. President, that the majority's face would be seen yet in another forum. The U.S. Senate, the Constitutional Convention decided, would speak for the majority of the people insofar as they were organized into States and—and I wish I could underscore the "and"—would do so in an especially reflective manner. Had the Founding Fathers understood majority rule naively, they would never have established the body where two-thirds of the Members represent but one-third of the Nation's population. They did it by design and by intent. The Senate was meant to be a peculiar body.

In the Federalist papers, James Madison was especially clear on this point. The Senate was not to duplicate the work of the House. It was not a smaller copy of the House of Representatives. It was not to give legislation a second look, but a more deliberative look—a much more deliberative look than one could expect that it would receive anywhere else. The Founding Fathers' understanding of majority rule required them to establish one body wherein majorities of the Members could be held in check, both by yesterday's majorities—for two-thirds of the Senate is always a continuing body—and by today's minority.

The men who established the custom of unlimited debate in the U.S. Senate had sat—where, Mr. President? The distinguished Senator from Tennessee (Mr. BAKER), who is now the occupant of the chair, knows that they sat in a Constitutional Convention, and therefore it was no historical accident that they allowed unlimited debate. And let me reemphasize, that was absolute unlimited debate from the beginning, and on up until 1917. They rendered a judgment on how representation of the majority might best be accomplished.

They said the presidency would provide for summary judgment by a majority, which remained fixed for 4 years, but could then change altogether. The House of Representatives, on the other hand, provided for the expeditious rule by a shifting majority.

But where, if not in the U.S. Senate, our Founding Fathers asked, could a minority on any given date require the majority to reconsider, and reconsider again and perhaps again, what the majority proposed to impose upon the people?

There are a lot of folks, a lot of citizens throughout this country, who wish that the majority had not prevailed, for example, on the issue of forced busing of schoolchildren. After all, it was by imposing the gag rule that this was brought about. And that was by two-thirds, Mr. President. That was not by three-fifths, it was two-thirds.

When we look at the way this Congress has led this Nation into deficit financing for a generation—only 4 or 5 years in most of my adult lifetime has the Federal Government operated on a balanced budget—when we look at this, maybe it would have been good for the American people if there had been totally unlimited debate, because there were men around who did not agree—and I am looking at the distinguished

Senator from Virginia (Mr. HARRY F. BYRD, JR.), whose illustrious father sat in this Chamber, and constantly warned about the consequences of deficit financing. On many occasions Senator Harry Byrd, Sr., in his time, as does HARRY BYRD, JR., today, warned that this irresponsibility was leading America into bankruptcy.

But even in the sole Chamber, the only Chamber where the minority once had the right to defend itself without limitation, a minority was found. What a serious thing it is to remove from a minority the filibuster, which is traditionally a minority's last retreat; the U.S. Senate, since 1917, has required a two-thirds vote. Prior to that time there was no way to end debate. But since 1917, two-thirds has been the margin—the margin which the Constitution requires for serious actions.

I wonder, Mr. President, how some can argue that ousting a minority from its last refuge is not a very serious matter. If the events of the past 2 years have taught us anything at all, it is that the Founding Fathers knew what they were doing when they fashioned this U.S. Senate. And it has been my feeling, as a matter of principle, that if we tamper further with the work of our Founding Fathers, we ought to be influenced by something more than our analysis of the last election and perhaps a slogan or so. Today as never before, in a system built on majority rule, no slogan is more dangerously antagonistic to the real cause of freedom, perhaps even survival, than absolute "majority rule."

That is why I have been proud to stand with the distinguished Senator from Alabama as best I could, and not because, really, Mr. President, I thought that we would win. Particularly was I certain that we would lose when I viewed the heavy-handed rulings by the Chair a few days ago. But it was at least a battle for a principle that this Senator from North Carolina thought ought to be waged, because I do not think the people of America comprehend what they have at stake in this matter. Mr. President, I sincerely believe that if they did comprehend it, there would be a rising up such as the Senate has seldom seen before on the part of the people.

I mentioned conservatives and liberals at the outset of my remarks. I must acknowledge that my side of this issue, the side which has opposed this rules change, that we did not do our homework. Common Cause was out there getting commitments last year, before and after the election. The labor union leaders were out there getting commitments before and after the election. They did their homework, and the truth of the matter is that our side did not do ours.

Mr. President, I do not have much more to say except, perhaps, in the form of a suggestion to those American people who might somehow, in some accidental fashion, discover what the Senator from North Carolina and others have been trying to say here this afternoon, and that suggestion is this: that they watch the Senate after this rule is changed if, indeed, it is changed. They should watch how much of the taxpayers' money flows through here, money belonging to the taxpayers; they should watch the imposition of even more Federal controls—and all of the other frustrations that might have been held up for further consideration had this rule not been changed.

This, whether the American people know it or not, is a perilous matter insofar as the things they are interested in are concerned. If the media want to perform a useful service for the people, the media should explain to them that forced busing, for example, was not favored by those who opposed this rule change; deficit financing is not favored by those who oppose this rule change; the imposition of Federal controls on the lives of the people is not favored by those who oppose this rule change.

We are talking about philosophy and, more important even than that, whether the people of the United States can hope to have any restraints placed on the flood of legislation that is certain to come before the Senate of the United States.

Mr. President, I reserve the remainder of my time.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself such time as I may take.

Mr. President, I think it is a mistake for the Senate to change rule XXII. It has served the Senate for a long time.

Let me review the history. Rule XXII was enacted March 8, 1917. Until that time there was unlimited debate in the Senate, and no way in which a Senator could be prevented from speaking.

During the period near the beginning of World War I, it was the prevailing view of the Senate that that went too far and there should be some means by which debate in the Senate could be brought to a close.

The proposal which is now the rule of the Senate was presented to the Senate on March 8, 1917. It was presented by one of my predecessors, the late Senator Thomas S. Martin, of Charlottesville, Va., was the majority leader, the Democratic leader, of the Senate at that time. That proposal provided that at any time 16 Senators signed a petition requesting that debate be brought to a close, that 1 calendar day after that but one, a motion should be put before the Senate and a yea-and-nay vote obtained.

If two-thirds of the Senators present and voting supported a shutting off of debate, then debate would be brought to a close.

That rule seems to me to be a fair one, a reasonable one. It gives some protection to those who are in a minority. Over a period of time, Mr. President, every group at one time or another finds itself in a minority.

What we are doing today, if we go through with the proposal to change the rule, is to take away some reasonable protection for those who happen to be in a minority.

When rule XXII was enacted in 1917, the opposition to that change came from the leading liberal of his day, Senator Robert M. LaFollette, Sr., of Wisconsin. In expressing his opposition to the proposal which would permit two-thirds of the Senators to shut off debate, Senator LaFollette said this:

> I shall stand, while I am a Member of this body, against any cloture that denies free and unlimited debate.

So it was the great liberal Senator from Wisconsin who led the opposition to having any proposal to shut off debate. But the prevailing view was summed up perhaps best by Senator Norris, of Nebraska, where he said, and I quote his address to the Senate or a paragraph of it:

> I have always opposed any change to the rule which would give any majority, no matter how large, the right absolutely to close debate and permit no one to be heard further, because under that kind of a rule Members of the Senate could absolutely be precluded even from expressing an opinion on a pending measure. . . . But this rule, Mr. President, goes only to a reasonable extent. It requires, in the first place, a two-thirds vote to invoke the rule.

Then Senator Norris said:

> To my mind that is a reasonable proposition.

Senator Norris, like Senator LaFollette, was one of the leading liberals of his day.

When we begin to transgress the rules, as the Senate has done in the last week or 10 days, in order to force a rule change, the Senate is getting itself into a position where those who might be in a minority at a particular point will have no way to reasonably protect themselves and protect the people they are representing.

I do not see how the charge can reasonably, accurately, and logically be made that the two-thirds rule prevents the Senate from doing its business.

Just to cite the most recent history, just 3 months ago in December, cloture under the two-thirds rule was invoked three times. If my memory is correct, it was invoked three times in just 1 week.

Just within the last 10 days cloture has been invoked twice. It is not difficult to invoke cloture under the two-thirds rule. It is relatively easy to invoke cloture if the proposal under consideration has merit, and has behind it a substantial sentiment in the Senate.

Mr. President, I say again, I feel that the Senate has done and is doing itself a great disservice, and it is doing the people of our Nation a disservice in changing this rule.

More than the change of the rule, however, the greatest disservice has been done by the method which has been used to seek to change the rule.

Had it not been for what so many Members of the Senate regard as an unreasonable ruling by the Vice President of the United States, there is little likelihood that rule XXII would be changed.

To show the Senate how far afield the Vice President's ruling went, I want to quote from the RECORD of February 20, 1975. The speaker I will quote is the distinguished senior Senator from Minnesota (Mr. MONDALE). Mr. MONDALE and the distinguished Senator from Kansas (Mr. PEARSON) are the authors of the proposed rules change. They favor changing the rule.

But Senator MONDALE, whose motion

it was to change the rule, said on February 20, page 3844 of the RECORD:

> We are not asking the Senate today to rule on what rule XXII should be. After 5 weeks of the Senate's time, we are simply asking for a vote to bring Senate Resolution 4 before the Senate for consideration.

An then the Senator adds this significant paragraph:

> It will be available for amendment; it will be available for referral; it will be available for debate.

But the Vice President of the United States, Mr. ROCKEFELLER, as the Presiding Officer of the Senate, handed down a rule with such a wide sweep that it prevented amendments; it prevented referrals; it prevented a motion making it debatable.

In effect, the Vice President's ruling implemented the Mondale motion even before it came to a vote.

Not even the author of the rule change asked for that. As a matter of fact, the author of the rule change assured the Senate, and I will read again his words on page 3844, that if his parliamentary motion were to prevail that Senate Resolution 4, namely, the resolution advocating a rule change, will be available for amendment; it will be available for referral; it will be available for debate.

The Vice President, Mr. ROCKEFELLER, by a carefully prepared ruling, shut off debate and prevented amendments to the Mondale proposal. He carefully set the stage where a majority of one can silence all other Senators.

His ruling could radically change the Senate as a deliberative body.

Now, Mr. President, the die appears to be cast.

Those of us who are in the minority on this matter and those of us who feel that it is a mistake to change the rule have been beat down by brute force. One might say that we have been banged over the head by the gavel of the Vice President of the United States.

Now, the Vice President in handing down his ruling said that he was following precedent.

Well, I have consulted with the Parliamentarian and the only precedent that he followed was that of another Vice President, HUBERT H. HUMPHREY, before he became Vice President, had spent 20 years in the Senate attempting to change this rule.

So, naturally, when Mr. HUMPHREY became Vice President and had the opportunity to rule, he ruled in such a way as to benefit his own cause. The Senate failed to support Vice President HUMPHREY's ruling.

So I submit that the current Vice President cannot properly or appropriately claim to have followed precedent; and if he did follow precedent it was a self-serving precedent by one who had spent a whole career in the Senate attempting to change this rule.

The Senate of the United States has been the one legislative body in the world where those who found themselves in the minority on a particular issue had a fighting chance to try to convince their colleagues that their colleagues were wrong. The Senate has been the one legislative body in the world where those who were in the minority had a fighting chance to convince the people of the Nation that the majority was wrong.

As the years go by, no doubt those who are in the majority today will, at times, find themselves in the minority. I hope they will be treated a bit better than many who today find themselves in the minority have been treated.

Be that as it may, the merits of the case, in my judgment, lie with retaining the current rule. I say again the facts show that rule XXII, permitting debate to be shut off by a two-thirds vote, is a reasonable one. I cite the fact that in the month of December, three cloture motions were approved shutting off debate, and within the past 10 days, including one today, two cloture motions have been approved shutting off debate.

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

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

Mr. WILLIAM L. SCOTT. Mr. President, I want to associate myself with the remarks of my distinguished colleague, the senior Senator from Virginia. Certainly, I do not intend to take up the Senate's time further on this matter. I believe we have discussed the merits of preserving rule XXII. Frankly, I do not see any useful purpose that would be accomplished by prolonging the debate by each Senator who is in opposition to any change in the two-thirds rule taking the 1 hour of time that is allotted to him under the rule.

I merely want to reiterate by belief that we should retain rule XXII which would permit the imposition of cloture upon a motion being filed by 16 of the Members of the Senate, and then having two-thirds of the Senate vote to close debate.

To me, this means that we are a deliberative body; that we do fully consider the various sides of any given question that comes before the Senate. It means the preservation of the rights of the minority on any given issue—not just the rights of the Republican minority that exists at the present time, but the rights of the Democratic minority should that come into being some time in the future.

I believe it is in the interests of the country not to have any matter that is before the Senate be hurriedly passed. That does not mean that I feel we should have extended debate on every issue that comes before the Senate. In fact, I believe the RECORD will show there are very few instances in which cloture is imposed; very few issues in which there is extended debate.

I believe we do move programs through the Senate even with greater speed than the House of Representatives does where they have a 5-minute rule, generally, with regard to amendments on bills coming before them. They do not have the right to full discussion of the issues.

Mr. President, once again I would hope that the rules will not be changed, but if they are to be changed, if two-thirds of the Senate want the rules changed, then we must bow to the will of two-thirds of the Senate.

Mr. President, I yield to the distinguished Senator from Alabama.

(Mr. GARN assumed the chair at this point.)

Mr. ALLEN. Mr. President, I yield myself 15 minutes.

Mr. President, I am pleased that the cloture rule, rule XXII, does give a Senator the opportunity to speak. He is given a definite length of time and, I assume, is assured of recognition for the purpose of using 1 hour of time in debate. The Senator from Alabama has used, I believe, some 30 minutes of his hour.

Those of us who are opposing this rules change that is being rammed down the Senate's throat outside of the rule, have no disposition to prolong the debates. I would anticipate that within the next hour or two we will have a final vote.

Mr. President, I was asked a moment ago how long this new rule, this compromise rule, the 60-vote cloture, would remain as the rule of the Senate.

I said that in my judgment it would remain the rule until it started pinching those who do not want to see adequate consideration given to measures here in the U.S. Senate.

It will remain the rule only so long as no effort is made to deliberate on issues here in the Senate.

When the membership starts wanting to discuss an issue and when some 41 Senators ban together to see that an opportunity is given to each Senator to discuss an issue, then we will see the rules changed; because whatever rights the individual Members of the Senate now enjoy, or whatever rights the minority in the Senate enjoy, in connection with the exercise of free debate in the Senate is held merely at the sufferance of an arrogant and determined majority in the Senate.

As long as the minority Senators—I do not mean the minority party, but those of the minority philosophy—as long as we are good boys, as long as we do not presume to take the floor of the Senate and discuss issues, then this rule is going to remain the same. But when we start being naughty boys, when we start getting up and asking for recognition and seeking the opportunity to engage in free debate, then the screw is going to be twisted, and this rule is going to be changed.

So, Mr. President, in actual practice, from a standpoint of reality, what are we going to have in the Senate? We are going to have a monolithic 60. The Senate is going to consist of a monolithic 60—monolithic in philosophy, monolithic in determination, monolithic in dedication to ultraliberal philosophy—and the other 40 Senators might as well go on back to their respective States. In practice, instead of there being a 100-Member Senate, we are going to see a monolithic 60 calling all the shots, saying now far debate can go, saying what

matters can be considered in the Senate, saying what issues will be allowed to be discussed, saying what programs will be put through. That monolithic 60 is going to be the U.S. Senate.

This is a pretty sad situation, that 40 Senators, representing 20 States—or various combinations, depending on whether there is a split delegation—will not have any opportunity to express the will of the people they represent, because this monolithic 60 is going to call all the shots.

Mr. President, I was asked the other day why Vice President ROCKEFELLER rammed this issue through the Senate. The only answer, as the Senator from Alabama sees it, is that it was a political decision. It was an effort to establish his ultraliberal credentials, in answer to the false charge that has been made about him in supposedly moving to the right in his political philosophy. So his action in this matter reassured the ultraliberals that he is one of them; he is one of the boys: "Forget all this stuff about my having moved toward a conservative position. That is not true. By my actions in this matter, by my joining in ramming this illegitimate move through the Senate, I'm proving my ultraliberal credentials." That is what we had to face, Mr. President.

I am aware of the old saying that one picture equals a thousand words, and action in the Senate sometimes gets down to areas outside this metropolitan area. On February 28, a cartoon appeared in the Birmingham News that pretty well describes what happened in the Senate. Since I will not be able to put the cartoon in the RECORD, I am going to describe the cartoon for the RECORD.

It show the Vice President presiding over the Senate. He has a great, big gavel, the mallet of which is about a foot long, and protruding from one end of the gavel is a long spike, and he is wielding that. There is a big sign in back of the Presiding Officer's chair which says, "Let's hear it for the antifilibuster side."

Another sign, pointing to the gavel, says, "Conservatives, keep quiet or you'll get this gavel on your head." Another sign says, "Go, Senator MONDALE." Another sign, on the rostrum itself, says "OK, fellow liberals, let's get ALLEN and that blankety-blank filibuster." The caption of the cartoon, coming from some unidentified Senator, says, "Mr. Vice President, I don't believe you quite got the idea of presiding."

I believe the Vice President did have the idea of presiding, according to his own rule; but he did throw the rule book out the window when he mounted the rostrum on February 20. So we have been operating against that action ever since.

Mr. President, they talk about a need to change the rule that calls for a two-thirds majority to cut off debate. Yet, the cloture motion on this very issue carried by a vote of 73 to 21—many, many votes beyond the two-thirds required. So what is the great need for changing the rule?

Another point that the Senator from Alabama would like to point out: What we will be called upon to vote on in a very short while is a motion to proceed to the consideration of Senate Resolution 4, and that is a resolution that has been thoroughly discredited because of the effort to bring it to a vote by a majority vote.

For the last few days, they have been seeking to abandon that resolution because of the bad odor that has been attached to it by the methods that have been employed to get it to a vote, and they have been trying to put in a so-called compromise resolution. But this motion to proceed has reference not to the compromise issue, not the compromise resolution, but to Senate Resolution 4. That speaks of three-fifths of the Senators voting as the requirement for cutting off debate. We might assume that they would accept an amendment putting in a compromise. I trust that that is true. I have not had any negotiations or any connection whatsoever with any compromise talks.

I do not know what agreement was made in this connection, but the truth of the matter is we are not moving toward requiring a vote on the compromise. What we are moving toward is bringing up Senate Resolution 4, which does not have any compromise language in it. Mr. President, I hope that Members will consider that.

Mr. President, what we have had an illustration of in this whole matter is the principle that a majority, a simple majority in the Senate, 51 Senators, aided by a Presiding Officer who has cooperated with them, can go contrary to the Senate rules and change the Senate rules just by the philosophy that might makes right.

The distinguished Senator from Montana (Mr. MANSFIELD) renounced this effort on February 20 when he said that there might be some who feel that a desirable end justifies any means whatsoever. He said:

> I do not buy that philosophy; I do not feel that it is proper to employ unworthy means to gain a desirable end.

So. Mr. President, assuming that the change to three-fifths, constitutional or present and voting, is a desirable end—and I dispute that fact—is it right and is it proper to resort to the unauthorized majority cutoff of debate? I say that it is not. Mr. President, if they can cut it down to 60, they can cut it to 50 or 51. If they can cut it to 50 or 51, if they so desire, they can cut it to 40 that it takes to cut off debate. So, Mr. President, I am hopeful that the Senate will not vote to proceed to Senate Resolution No. 4. As a matter of fact, I should a lot rather that we would proceed to the resolution of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), Senate Resolution 93, I believe, that does at least have the compromise.

I do not favor the compromise. I would rather go down fighting for a principle than to have agreed on some half-way measure that is not worth anything. Just as quickly as these same Senators decide that maybe they are not able to ram through the legislation they want because they can get but 58 to cut off debate, then we are going to see a movement to reduce the number required to cut off debate.

Mr. President, if we carry on along this line, free debate is ended in the Senate. The U.S. Senate as a deliberative body is going to be no more and we are going to have a great—I almost said "faceless"—monolithic 60 Senators calling the shots. But there will be some identifiable faces in that 60. There will be about five or six or seven identifiable faces.

We will have the Senators from Minnesota (Mr. HUMPHREY and Mr. MONDALE), and Mr. MCGOVERN from South Dakota. We will have Mr. JAVITS from New York. We will have Mr. PERCY from Illinois, and two or three other identifiable faces. The other 50 or 52 or 53 are going to be, their faces are going to be lost in this monolithic mass.

Mr. President, I feel that the Senate can best serve its function as being a deliberative body not by having a Senate consisting of 60 Senators, but by having 100 individual and individualistic Senators who can contribute to the discussion, who can contribute to the shaping of legislation, and not have a few faces leading this monolithic 60 and thereby controlling the entire Senate.

Mr. President, I am hoping that we will not turn our backs on precedent, that we will not knuckle under to a compromise forced by the club of might.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. ALLEN. I yield myself an additional 2 minutes.

This is a compromise agreed to under the gun, a compromise dictated by Senators with the backing of a ruthless majority, with a club over the head of the Senate, by saying that we have a clear majority, we have a Presiding Officer that is helping us ram this through.

What chance do we have? So a large number of Senators did knuckle under to this threat. I am sorry that that is the case. I respect their reason for doing so, but I would have hoped that they would have stood fast and either won fairly and squarely on the basis of what is right, or have gone down fighting.

Mr. President, I reserve the remainder of my time.

Mr. HELMS. 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. THURMOND. 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. THURMOND. Mr. President, I am going to say but a few words on this subject. My views are well known. I simply state that up until 1917, any Senator could speak as long as he pleased and there was no way to stop debate. In 1917, rule XXII was passed, and since that time, it has taken two-thirds of the Senate to shut off debate.

This rule continued until a few years ago, when the rule was modified further to provide that two-thirds of those present and voting could stop debate; and that is the rule under which we operate today.

Mr. President, I predict that if this proposed rule change which is being suggested passes, to shut off debate with a constitutional three-fifths, it will not be more than a few more years until it will be modified further to provide for three-fifths of those present and voting to shut off debate. If that happens, the next movement will be to shut off debate by a mere majority, and when that day comes, of course, the Senate will no longer be a deliberative body. In fact, when we pass this resolution, if we do, to shut off debate with a constitutional three-fifths, it nullifies to a great extent the Senate as a deliberative body. And certainly when we change the rule again, as we probably will do, to three-fifths of those present and voting to shut off debate, the Senate will practically cease to be a deliberative body.

Mr. President, I think it is important for the Senate to be a deliberative body. There are many matters affecting the States, the Nation, and the world which require extended debate. There are many matters about which the people of the country, who are busy making their livings, working at their jobs, and who do not have the time for deliberation or debate, as we do, will not be informed without extended debate to focus attention on an issue.

So it is important that we allow debating in this body. The House of Representatives can cut off debate. The Members speak for a few minutes, and many times they do not have the opportunity to present the great issues before the people of the Nation. This body has prided itself on what was called unlimited debate. It was not totally unlimited, but there was a broad field for debate, requiring a two-thirds vote to shut off debate.

Later when two-thirds of those present and voting could shut off debate, it was still called unlimited debate.

But when we begin to narrow the debate, and to chip away, as has been done, and then to chip away again, the privilege of unlimited debate; the people of this country will begin to suffer, and I believe it is not in the best interest of our Nation that we limit debate. I am truly concerned, when we try to make this body just another body like the House of Representatives. The House is important; it has functions to perform, but why have the Senate? Why have a debating organization, if a mere majority, or even if three-fifths of those present and voting, can cut off debate? And that is what it will come to sooner or later, I am afraid.

Mr. President, this matter has been debated here for some time, and I commend all those who have taken an active part in the debate. I especially commend the able and distinguished Senator from Alabama. No one since I have been in the Senate, in my judgment, has shown more dedication and loyalty to principles than the able and distinguished Senator from Alabama. No one, since I have been in the Senate, has shown a finer knowledge of the rules than the able and distinguished Senator from Alabama.

I ask unanimous consent to have printed in the RECORD following these remarks two articles concerning Senator ALLEN which were published in the Washington Post. The first article was published on April 12, 1974, written by George F. Will, is entitled "The Filibuster: Shield for Minorities," and the second, written by Spencer Rich, was published on July 1, 1974, and entitled "Allen, a Master of New-Style Filibuster."

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

(See exhibits 1 and 2.)

Mr. THURMOND. Mr. President, the distinguished Senator from Alabama has done his best to enlighten the Senate on this question, and I only wish that Senators could have been here throughout the debate and heard what the Senator had to say. I only wish that the Senators would read the debate on this important subject; but they have not been here in great numbers, and I am afraid they have not had the opportunity to read the full debate on this subject. As a consequence I fear as to how the vote will go.

But in any event, I do want to highly commend the able Senator from Alabama for the great fight he has made on this and many other important matters which vitally affect our Nation.

EXHIBIT 1

THE FILIBUSTER: SHIELD FOR MINORITIES

(By George F. Will)

James Allen of Alabama is an unlikely man to be the Senate's most gifted practitioner of the noble art of using a filibuster to block Senate action.

His is not the medieval fervor of an emotional soul, and his forte is not flashing badinage or the deftly aimed mot juste. Nothing—not badinage, not mots, juste or otherwise—flashes from Allen, whose demeanor at all times is that of a man who has been prematurely aroused from a summer snooze to which he hopes to return soon.

But he actually is about as sleepy as a well-rested fox. In fact, he is like a lot of those wily men the South has been sending North ever since it lost the Civil War and began exercising a disproportionate influence in Congress.

In recent weeks, as he did last December, Allen filibustered to block a vote on a bill that would provide public financing of presidential and congressional campaigns. Some editorialists and columnists and other low forms of pond life have called Allen obstinate, meaning that he finds resistable their advocacy of a position inconsistent with his.

But Allen can be gloriously, usefully obstinate without violating the letter—or the spirit—of the Senate rules.

Unlike many of his colleagues he had the good fortune to have humble political beginnings as a state legislator. The Alabama legislature's rules, like those of the Senate, are based on Jefferson's manual of parliamentary practice.

Jefferson wrote the manual during his tenure as Vice President and President of the Senate (1797–1701). Never since has a Vice President used his copious spare time as fruitfully.

Jefferson noted that while "it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves" are "the forms and rules of proceeding" which help a minority check the majority's "wantonness of power." The filibuster, permitted by Senate rules, is a shield for minorities.

Pure democratic theory demands the political equality of all individuals. But prudent men, like Jefferson, try to accommodate this fact: not all individuals feel equally intensely about all issues. So our system has provisions to diminish the number of occasions when intense minorities will be intensely frustrated by casual majorities.

For example, "special majorities" are required before certain things can be done. It takes two-thirds of both houses of Congress to propose an amendment to the Constitution, and three-quarters of the states must ratify an amendment. And the most important (because the one most central to the regular business of government) "special majority" provision is Senate Rule XXII. This requires a vote of two-thirds of the Senate to shut off debate on a particular matter and bring it to a vote.

Filibusters are the traditional means by which intense Senate minorities make it hard for majorities to get their way. But today's filibusters have a new look. Gone are the days when Sen. Strom Thurmond (then a Democrat) held the floor to pour forth 24 hours and 18 minutes of uninterrupted rhetoric—a record.

For such talk-a-thon filibusters a senator needed the intrepidity of a Spartan at Thermoylae and kidneys of cast iron. But today filibusters involve little talk, other than a senator saying "no" at the right times.

The Senate runs, when it runs, with the unanimous consent of its members. If a single senator present in the chamber refuses to consent to a request to set a time to vote on a bill, no vote occurs. Technically, the debate on the bill continues.

Usually the Senate goes on to other matters, and the filibustering senator must stay near the floor so he can jump up and object if anyone tries to get a "unanimous consent agreement" to vote on the bill he wants to bloc.

Eventually, if the majority favoring the bill is large enough to muster two-thirds of the Senate, and if it is so intensely in favor of the bill that it is willing to violate the Senate's proud tradition of unlimited debate, it votes to shut off the filibuster. That is what happened to Allen.

But Allen, with his filibuster, asserted a principle, the Jeffersonian principle that intense minorities should not be ridden over by slender or lukewarm majorities.

EXHIBIT 2

ALABAMA SENATOR "SWALLOWED THE RULE BOOK"—ALLEN A MASTER OF NEW-STYLE FILIBUSTER

(By Spencer Rich)

In the past seven months, soft-spoken Alabama Democrat James B. Allen has administered two terrific legislative beatings to Sen. Edward M. Kennedy (D-Mass.) and Senate liberals, and has emerged as a master practitioner of the "new style" Senate filibuster.

In December, Allen led a filibuster to block Kennedy from attaching a public campaign financing bill to a routine measure extending the federal debt limit. Last week, using the same techniques, he choked off a Kennedy move to use another debt-ceiling extension bill as a vehicle for tax reform and tax cuts.

To be sure, Allen had warm support from the White House and from Senate conservatives. But he exhibited an extensive knowledge of the Senate rules, an admirable tactical sense, and the patience and endurance needed to stay on the floor all day long for nearly two weeks and make certain his opponents didn't grab a procedural advantage.

Here since 1969, Allen, 61, is a deep-eyed conservative, a staunch foe of school busing who has gradually taken over leadership of the anti-busing forces in the Senate, and a political ally of Gov. George C. Wallace, under whom he served as lieutenant governor. He is quiet, slow-talking.

courteous and sometimes witty in a sly country way.

Allen knows very well how to use the filibuster, even though the techniques has radically altered in recent years.

In the old days, before Mike Mansfield (D-Mont.) became Senate Majority Leader when Lyndon B. Johnson moved to the vice presidency, there was a giant Southern conservative bloc united against civil rights legislation. A filibuster meant getting the floor and holding it and being prepared to speak all night if your opponents attempted to wear you down by forcing round-the-clock sessions.

One of the last such marathons was in August 1957, when Strom Thurmond held the floor for 24 hours and 18 minutes against a civil rights measure.

Thurmond's feat, made possible by the fact that the South Carolina senator (he was then a Democrat, but has since switched to the Republicans) is a physical fitness enthusiast, is unlikely to be matched again.

Mansfield has changed the whole technique by refusing to schedule round-the-clock sessions. He thinks they are ridiculous, endanger the health of older senators, and actually help the filibusterers rather than those who want to shut them off.

"What you wear down is not the filibusterers but the moderates. And too many people were coming in here to all-night sessions in bedroom slippers," Mansfield said.

He explained that to keep holding the floor, the filibuster team needed only shifts of three or four members on the floor for several hours at a time.

The anti-filibusterers, in contrast, needed many more people constantly ready to ward off a surprise attempt to kill or further entangle the legislation the filibusterers didn't want.

So now, instead of the picturesque but fruitless all-night sessions, the Senate uses a much more polite and less exhausting procedure. Things are done by signals, and if the filibusterer happens to be off the floor, he is sometimes notified to come back if he wishes to object to an opponent's attempt to move the business forward.

"Yes, I always make it my business to inform the opposition leader. In the long run it pays off," Mansfield said. Eventually it comes down to whether the proponents have the two-thirds vote needed to break the filibuster. "We get the job done," said Mansfield, "sooner or later we get a cloture vote."

Under the new-style filibuster, a senator doesn't actually have to talk and hold the floor for 20 or more hours. He and one or two of his allies simply have to be on hand to signal that they will seek to talk and will object if anyone tries to get a vote on the proposition they are opposing.

For this reason, a debate-limiting cloture petition is sometimes filed before an hour's debate. A senator makes known that he is going to filibuster, but without actually dragging "Gone With The Wind," a Bible and a sack of nourishing candy bars out to the floor.

His opponents then give him credit for having done what he has only signaled he intends to do, and they file cloture immediately. This happened in last week's debate, when a tax-reform amendment was introduced by Sen. Hubert H. Humphrey (D-Minn.) and a cloture petition was filed at once by Mansfield, without a single word of debate or even an explanation of the amendment.

Mansfield, Kennedy and Humphrey knew opponents would block a vote, so they moved immediately to shortcut the verbal barrage and get a test of cloture. (Two days later the cloture move failed by 18 votes, ending the tax fight and giving Allen his big victory.)

Filibusters have always worked best at the end of a session or when the Senate is up against some other deadline, such as a need to pass an urgent bill by a certain date, a need for an election break or simply a scheduled start of a vacation.

This is because some senators, regarding the right of unlimited debate as a protection for small states and minorities, will normally vote against cloture at first even if they are for the bill. That's why it often takes two or three attempts before the needed two-thirds is obtained. So the less time left, the easier it is for filibusters to ward off cloture.

This has become even more true with the erosion of the Southern Democratic bloc over the years. Once it was big and powerful, with 30 or more Senators who could be absolutely relied on to vote conservative. Today many of the Southerners are moderates or are even strongly in favor of civil rights.

Men like Lloyd M. Bentsen Jr. (D-Tex.), Marlow W. Cook (R-Ky.), Walter Huddleston (D-Ky.), and Henry L. Bellmon (R-Okla.) simply don't vote and think the same way as the old-line Southern conservatives of the 1930s and 1940s.

As a result, Southerners normally can't hope to sustain a long filibuster in the middle of a session or when no vacation is in sight.

Kennedy, stung by the tax bill beating, said the Senate, instead of deciding issues by a majority as would be proper, "is turning into rule by two-thirds. This tax bill is the classic example. We got it on campaign financing and we're going to get it on consumer protection. Unless you have two-thirds, on an issue that really reaches at the important power bases of this country, you can't get a vote." He called this a serious distortion of the legislative process.

Mansfield, who doesn't like filibusters, said he believed (as did Kennedy) that the two-thirds rule should be reduced to three-fifths. But he added "the liberals and moderates have come to the conclusion that they can use" filibusters, too—as they did to kill the supersonic transport and to block anti-busing legislation two years ago.

Allen rejected the notion that he is trying to convert the Senate from a place where a majority makes the decisions to a place where you must have a two-thirds majority, allowing the tyranny of the one-third minority.

He said that in recent years many liberals have concluded that the filibuster was a protection for them as well as for conservative. Sens. Frank Church (D-Idaho) and Alan Cranston (C-Calif.), for example, after first favoring filibuster reform said they had changed their minds.

With the new style filibuster and the willingness of many liberals to accept the filibuster as a useful if sometimes vexing parliamentary device, it doesn't appear that Strom Thurmond's 24-hour and 18-minute record will ever be broken.

Still, you can't tell. Until Thurmond's epic 1957 all-night speech, the champion talker was Sen. Wayne Morse of Oregon, who spoke 22 hours and 26 minutes in 1953 against the tidelands oil bill. Morse's lungs are still good. And he is running for election again.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. GARN). The Chair, on behalf of the Vice President, pursuant to Public Law 85–474, appoints the following Senators to attend the Interparliamentary Union Meeting, to be held in Sri Lanka, March 31–April 5, 1975: The Senator from New Jersey (Mr. WILLIAMS), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Indiana (Mr. BAYH), and the Senator from Vermont (Mr. STAFFORD).

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to consider the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. ALLEN. Mr. President, I yield myself such time as I may use.

I wish to express my very deep and sincere appreciation to the distinguished senior Senator from South Carolina (Mr. THURMOND) for the very fine and highly complimentary remarks that he has made about the junior Senator from Alabama.

I wish to commend him for his great stands for principle in this body, and to salute him as the holder of the record for length of debate here in the U.S. Senate—more than 25 hours on one occasion, as he made a great stand for principle.

I might state that any efforts that I have made to seek to have the Senate act on this matter according to the rules has been inspired in very large part by the great record through the years of the distinguished Senator from South Carolina (Mr. THURMOND), who enjoys my high esteem and admiration.

Mr. THURMOND. Mr. President, I thank the able Senator from Alabama for his kind remarks.

NOMINATION OF CARLA ANDERSON HILLS

Mr. ROBERT C. BYRD. I yield myself 1 minute.

Mr. President, I ask unanimous consent, as in executive session, that at such time as the nomination of Carla Anderson Hills to be Secretary of Housing and Urban Development becomes the pending business before the Senate, there be a time limitation of 1 hour on the nomination, the time to be equally divided between and controlled by the Senator from Texas (Mr. TOWER) and the Senator from Wisconsin (Mr. PROXMIRE).

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

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to consider the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the consideration of Senate Resolution 4.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. HELMS. I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. 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. HARRY F. BYRD, JR. 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 ask unanimous consent that the Senator may speak on a nongermane matter.

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

TRIBUTE TO REPRESENTATIVE THOMAS N. DOWNING OF VIRGINIA

Mr. HARRY F. BYRD, JR. Mr President, I want to pay tribute today to a colleague in the House of Representatives, Representative THOMAS N. DOWNING of the First Congressional District of Virginia.

Each year the Non-Commissioned Officers Association presents the L. Mendel Rivers award for legislative action to a deserving Member of Congress. Last year's recipient was Representative F. EDWARD HÉBERT of Louisiana, at that time chairman of the Armed Service Committee of the House of Representatives.

I am pleased that Representative DOWNING's efforts on behalf of national defense, on behalf of our armed services, and on behalf of the men and women serving in our Armed Forces have been recognized.

Representative DOWNING is a graduate of the Virginia Military Institute; a Silver Star veteran of World War II where he commanded troops in General George S. Patton's 3d Army.

He ably and actively represents the people of the First Congressional District of Virginia. He represents them with dedication and with ability, and I am proud of my long friendship with him.

I am pleased today to invite the attention of the Senate to this deserved honor which has come to Representative DOWNING.

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

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

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to consider the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. ALLEN. Mr. President, how much time remains to the Senator from Alabama?

The PRESIDING OFFICER. The Senator from Alabama has 12 minutes remaining.

Mr. ALLEN. Mr. President, I yield myself such time as I may use, and I would like to use a portion of the time in asking a question or two of the distinguished assistant majority leader with respect to Senate Resolution 4, and also his amendment to Senate Resolution 4 embodying the provisions of Senate Resolution 93.

I would like to ask the distinguished assistant majority leader if it is going to be his purpose, when Senate Resolution 4 is brought before the Senate, as I feel confident it will in a very few minutes, and he will offer as a substitute for Senate Resolution 4 his Resolution 93 as an amendment to Senate Resolution 4, and if his amendment would provide for the cutting off of debate under the cloture provisions of rule XXII by a vote of 60 percent of all those elected and sworn into the Senate, and that a two-thirds vote of those present and voting be required for the rules change; is that correct?

Mr. ROBERT C. BYRD. The answer is yes.

Mr. ALLEN. That will be offered, and while the Senator from Alabama has had no part in the negotiations leading to the so-called compromise, is this, in fact, the compromise that has been agreed to by certain Members here in the Senate, estimated as being more than a majority?

Mr. ROBERT C. BYRD. It is.

Mr. ALLEN. That being the case, the Senator from Alabama would say that while he would oppose Senate Resolution 93 as a separate amendment to the rules, inasmuch as it does water down somewhat the thrust of Senate Resolution 4, the Senator from Alabama would be glad to support Resolution 93 as an amendment to Senate Resolution 4 with, of course, the opportunity of offering strengthening amendments to the substitute to be offered by the Senator from West Virginia.

Would the Senator advise us as to when it would be his purpose to offer the amendment? Would it be early in the game so that we might offer amendments to it?

Mr. ROBERT C. BYRD. Mr. President, I seek the floor in my own right.

Mr. ALLEN. Very well. I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, when the Senate votes later today to adopt the motion to proceed to the consideration of Senate Resolution 4, I will present the substitute amendment—which has been referred to as Senate Resolution 93—and ask that the substitute amendment appropriately qualify under the reading requirements. I shall then offer a cloture motion.

Mr. ALLEN. Mr. President, will the Senator yield for further questioning?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. Might it be that the Senator would offer this as an amendment and that it might be accepted as the original text with leave to amend?

Mr. ROBERT C. BYRD. That very well may be the case.

The PRESIDING OFFICER. The Chair points out to the Senator from Alabama and the Senator from West Virginia that Senators do not have to yield time; they are in cloture time, and they may seek the floor in their own right.

Mr. ALLEN. I was not aware that we were under that rule, but I will follow what the Presiding Officer says.

Mr. ROBERT C. BYRD. I will yield the floor.

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second asistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 o'clock noon tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS AND FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Messrs. GARN, THURMOND, FANNIN, LAXALT, HANSEN, MCCLURE, BUCKLEY, HELMS, SCHWEIKER, and FORD; and that there then be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes each.

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

FURTHER CONTINUING APPROPRIATIONS, 1975

APPOINTMENT OF CONFEREES

Mr. INOUYE. Mr. President, on Friday, February 28, 1975, the Senate passed House Joint Resolution 219, a joint resolution making further continuing appropriations for fiscal year 1975, with two amendments proposed by the Senate Appropriations Committee.

At that time, since it was unclear as to whether a conference would be necessary, one was not requested and conferees were not appointed.

It now appears that a conference is indicated. Therefore, Mr. President, I move that the Senate insist on its amendments, and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. INOUYE,

Mr. MAGNUSON, Mr. MCGEE, Mr. PROXMIRE, Mr. MONTOYA, Mr. CHILES, Mr. JOHNSTON, Mr. YOUNG, Mr. BROOKE, Mr. HATFIELD, Mr. STEVENS, and Mr. MATHIAS conferees on the part of the Senate.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to consider the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. ALLEN. Mr. President——

The PRESIDING OFFICER. The Senator from Alabama.

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

The PRESIDING OFFICER. The question is on the motion of the Senator from Alabama to proceed to the consideration of Senate Resolution 4.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 69, nays 26, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—69

Abourezk	Hartke	Moss
Bayh	Haskell	Muskie
Beall	Hatfield	Nelson
Bentsen	Hathaway	Packwood
Biden	Huddleston	Pastore
Brooke	Humphrey	Pearson
Bumpers	Inouye	Pell
Burdick	Jackson	Percy
Byrd, Robert C.	Javits	Proxmire
Cannon	Johnston	Randolph
Case	Kennedy	Ribicoff
Church	Laxalt	Roth
Clark	Leahy	Schweiker
Cranston	Long	Scott, Hugh
Culver	Magnuson	Stafford
Domenici	Mansfield	Stevens
Eagleton	Mathias	Stevenson
Ford	McGee	Stone
Garn	McGovern	Symington
Glenn	McIntyre	Tunney
Griffin	Metcalf	Weicker
Hart, Gary W.	Mondale	Williams
Hart, Philip A.	Montoya	Young

NAYS—26

Allen	Dole	Nunn
Baker	Eastland	Scott,
Bartlett	Fannin	William L.
Bellmon	Fong	Sparkman
Brock	Goldwater	Stennis
Buckley	Hansen	Talmadge
Byrd,	Helms	Thurmond
Harry F., Jr.	Hollings	Tower
Chiles	Hruska	
Curtis	McClure	

NOT VOTING—4

Gravel	Morgan	Taft
McClellan		

So Mr. ALLEN's motion to proceed to the consideration of Senate Resolution 4 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I submit an amendment in the nature of a substitute to Senate Resolution 4. I ask unanimous consent that it be agreed to and considered as original text for the purpose of further amendment.

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

The amendment in the nature of a substitute is as follows:

Strike all after the word *"Resolved,"* and insert in lieu thereof the following: That rule XXII of the Standing Rules of the Senate is amended to read as follows:

"1. When a question is pending, no motion shall be received but—

"To adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain.

"To take a recess.

"To proceed to the consideration of executive business.

"To lay on the table.

"To postpone indefinitely.

"To postpone to a day certain.

"To commit.

"To amend.

Which several motions shall have precedence as they stand arranged; and the motions relating to adjournment, to take a recess, to proceed to the consideration of executive business, to lay on the table, shall be decided without debate.

"2. Notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, except one to amend the Senate rules, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

" 'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"3. Notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter to amend the Senate rules, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

" 'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by two-thirds of the Senators present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"4. The provisions of the last paragraph of rule VIII (prohibiting debate on motions made before 2 o'clock) shall not apply to any motion to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate.".

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I offer a cloture motion.

The PRESIDING OFFICER. Without objection, the clerk will report the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. Res. 4, as amended, amending Rule XXII of the Standing Rules of the Senate with respect to the limitation of debate:

Robert C. Byrd, Mike Mansfield, Jennings Randolph, Warren G. Magnuson, John O. Pastore, Walter F. Mondale, Quentin N. Burdick, James Abourezk, Frank E. Moss, Vance Hartke, Lee Metcalf, Walter D. Huddleston, Wendell H. Ford, Dale Bumpers, Claiborne Pell, Walter D. Hathaway, Abraham Ribicoff, Mark O. Hatfield, Floyd K. Haskell, Charles H. Percy.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following nominations, in the order stated: Otto George Stolz, of North Carolina, to be a member of the Board of Directors of the New Community Development Corporation; Thomas G. Cody, of Maryland, to be an Assistant Secretary of Housing and Urban Development; and Carla Anderson Hills, of California, to be Secretary of Housing and Urban Development, after which the Senate consider the nominations placed on the Secretary's desk.

There being no objection, the Senate proceeded to consider the nominations.

The PRESIDING OFFICER. The clerk will report the first nomination.

NEW COMMUNITY DEVELOPMENT CORPORATION

The assistant legislative clerk read the nomination of Otto George Stolz, of North Carolina, to be a member of the Board of Directors of the New Community Development Corporation.

Mr. PROXMIRE. Mr. President, is this nomination now before the Senate for approval or disapproval?

The PRESIDING OFFICER. This is the nomination of Otto George Stolz.

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

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

Mr. TOWER. Mr. President, I ask unanimous consent that it be in order for me to ask now for the yeas and nays on the nomination of Carla Anderson Hills.

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

Mr. TOWER. Mr. President, I ask for the yeas and nays on the nomination of Carla Anderson Hills.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed now to the consideration of the nomination of Otto George Stolz, that upon the disposition of that nomination, the Senate proceed to consider the nomination of Carla Anderson Hills.

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

The clerk will report the first nomination.

The assistant legislative clerk read the nomination of Otto George Stolz, of North Carolina, to be a member of the Board of Directors of the New Community Development Corporation.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Carla Anderson Hills, of California, to be Secretary of Housing and Urban Development.

The PRESIDING OFFICER. There is not to exceed 1 hour of debate on this nomination, equally divided between the Senator from Wisconsin and the Senator from Texas.

Who yields time?

Mr. TOWER. Mr. President, I yield to the Senator from California such time as he may require.

Mr. CRANSTON. I thank the Senator from Texas.

Mr. President, I shall not take any substantial time in regard to the Carla Hills nomination. I think that all Senators are well aware of her background. I believe that she is eminently qualified for this nomination, basically for these reasons: She is a highly intelligent, superbly educated woman. She has demonstrated great ability to use her education and her brains effectively in a variety of fields, primarily including the practice of law and exercising administrative responsibility in the Department of Justice. She has a deep concern and commitment about the social issues of our time. She has a real understanding of the needs of many of our people for better housing and for many other human needs that are not now being well met.

She is not an expert in housing and there are some who feel that that is a disqualification. I wish to say that I feel that is a qualification. We have not been doing very well in housing and I think it is good to bring in someone with a mix of talents to be able to take a new look at housing. Mrs. Hills is capable of using her great energy, her determination, her brains, her administrative talent, and her commitment to lead us to better times in housing. It is for those reasons, very simply, that I strongly support her nomination.

Mr. GRIFFIN. Will the Senator yield?

Mr. PASTORE. Will the Senator yield?

Mr. CRANSTON. I am glad to yield to the distinguished Senator from Michigan.

Mr. GRIFFIN. I am very interested in the argument that some have advanced in opposition to this nomination because, not so very long ago, a nominee from my State to serve on the Federal Communications Commission ran into a lot of opposition, not because he was not qualified and knew nothing about the industry that was to be regulated, but he was opposed because he did know something about it. That was the ground for the opposition. We had a dickens of a time getting him confirmed because he was an expert in the field.

I suppose there is no particular virtue to consistency, but I think it is rather interesting that now we have somebody who does not claim to be an expert and that is a ground for disqualification in the minds of some people.

Mr. PASTORE. Will the Senator yield?

Mr. GRIFFIN. I join the Senator from California in supporting this person, who is an able administrator, an outstanding attorney, and I am sure that she can hire some experts in the housing field to assist her.

Mr. CRANSTON. I thank the Senator. I agree with him. I hope that she is wise in the choices she makes of experts, because I am not sure how many experts there are in that field.

I am delighted to yield to my good friend from Rhode Island.

Mr. PASTORE. The Senator from Michigan knows that we are talking about apples and oranges. As a matter of fact, I was very much involved in the situation that he mentioned. It was not a case that the fact that he was knowledgeable in the field of broadcasting was the objection to him. It was really the fact that a lot of public witnesses came and thought that there might be a conflict of interest only he had been a——

Mr. TOWER. If the Senator will yield, if he is going to speak against the nominee, will he please get his time from the Senator from Wisconsin?

Mr. PASTORE. I am not speaking against anybody and I am not speaking for anybody. I am just correcting a misconception. I do not care whose time I use, but I would like to have a little time to use.

Mr. TOWER. May I ask the Senator from California, I yielded to him such time as he may require——

Mr. PROXMIRE. Mr. President, I am proud and happy to yield some of my time to the Senator from Rhode Island.

Mr. PASTORE. I thank the Senator for the time.

The cases are entirely different and people were somewhat concerned about the fact that there might be a conflict of interest. It so developed that the Senator from Rhode Island felt that there was not and we went along with it.

In this particular case, from the newspaper reporting, it has been more or less brought to public attention that the witness was rather evasive before the committee, and I would like to have, before I make up my mind whether I shall be for it or against it, whether or not she was indeed evasive or whether or not she was so sophisticated because of her brilliance that she kind of demeaned the interrogators asking her questions.

Mr. BROOKE. Will the Senator yield?

Mr. PASTORE. On whose time are we going now?

Mr. BROOKE. I will be very pleased to talk on the time of the proponents, if the Senator from Texas will yield to me.

Mr. PASTORE. All right, but let us get this straight.

Mr. TOWER. Will the Senator from California yield the floor to me?

Mr. CRANSTON. Of course. I do yield back, although I want to have an opportunity to add to the comments I made.

Mr. TOWER. I shall give to the Senator from California additional time.

I yield to the Senator from Massachusetts 4 minutes.

Mr. BROOKE. I thank the Senator from Texas.

I wish to say to the distinguished Senator from Rhode Island that in the Committee on Banking, Housing and Urban Affairs, we had exhaustive hearings. I thought, as has been said before, that Mrs. Hills demonstrated brilliance. She is obviously a very able lawyer, has the intellectual capacity for doing the job. There was a whole day given to opponents of Carla Hills. The only thing they could say about her was that she did not have experience in housing. She

has been head of the Civil Division in the Justice Department, but she has not had any direct experience in the housing field. Some thought this was to her credit. They said that she was not a victim of cronyism, that she was not tied into any vested interest in the housing industry, and that she came in with a fresh, new approach.

The question of evasiveness, which the Senator from Rhode Island raises, came about as the result of a question from the distinguished Senator from Delaware (Mr. BIDEN). He asked her specific questions, and I think he concluded that she had not answered his questions directly at the time. It was a question of whether she was answering philosophically or answering on specifics.

Mrs. Hills did not know the specific programs, to be sure. She had not had an opportunity to become familiar with the specific programs. But she did have some very concrete ideas. She knew where she wanted to go. She demonstrated a commitment, a very strong commitment, to carrying out the mandates of Congress as far as housing programs for the country are concerned. I should like to read one question and her statement, if I may. Senator BIDEN said:

How about reservation concept public housing versus scattered site housing? What is your view in that area, and there is a great deal of debate in that area.

Mrs. HILLS. I think there are many advantages to scattered housing. Indeed this group and the Congress adopted a mix, a range of income mix, in the new law, and I think there are advantages not to put in all your low-income people with all their multitude of problems into one single type community.

But as I said when I started, it would be inappropriate for me, without eliciting a discourse with the environmentalists, the civil rights people, the consumer, the low-income groups, lenders, the home builders, just to name a few, and to tell you I have decided, for example, in rural housing, to have only single-families, that is the way to go, because I have read some academic discourses, and I think it would be wrong for me to say scattered dwellings is the only way to proceed without any discourse, but even the academic communities, and your respective staffs, and it's that discourse that I would like to commence, so that I can look at it and make a determination.

Mr. PASTORE. Mr. President, if the Senator will yield, I have not decided whether I would be for or against the nomination, but the Senator from Rhode Island was rather disturbed because the allegation was made that she was absolutely incompetent. I understood that this very fine lady—and she is a very fine lady—had had no experience with housing, and could not state categorically anything about one phase of the program.

That is understandable and natural. Having been in authority at one time in my life as Governor of my State, I have always given the benefit of the doubt to the one in authority as to whether or not there should be advice and consent as to a particular nomination. That is the point of view I take toward this particular nomination. The assumption seemed to have been made on the floor that because I have borrowed time from one side or another, I have made up my mind.

Mr. BROOKE. Mr. President, if I may have 1 further minute——

Mr. TOWER. I yield the Senator 1 minute more, provided the Senator will not yield to others.

Mr. BROOKE. Prior to becoming Governor, the distinguished Senator from Rhode Island was one of the outstanding and distinguished legal minds in the State of Rhode Island. As he knows, I have had some experience as attorney general of Massachusetts in prosecuting cases and examining witnesses. I can say categorically that nothing was said before that committee which, in my opinion, was evasive, and I have dealt with evasive witnesses many times in the past. I wanted the Senator to know that.

Mr. CRANSTON. Mr. President, will the Senator from Texas yield?

Mr. TOWER. I yield 2 minutes to the Senator from California.

Mr. CRANSTON. I want to say first to the Senator from Rhode Island that I did not think Carla Hills was evasive at all. I think she was simply wise in not stating "I will do this, that, or the other, or I will not do this," because she was not prepared to make any such statements. She will come back before the committee. Or she will, by her actions, after she learns more about the problems in this field, provide answers to those questions.

I would like to say briefly, in response to the statement of the Senator from Michigan, that once the conflict-of-interest issue was disposed of by the Senator from Rhode Island and others, there was no controversy about the nominee for the FCC. Otherwise, there are a couple of differences that I think should be touched on. An expert in the field of housing is an expert in a field where programs are not working, where the builders are going bankrupt, and where the consumers cannot get homes. An expert in the field of broadcasting, on the other hand, is an expert in a field where the public, generally, is satisfied and broadcasters are doing well. Expertise and experience in a field that is doing well are far more meaningful, it seems to me, than in a field where everything seems to be going wrong.

There is one further issue involved in the field of broadcasting, that is the issue of freedom of the press. I think an expert in that field, who has been in broadcasting for as long as the nominee to the FCC had been, might well be expected to be an expert in that whole area—including areas where the FCC should not intrude if we are to preserve a free press. For all those reasons, I am not as troubled about a nominee for a housing post who has not come out of the field of housing as I would be about a nominee for the FCC who did not have knowledge of broadcasting.

Mr. TUNNEY. Mr. President, will the Senator from Texas yield me 1 minute?

Mr. TOWER. I yield 1 minute to the junior Senator from California.

Mr. TUNNEY. I am not, of course, a member of the Banking Committee, but I have had the opportunity to evaluate the nominee's qualifications for the office, and I think she can be an outstanding Secretary of HUD.

I think that her intelligence is well known and well accepted by the Senate. On the question of her experience, she has had good experience in administering a very important division of the Justice Department. She has had over 100 attorneys working for her. She has done an excellent job, by all accounts, and I think that it is about time that we began to turn to people who do not have very strong ties with special interests to head up some of these major departments.

I think she will be a breath of fresh air, and I think that, with her intelligence and her hard work, and the fact that she wants to be responsive not only to the problems of the potential homeowners and the existing homeowners of the country, but that she wants to be responsive to Congress as well, demonstrates that she has the right attitude on going into the job.

So I am 100 percent for her, and I hope her nomination will be approved by an overwhelming vote on the floor of the Senate this afternoon.

Mr. BIDEN. Mr. President, will the Senator from Wisconsin yield me 3 minutes?

Mr. PROXMIRE. I yield 3 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, it is with some reluctance that I rise in opposition to the nomination of Mrs. Carla Hills to be Secretary of the Department of Housing and Urban Development. She is bright, articulate and, as she proved to me in the hearings, strong-willed.

However, I feel I would be doing less than my constitutional duty were I to vote to confirm her.

My vote against her is not based on her lack of experience in the housing field. On the contrary, inexperience can be an asset to someone sitting atop the bureaucracy.

My objection to Mrs. Hills' nomination has a different focus. She was reluctant to explain her general housing philosophy to the members of the committee. As I said, inexperience could be a valuable tool, but only if there was a genuine commitment to better housing in this country. Although Mrs. Hills stated that she was committed to better housing, she was unwilling to demonstrate the depth or the philosophical basis of that commitment.

For too long, I think we in Congress have abdicated our responsibility to "advise and consent" to Presidential appointments. The current standard seems to be that if a person appears intelligent and ethical, he or she is confirmed.

Only later do we realize that we did not ask the hard questions. Only later do we wonder why we did not challenge a person's views. By then it is too late.

I think the Senate's role is to ask those hard questions. It is our role to find out how a person thinks. Even if we all feel a nominee is the "perfect" person for a position, we should question them closely and find out how and what they think. If they are unwilling or unable to give us a reason to vote for them, we should vote against them.

I think an analogy can be drawn to a nomination for Secretary of State. We would not expect the nominee to tell us

the status of American treaties throughout the world. We would expect, however, that he or she tell us their views on détente, NATO, or the desirability of better relations with China.

It is this aspect of the Hills nomination that troubles me. At a time when our housing industry is at its lowest level since the Great Depression, we need to have a HUD Secretary with a demonstrated commitment to housing and to implementing legislation enacted by Congress, such as the Housing and Community Development Act of 1974. We need a Secretary who promises action, not further study.

When I speak of the housing industry, I do not just mean builders, contractors, realtors, and others involved in the construction and sale of houses. It's not just those people who are in trouble. It's also Americans who cannot meet mortgage payments and those who cannot find decent homes. They are the real constituents of the Department of Housing and Urban Development.

Finally, Mr. President, I have been labeled a "male chauvunist" by some who feel that my questioning of Mrs. Hills was unduly harsh. I think she realizes that my questioning indicated no disrespect for her, but rather was an effort to find out what she thinks. It should be noted that I asked the same "hard" questions of the former Secretary, James Lynn and also voted against his nomination. For me, or any member of the Senate Banking Committee or of Congress to "tone down" because a nominee is a woman or to vote for a nominee solely because she is a woman seems to me to be the height of male chauvinism.

Mr. President, on several occasions during my 2 years in the Senate, I have come on this floor to admit I was wrong about an issue. Nothing would make me happier than to have time prove me wrong in opposing the nomination of Carla Hills.

I call the attention of my colleague from Rhode Island to the basis of my position, which is analogous to the position of our distinguished colleague from Massachusetts. I was a criminal defense lawyer, and our colleague from Massachusetts was a prosecutor. Maybe I had to ask harder questions than the Senator from Massachusetts did as prosecutor, because a prosecutor's case is already in the bag when he comes into court.

But it seemed to me that Mrs. Carla Hills did not respond to questions. She used phrases such as "I am committed in principle," and "I will initiate meaningful dialog," with regard to her commitment to implementing the act which Congress had passed. It was not a commitment in terms of time, other than that she is committed to the intent of the act.

To set another part of the record straight, I also made the same arguments against Mr. Lynn—and Mr. Lynn, as everyone knows, is not a woman—because he failed to make the same kind of commitments.

I think if there is anywhere where we in Congress are remiss, it is in the nomination process, both in foreign policy and domestically. The Senate may do much to redress the imbalance between the executive and legislative branches; yet in many instances, when nominees come before this body, we say they are bright, they are moral, they have committed no crimes of moral turpitude; and we go on from there and say that is why we should approve their nominations.

If I may give some insight to my distinguished colleague from Rhode Island, after the questioning I went up to Mrs. Hills and I said, "Mrs. Hills, maybe I did not get my point across. Quite possibly you and I could discuss this at a further time."

She said, "On what issues?"

And I said, "Well, just issues on housing generally, and where you fall on those major issues like multifamily dwelling versus single-family dwelling."

She said, "Like on scattered site versus reservation?"

I said, "Yes."

She said, "Well, I cannot tell you my point of view on that, because if I were to reveal that point of view to you, then those who held a different point of view in the various industries would not sit down with me and have that meaningful dialog."

I said, "You mean to tell me I have got to guess what is in your head and what your point of view is?"

And she said, "Well, I think that is what you have to do because I cannot be committed."

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BIDEN. And so has his speech.

Mr. PROXMIRE. Mr. President, I will yield an additional 1 minute.

Mr. BIDEN. I do not make my opposition on the basis of the fact that she is inexperienced. If experience were a criterion for doing a job, I sure could not have run for the U.S. Senate at 29. But the fact is that is not the basis of my argument. The basis of my argument is I am tired of guessing what nominees are going to do. I am tired of buying pigs in pokes. I sincerely hope that a year from now events will have proved me wrong. If this is the case, I give my commitment now that I will formally apologize and confess my error to my distinguished colleagues from California and the members of the Banking Committee for being in error. I sincerely hope I am wrong. I sincerely hope she turns out to be a brilliant appointee.

But my problem is I have no way of knowing that, no real indication, and I have got to guess, and I have given up guessing. When in doubt I am voting "no." That is the way I have done it, and I am going to continue to do it, and I would suggest that my colleagues do the same.

Mr. PROXMIRE. Mr. President, I yield myself 10 minutes.

Mr. President, I ask unanimous consent that Mr. Robert Kutter, who is a member of the staff of the Banking Committee, be permitted access to the floor.

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

Mr. PROXMIRE. Mr. President, the distinguished Senator from California and others have indicated it is a qualification to be Secretary of Housing and Urban Development if one knows nothing about housing.

This is a unique argument: That we ought to find a person who knows the least about housing and who has the least association with it, to be Secretary of Housing and Urban Development.

Of course, this is really a ridiculous argument. I do not say this would necessarily completely disqualify a person, but certainly it is most desirable.

Now, Mr. President, of all times, we need a Secretary of Housing and Urban Development, somebody who has the competence that can only come from some experience with housing, some knowledge of which programs have worked and which have not worked, because the new Secretary is going to be in a very, very difficult position.

Mr. President, if there is any one major cause of our present recession, it is the housing depression. The fact is that we should have housing starts at a level of about 2.6 million—that was our goal, that is where we should be. We were close to that a couple of years ago. Now our housing starts are below 1 million. For each housing start 2 man-years of work are required or two jobs. If we can increase housing starts by 1 million, we will put 2 million people to work. In housing alone we can reduce the present rate of unemployment from above 8 percent to below 6 percent.

In my view, there is no more important economic action that Congress can take or the Government can take than to turn around our recession and move in the right direction. In order to do that, we need somebody, as I say, with some knowledge of housing, some competence, because what they have to do is turn this Department around, and that would be hard. People in this Department now are people who came along under the present administration, people who were persuaded that the programs which the administration has followed and the policies they have followed are the right policies, and those policies have been catastrophic.

They not only have to turn those policies around, but then they have to go to the President and convince him that he must adopt new policies, and that takes a great deal of persuasion and, particularly, takes a great deal of persuasion in view of the fact that the new head of the Office of Management and Budget is James Lynn. He was the former head of HUD. He is the man whom Carla Hills would succeed. It is going to take a great deal of persuasion to persuade President Ford that the new Secretary knows more about the kind of housing programs we should have than the man who has been in charge of the housing programs for the last 2 years.

Mr. President, we have a marvelous case study in what happens when an attractive lawyer with a lot of charm and great intelligence is appointed as Secretary of Housing and Urban Development. Mr. Lynn is exactly that kind of a person. He knew nothing about housing; he had no background in housing. He was made Secretary of Housing and Urban Development, and what happened? A disas-

trous result for our country and for housing.

It is no secret that every witness before our committee—and we made this available to all people who wanted to appear on this nomination pro or con—were all against this nomination. That is not easy for somebody who represents the homebuilders or somebody who represents renewal housing to come in and oppose the person who is likely to become the next Secretary.

Why did they do it? They did it, because they were deeply convinced it was very important for this industry and this country to get a Secretary who has knowledge in this area.

Mr. President, I can tell you that Mrs. Hills is, as advertised, a very bright and articulate person with good general credentials. And I can also tell you that she has very little feeling for the problems of housing. I do not mean that she is ignorant of the precise nuances of housing jargon and FHA forms. That would be a silly qualification to ask of any nominee.

I mean that Carla Hills does not seem to have a philosophy or an opinion on the major broad questions of housing policy facing this country, or if she has an opinion, she will not share it with the committee. The housing crisis requires not just an expert, but an advocate for housing; someone who knows housing well enough to fight for it; someone who can fight for housing when officials at HUD or OMB or the White House contend that we must undercut housing programs duly enacted into law, because these programs would "bust the budget." They must know enough about it to show it would not "bust the budget." It is the most economical way we can stimulate the economy with the least budgetary impact and inflationary impact.

What about the low-income wage earner spending 50 percent of his income on shelter because this administration refuses to carry out a congressionally mandated program to build housing. Is not his budget busted? What about the idle construction workers who could be on the job, building needed homes, collecting a paycheck, but who are instead drawing an unemployment check, at public expense. What about their family budget, and what about the unemployment compensation budget?

We calculate that by a program that will cost the Federal Government $300 million, $300 a mortgage, we can provide for 1 million housing starts. But that kind of a program has been opposed by the administration. We got no assurance, no indication, that Mrs. Hills would be sympathetic to that kind of a program. She may change her mind and may learn a lot about it. But this is not the time for on-the-job training. It means that it would take months and, perhaps, years.

We had one very intelligent woman, Ms. Dolbeare who appeared before the committee. She said she came into housing 10 or 12 years ago, and it has taken her almost all that time, almost a decade, to become sufficiently familiar with housing so that she feels with confidence she could manage a housing program and recommend policies of the kind that Mrs. Hills will be called upon to recommend.

We listened to Mrs. Hills last Monday, and she would not provide answers.

We asked specific questions and we asked more general philosophical questions, and Mrs. Hills would not give us answers. We asked her just to assure us that when Congress passed a law mandating such-and-such a level of low- and moderate-income housing construction, she would see that the law was carried out, as her oath of office requires. But she would not promise unequivocally to carry out the law as Congress wrote it—or even to fight within the administration to persuade OMB or the White House that the law should be implemented.

We asked her whether the level stipulated in the 1968 Housing Act of 600,000 low- and moderate-income housing units per year was a valid level. She would not say.

We asked her whether she felt that single family detached dwellings, the traditional home to which American families have aspired, should continue to be the preferred type of housing in the coming years as the country's population grows more densely clustered, and she equivocated.

We asked whether she favored dispersal of low-income public housing from central cities into the suburbs. She hedged.

We asked whether she supports a national land use policy; whether she favors reservation or scattered site public housing, which of the current tools on the books she prefers to get housing built, whether she backs a shallow subsidy program to bring mortgage rates for middle-income persons down to 6 percent. And she did not give us answers.

She would not say whether she would release funds for low- and moderate-income housing, frozen since February 1973—appropriated by Congress, and those have been frozen in violation of the law.

Some of Mrs. Hills defenders in the press and elsewhere have applauded the fact that she is a newcomer to the housing field. These defenders argue that the so-called housing experts have failed to get housing built, and that it is time for some new blood. And I would say in reply that it is not the housing experts—the homebuilders, the local redevelopment officials, the planners—who have failed housing, but rather this administration with its frozen funds and its administrative incompetence.

As I say, who was the predecessor of Mrs. Hills? Who is responsible for the catastrophe we have in housing? It was an inexperienced lawyer, intelligent—experienced as a lawyer but completely inexperienced in the housing field. That is why I think the next HUD Secretary should have the background and, frankly, the self-confidence of a housing specialist to argue knowledgeably against these shortsighted policies.

Mr. President, I am very cognizant of the fact that this would be the third woman Cabinet officer in the history of our country. It is just a shame, it is an outrage, that we have not had 30, 40, 50, 100 women Cabinet officers. There are certainly that many well-qualified women who should have been appointed in the past, and I feel very bad about not voting for this nominee. I wish I could.

But under the circumstances it seems to me it would be wrong, because housing is so critical if we are going to move ahead.

I will yield myself an additional 3 minutes.

Mr. PASTORE. Will the Senator yield?

Mr. PROXMIRE. Yes, I am happy to yield to the Senator.

Mr. PASTORE. Now, I have been listening to both sides of the question. I must admit I did not attend the hearings. I am not a member of the committee. But if in fact this fine lady did say that she was absolutely unfamiliar with housing, would not the Senator now admit that the questions he was asking her were hard questions for specific answers in a field that she already acknowledged she had no knowledge?

I mean, if she took the position that she did not subscribe to the intent of the law, that would disturb me. If she was evasive in her answers, that would disturb me as well. But if she meant she knew nothing about housing and the Senator put hard questions about whether or not housing should be dispersed, or whether or not one should do this or that, and she had already acknowledged that she did not know what it was all about, does the Senator not think we are pressing something that is unimpressible?

Mr. PROXMIRE. May I say to the Senator from Rhode Island, I tried to make two points. First, she does not know about housing. I think it is undisputed. I think it is not a time for on-the-job training. Second, we asked general questions that I think she, as a lawyer, would be able to answer, such as whether or not she agreed that it is the law, and that she should do her best to carry out the law, that we should have 600,000 publicly assisted housing starts as our goal.

She would not tell us she would agree to fight for the execution of that law. It does not take any knowledge of housing. She conceded that is the law, it was in the housing bill, and questions of this kind troubled me.

I think we cannot have it both ways. We agree she knows little about housing, I think that is established. I think it is also clear that where there is a philosophical question, she would not reply to that, either.

Mr. MAGNUSON. Will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from Washington.

Mr. MAGNUSON. What bothers me is she may not be able to answer specific questions as an expert about housing, but the Senator did ask her about whether or not she would agree to lower interest rates. Did the Senator not ask that?

Mr. PROXMIRE. Well, I asked her——

Mr. MAGNUSON. About 6 percent.

Mr. PROXMIRE. That was certainly the thrust of my questions when I asked about the program which would have provided 6-percent mortgages. We would have lower interest rates. The Senator is correct.

Mr. MAGNUSON. She could have said she agreed or did not agree.

Another question, out in my area, unemployment in the lumber industry is the highest. I heard the Senator from California talk about how sophisticated she was and how brainy, and all of these things, which she probably is, but to me, that has been some of the trouble around here where someone that has some commonsense about housing, and I do not think one can have a sophisticated approach to the housing problem; it is a tough field and it is going to get tougher.

Maybe she is that tough, I do not know, but when she will not answer.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. PROXMIRE. I yield myself an additional minute.

Mr. MAGNUSON. Generally speaking, when she is evasive about lowering interest rates and making it easier for people to buy homes, she may be a marvelous person, but this is a pretty rough deal now, and all my people out in the State of Washington are quite worried about this.

I am like the Senator from Delaware. If she turns out all right, I will apologize, too, but I read part of the testimony and it was evasive in respect to many of the questions.

We have in the Committee on Commerce nominees every day and they say, "Oh, I do not know anything about it, so I cannot answer." But in this case there is some philosophy involved in this that if she has it, or not, why that is all right.

So I am going to cast my vote, not because she is not sophisticated or brainy, as has been said. She probably is, and much more than I am, and perhaps even more brainy than the Senator from California. It might be; that is possible. So I will vote against her for the reason that I am so deeply concerned about the lumber industry, or the housing industry, and these unconscionable interest rates, and she did not answer those questions and I read the testimony.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Washington.

Mr. President, I will complete my speech in just a minute.

May I say, Mr. President, Mrs. Dolbeare, who has had many years of experience as head of the Rural Housing Conference, said it would not be fair to anybody to be put in that position now. There are times when the Secretary of Housing and Urban Development might be somebody with very little experience, but now, of all times, it requires experience, knowledge, the capacity to move in right away.

The day after she is confirmed, take over, and take over with force and effect, persuade the people in the agency that it has to turn around, and persuade the President of the United States and the Secretary, the head of OMB, also, that it has to change.

One of the witnesses who testified on the Hills nomination—a woman, incidentally, whose whole professional career has been in housing—told the committee that it took her 10 years before she felt fully confident that she knew the ins and outs of housing.

Now, I do not know how much Mrs. Hills—or anyone for that matter—can learn about housing in a few months of on the job training. But I intend to find out. I hope she will learn enough to answer some of the committee's questions, because if Mrs. Hills is confirmed, we plan to invite her back to answer all the policy questions which she ducked last week, pleading ignorance.

Mr. President, I think we have to ask ourselves, Will this new nominee release some of those frozen funds we have been calling for so long in the Senate to get housing and the economy moving? Does she intend to carry out the law? Will this administration make housing a priority? Secretary Lynn has claimed that no special Federal efforts are necessary, because housing is right on the verge of a major recovery—this old Hoover-type talk in a month when housing starts are the lowest on record is a disgrace—right around the corner, leave it alone, it will be fine.

In the 1969–70 recession, when we had a tight money contraction, the housing industry survived, because resources were shifted to federally subsidized low- and moderate-income housing. For 2 years almost half a million units a year were built, or nearly the goal of the 1968 Housing Act. But in the current recession, tight money has combined with a suicidal Federal housing policy, and starts are running below a million units a year.

If Mrs. Hills is confirmed, we expect her to do something about this disgraceful situation.

Last week, we also heard from an Assistant Secretary of Housing and Urban Development whose nomination we are also considering. This man is not a newcomer to the field. He has been in the job on an acting basis since last May. And yet, he would not answer any of our questions either. Incidentally, he is up for nomination a little later in the week. If advice and consent means anything, I would submit that this body must demand answers of nominees before we routinely confirm them on the basis of general intelligence and absence of scandal.

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

Mr. PROXMIRE. I yield myself 2 additional minutes.

If we cannot even get a nominee to pledge that she will uphold the law in advance of her confirmation, what can we expect of her once she is in office?

After the Watergate experience, legislative oversight and revival of congressional authority are very popular notions. But they have little meaning when the Senate is so reluctant to exercise even the power to carefully scrutinize executive branch nominees, a power explicitly given this body by the framers of the Constitution 200 years ago.

Mr. President, I expect to cast my vote against this nomination, because the nominee lacks experience for the job and because she would not tell the committee anything about what sort of policies she will pursue, or even whether she will carry out policies and laws which we enact.

That combination is fatal. If we confirm a nominee with neither experience nor a willingness to at least tell us about her general philosophy of the job, we are squandering our constitutional power to advise and consent.

Mr. President, this is a golden opportunity for a new HUD Secretary. Housing is not being built, either by the private market because money has been so tight, or through Government programs because of HUD's incompetence. HUD, in short, is a shambles.

It is an excellent opportunity for the next HUD Secretary to break the logjam and get some housing built. Money is getting a bit freer; supplies are a little more plentiful, and 22 percent of the construction industry work force is idle, waiting to do the job. If Carla Hills is half the person her supporters claim, she will seize this opportunity, and prove this Senator wrong. I hope, as does Senator BIDEN, and Senator MAGNUSON just said, that she will do so. If she does just that I will become one of her most ardent backers, and I also will be very surprised and happy to eat crow and apologize.

Mr. President, I reserve the remainder of my time.

Mr. TOWER. Mr. President, I yield 3 minutes to the Senator from Alabama.

Mr. SPARKMAN. I thank the Senator from Texas.

Mr. President, I support this nomination and I support it strongly. I thought she made a wonderful presentation to our committee. She answered the questions fully, fairly, and intelligently and if there was something she did not know about, she said so.

She did not wobble around to try to make us think that this was something that she knew all about, and she said so, I want to say to my friend from Wisconsin.

He said he did not like to have someone in on-the-job training.

I want to tell him something. I remember a day back yonder, August 28, 1957, when a brand new freshman Senator entered from the State of Wisconsin—the Senator from Wisconsin. He is one of the most able men in the Senate today, but he was not the most able that day. He had on-the-job training, through the years, and the Senator from Wisconsin will be the first to admit that.

Mr. PROXMIRE. Will the Senator yield

Mr. SPARKMAN. Yes.

Mr. PROXMIRE. Of course, I am very flattered, even though what the Senator said is probably inaccurate as far as my ability is concerned.

I would like to tell the Senator that certainly on-the-job training in the Senate is essential. All of us get on-the-job training here.

Mr. SPARKMAN. It is essential everywhere.

Mr. PROXMIRE. But he is asking that

this nominee move into a position where, if this economy is to move ahead, it must move ahead in the next 6 months or we will have more unemployment, which is tragic and which can be prevented.

We need someone who will not take 6 months, 1 year, or 18 months to learn the job, as most of us did when we came to the Senate.

Mr. SPARKMAN. It will not take her 6 months to do the job. I think Mrs. Hills has shown the committee that she is one of the most intelligent and brightest persons we have had before our committee. She has demonstrated that in a job of high responsibility in the Department of Justice, and also back home before she came to Washington. I think she answered the questions fairly in our committee.

Mr. PASTORE. Will the Senator yield?

Mr. SPARKMAN. I just have 3 minutes.

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

Mr. SPARKMAN. Yes.

Mr. PASTORE. The Senator has had a tremendous amount of experience in this area. Does he consider that she was being evasive?

Mr. SPARKMAN. No, I did not. She was being honest.

Mr. PASTORE. The Senator from Rhode Island wants to know that.

Mr. SPARKMAN. If she did not know, she said so.

Let me say this: I asked her the question, if Congress passes a law, will she carry it out.

Mr. PASTORE. What did she say?

Mr. SPARKMAN. She said, "I will."

Mr. PASTORE. That is enough for me.

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

Mr. SPARKMAN. Will the Senator yield a couple more minutes?

Mr. TOWER. Yes.

Mr. SPARKMAN. I have often pointed out that we do not have the power to appoint. I recommended someone else for this job. I recommended a person that had been in the housing business for many, many years—an expert, not from my State, but from the State of New York. I know other members of the committee recommended others. But that does not keep me from being for Mrs. Hills.

We do not appoint. The President has the power to appoint. I believe we ought to remember that all the time.

Maybe we can think of somebody else who we think would do a better job, but that name is not before us. This is the name before us today. I earnestly hope that the Senate, by an overwhelming vote, will sustain the vote of the committee in recommending the nomination of Carla Hills.

Mr. HARRY F. BYRD, JR. Will the Senator yield for a question?

Mr. SPARKMAN. Yes.

Mr. HARRY F. BYRD, JR. The Senator from Alabama made a powerful argument in behalf of Mrs. Hills. May I ask what the vote was in the committee?

Mr. SPARKMAN. It was a voice vote. There was no rollcall. It was a voice vote. I believe I am correct in saying that the only two Senators who were opposed to Mrs. Hills have spoken here today.

Mr. HARRY F. BYRD, JR. So far as the Senator knows, the rest of the committee did not oppose the nomination?

Mr. SPARKMAN. That is correct.

Mr. TOWER. Mr. President, I yield 2 minutes to the Senator from Utah.

Mr. GARN. Mr. President, I rise not only to speak as a Senator from Utah, but as a mayor who, until 2 months ago, for 7 years had on-the-job training.

I would say that I have some knowledge of the Department of Housing and Urban Development and their problems.

I also rise as a mayor who was very upset with the Congress of the United States. We considered that we were at least partially experts in the performance of our duties in our cities. We would be called back here to testify before Senate and House committees, and then promptly be ignored because of our experience. The Congress would go ahead and pass laws as they saw fit.

I would submit that inasmuch as I had difficulties with HUD, and sometimes felt like the local manager for HUD rather than the mayor of a city, really the ultimate and the first fault lies with the Congress for not listening to experts and those who have experience in the administration of these programs at the local level to begin with.

Most mayors around this country can tell you what is wrong with our housing programs, and most of them will agree that the Congress has ignored local government officials.

My first reaction to Mrs. Hills was that she was inexperienced because I did not know her, but I made it a point to talk to her. I was at all the hearings. I listened to every bit of testimony, hers and other witnesses.

I am in total support of her nomination. I think she is eminently qualified and an extremely capable and intelligent person.

With all due respect to the distinguished Senator from Wisconsin, I respectfully disagree that she was evasive. I thought under the circumstances her answers were extremely significant. She did a very good job. She showed some toughness of mind, in contrast to a man whom I questioned—and it is in this testimony—who had admitted he had been in the housing business since 1946. I asked him the same questions Senator BIDEN asked her, about what would he do if he was going to be the Secretary of HUD in a week or so. His answers were not as good and not as specific as Mrs. Hills' answers.

Having been in the executive branch I advised her that I thought she would be irresponsible to make commitments to a Senate committee as to exactly what she was going to do.

I do feel very strongly that she was not evasive. She did make a very specific commitment to carry out the laws passed by Congress.

I would hope that from some of this dialog the Congress would recognize its responsibility in the housing programs of this country; that they would get back to listening more to those of us, my former colleagues, as mayors, county officials, and Governors of this country, in the formulation of the laws to begin with. Then maybe Housing and Urban Development would be able to do a better job of administration.

I wholeheartedly support the nomination of Mrs. Hills.

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

Mr. GARN. I yield.

Mr. BIDEN. Is it not true that the group of mayors, of which the Senator was a member, came out against the nomination, those knowledgeable mayors?

Mr. GARN. So far as I know there was not an official statement by the National League of Cities. I would point out that the immediate past president and Mayor Tom Bradley, of Los Angeles, most enthusiastically supported her. I was the most immediate past president-elect, and I support her. That is two out of the three of last year's officers to support her nomination.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

The Senator from Utah has referred to the fact that the mayor of the city of Los Angeles, the second largest city, I believe, in the United States, endorsed Mrs. Hills.

We are not just talking about housing. We are also talking about urban development, which is a big part of the load of HUD. It is not strictly housing. It is community development.

Here is an excerpt of a letter that Mayor Bradley wrote to our distinguished chairman of the committee. He has not read it into the RECORD. I am sure he will not object, however, if I do so, because it is printed in the committee report.

> Nevertheless, I want to take this opportunity to wholeheartedly endorse and support the nomination of Mrs. Hills. I have known her for a number of years and through this association, I have found her to be extraordinary capable and very likable. She is highly respected in the legal community where she has a well-deserved reputation as a brilliant legal mind, and she has shown a deep concern and understanding of the plight in this nation's urban areas.

In his closing paragraph, Mayor Bradley says:

> Because of her outstanding record in administration and law, I believe that Carla Anderson Hills will be an effectual and innovative Secretary of Housing and Urban Development. I strongly urge you, Mr. Chairman, and the members of this distinguished committee to support the confirmation of Mrs. Hills for this very important position.

That is the former president of the National League of Cities, Mayor Bradley, of Los Angeles.

Mr. President, a great deal has been said about experience. I think what we want is a good administrator. Carla Hills has the kind of lawyer's mind that can grasp a situation very quickly. Lawyers try cases in areas in which they have no expertise, but they bone up and a good lawyer usually becomes an expert, at least for a brief period of time in that particular area.

This lady has that kind of mind. She has a splendid mind which I think will grasp things quickly, and I believe by virtue of her fine administrative ability, she will be able to handle this position.

I point out, so far as experience is concerned, that I do not believe that any of

us who write the laws on housing and urban development have had much previous experience. The Senator from Utah is a former mayor. I am not. I am a former college professor. I have had no experience in housing and urban development. Yet, every day, I participate in drafting legislation on these matters.

I think we make a little too much of this. I wonder what would happen if we insisted on experience in military matters on the part of the Secretary of Defense. They would have to appoint a general or an admiral. I can hear the squawk that would go up if we did that.

I think that by virtue of this woman's character, her fine intellect, her quick grasp, her proven administrative ability, the Senate should confirm her nomination.

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

Mr. TOWER. I yield 1 minute to the Senator.

Mr. CRANSTON. Just in case there are any present who might think that I simply support the nominee, Carla Hills, because I am a Californian and she is a Californian, I point out two things. First, I am a Democrat. She is a Republican, nominated by a Republican President. Second, I expect to be opposing a suggested nominee by the President for another position, who also is a Californian.

As a Californian, I have an opportunity to know a lot about Californians. I happen to know Carla Hills very, very well, and that is one of the reasons why I have great confidence in supporting her.

Mr. DOLE. Mr. President, I am pleased to give my support to the Senate confirmation of Mrs. Carla Hills, the President's nomination for the Secretary of Housing and Urban Development.

Mrs. Hills has received a number of compliments during confirmation hearings that have been conducted recently, and I would simply like to make a few remarks reflecting my personal observations.

PERSONAL INTEGRITY

Mrs. Hills has a glowing record of service in the Department of Justice. Her record there has been a shining example of personal integrity and competence.

She has shown in carrying out the duties of Assistant Attorney General a record that we should promote in all members of Government.

Her high personal calibre is a good example of what is needed to restore the confidence of the American people in their Government.

It is my hope that by confirming Mrs. Hills, we will encourage other members of Government to emulate her excellent example.

ADMINISTRATIVE KNOW-HOW

Mrs. Hills has also demonstrated a superior level of administrative ability. That, in my opinion, is the key quality to successful performance in a Cabinet-level position. I believe we can find housing experts to provide adequate technical assistance. What is needed in the executive branch today is administrative ability so that the programs enacted by the Congress and the President can be properly implemented.

It has been pointed out that our housing programs have not been too successful in recent years. Perhaps fresh and new ideas are what the housing industry needs. I believe Mrs. Hills, with her excellent capacity to manage and with her tremendous personal vigor, could put together the technical expertise of HUD officials to produce better housing programs than we have seen in the past.

BRIDGING THE GAP

It is no small point that the nomination of Mrs. Hills helps bridge some of the inhibitions about letting women participate in decisionmaking at the national level. I commend the President for his nomination.

The junior Senator from Kansas firmly believes that Mrs. Hills will make an excellent Secretary for Housing and Urban Development and I hope we can confirm her nomination today.

Mr. BAYH. Mr. President, the Senate is considering the nomination of Carla Anderson Hills to be the new Secretary of the Department of Housing and Urban Development.

Mrs. Hills has a very distinguished legal background. She is a graduate of Yale Law School and formerly a U.S. attorney for Los Angeles. Before her nomination as the Secretary of HUD, Mrs. Hills served as an assistant attorney general in charge of the Civil Division of the Department of Justice. Testimony during her confirmation hearings indicated that Mrs. Hills has built a solid reputation as a very able administrator and an intelligent, well-qualified lawyer.

However, her nomination has not been without criticism. The major objection to her nomination was that Mrs. Hills has no direct knowledge or experience in housing or urban affairs. Given the desperate condition of the housing industry during this time of economic crisis, this objection is not without merit.

The housing industry is one of the hardest hit by inflation—with an unemployment figure of 22.6 percent and new housing starts at the lowest rate since 1966. In addition, high interest rates and lack of available credit are preventing American citizens from purchasing their own homes. The housing industry has been in trouble for many months and is now near a state of total collapse.

Mrs. Hills will be facing a very difficult challenge in attempting to correct the conditions that have caused the crisis in the housing industry. It is possible that her lack of direct experience with the housing industry will serve her well. She will be approaching the overwhelming bureaucracy at the Department of Housing and Urban Development with fresh vision and hopefully her administrative skills will improve the tangled logjam of redtape at HUD. I would respectfully suggest, however, that in choosing her top deputies and associates at HUD she seriously consider bringing in people who have an intimate knowledge of the housing industry to back up her lack of expertise in this area.

In addition, as a member of the Subcommittee on HUD and Independent Agencies of the Committee on Appropriations, I will be keeping a close watch on her actions at HUD. We will insist that HUD pursue policies that will invigorate the housing industry. I have every expectation that Mrs. Hills will meet her responsibility to provide leadership at HUD and it is our responsibility to see that she does.

Therefore, while I have reservations concerning her lack of knowledge about the housing industry, I trust that the Senate will approve her nomination. I hope that Mrs. Hills will provide the initiative to produce a dynamic national housing policy.

SEVERAL SENATORS. Vote! Vote!

Mr. PROXMIRE. Mr. President, I am happy to yield the remainder of my time to the Senator from Texas.

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

The PRESIDING OFFICER. All time has been yielded back.

The question is, Will the Senate advise and consent to the nomination?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

The result was announced—yeas 85, nays 5, as follows:

[Rollcall Vote No. 44 Ex.]

YEAS—85

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

NAYS—5

Abourezk	Hathaway	Proxmire
Biden	Magnuson	

NOT VOTING—9

Bayh	Hart, Philip A.	Stennis
Eastland	Haskell	Taft
Gravel	McClellan	Talmadge

So the nomination was confirmed.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the next nomination.

The legislative clerk read the nomination of Thomas G. Cody, of Maryland, to be an Assistant Secretary of Housing and Urban Development.

Mr. PROXMIRE. Mr. President, we have just considered the nomination of Carla Andersen Hills for the secretaryship of Housing and Urban Development. We now come to the nomination of an Assistant Secretary of HUD for Administration.

We just had considerable discussion concerning the nomination of Mrs. Hills to be Secretary of Housing and Urban Development on the ground of no experience, and the Senate concluded that although she had no experience, she was intelligent and would learn, and learn quickly, to do a good job.

Last Friday our Committee on Banking, Housing and Urban Affairs, held a confirmation hearing on that nomination, the nomination of Thomas Cody, before us now, and the nomination of Dr. Stolz, whom we just confirmed.

I have rarely seen as cautious a man as Mr. Cody. He would tell the committee just about nothing on the crucial policy choices facing HUD and the country. He gave us no basis of qualifications other than his general résumé, the fact that he has never been involved in a scandal, and President Ford's willingness to appoint him to the job.

Unlike Carla Hills, who declined to answer some of the questions put to her on the grounds that she knew nothing about housing, Mr. Cody does know about housing. He has been Acting Assistant Secretary since last May. Yet he ducked every one of the committee's substantive questions. I would invite every one of my colleagues who might feel the need of a primer on advise and consent to take a look at our hearing record, and look at our colloquies:

QUESTION. One of the arguments * * * against these programs is they are inherently wasteful and inefficient.

Do you agree with that?

Answer. Sir, I couldn't give you an opinion that I have documentation for.

This is a man who has been in office for 9 months.

When asked about section 235, Mr. Cody said:

I really am not competent to deal with that question.

When asked if he would recommend the release of frozen funds, he said:

That would be speculative. My advice has not been sought.

And when asked what his advice to Congress would be, he said:

I really have no advice to offer.

And so on. Well, if this gentleman has no opinions, and cannot offer advice, why has he been nominated? Why should we confirm him? His only qualification seems to be a talent for obfuscation, which I suppose is no small asset in a bureaucracy.

I think we have all heard some nominees like this, who will not tell us what they think. Perhaps on the ground that it would be bad politics to do otherwise, in the absence of outright scandal, we confirm them, and I think it is deplorable. Perhaps we could let such nominations lie over for 90 days, and permit the nominee to fill the job on an acting basis, and presumably they would know enough under those circumstances to answer these questions, and then we could confirm them. But if we keep on rubber-stamping these nominations where we do not get any cooperation, it makes a mockery of advice and consent.

And I might point out that in this case the man was in office through May, June, July, August, September, October, November, December, January, and February, and it is March now, and he still cannot answer the basic questions that he certainly should have been able to answer after a week or so on the job.

For that reason, Mr. President, I have considerable reservations about this nominee, but I personally will not ask for a rollcall. The Senate has spoken so recently in its position on Mrs. Hills that I think it would be a futile action. But I certainly will vote against Mr. Cody's confirmation.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination?

The nomination was confirmed.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

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

The clerk will state the next nomination.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The legislative clerk proceeded to read sundry nominations in the Coast Guard which had been placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. TOWER. I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Without objection, the Senate will return to the consideration of legislative business.

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, with statements therein limited to 3 minutes, the period not to extend beyond 7 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there morning business?

Mr. ROBERT C. BYRD. Mr. President, if the Chair will indulge me a moment——

AUTHORITY FOR THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL MIDNIGHT TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tonight to file reports.

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

MESSAGE FROM THE HOUSE

At 3:30 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House has agreed to the concurrent resolution (H. Con. Res. 133) to lower interest rates, in which it requests the concurrence of the Senate.

The message also announced that the Speaker has appointed Mr. KOCH and Mr. GOLDWATER as members of the Privacy Protection Study Commission on the part of the House.

The message further announced that the Speaker has appointed Mr. ZABLOCKI and Mr. BROOMFIELD as members of the Commission on the Organization of the Government for the Conduct of Foreign Policy on the part of the House; and Dr. Stanley Wagner of Oklahoma and Dr. Arend D. Lubbers of Michigan as members from private life of the Commission on the Organization of the Government for the Conduct of Foreign Policy.

The message also announced that the Speaker has appointed Mr. BROOKS, Mr. FLOWERS, Mr. HUTCHINSON, and Mr. WIGGINS as members of the Commission on Revision of the Federal Court Appellate System on the part of the House.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The Vice President laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION BY THE UNITED STATES INFORMATION AGENCY

A letter from the Director of the United States Information Agency transmitting a draft of proposed legislation to authorize appropriations for the USIA and for other

purposes (with accompanying papers); to the Committee on Foreign Relations.

PROPOSED LEGISLATION BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend the Public Health Service Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Office and Treatment Act of 1972, the Social Security Act, to revise and extend programs of health services, and for other purposes (with accompanying papers); jointly to the Committee on Labor and Public Welfare and the Committee on Finance.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the communication from the Department of Health, Education, and Welfare relating to the Health Services Amendments of 1975 be jointly referred to the Committees on Labor and Public Welfare and Finance.

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

HOUSE CONCURRENT RESOLUTION REFERRED

The concurrent resolution (H. Con. Res. 133) to lower interest rates was referred to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 622. A bill to provide standby authority to assure that the essential energy needs of the United States are met, to reduce reliance on oil imported from insecure sources at high prices, and to implement United States obligations under international agreements to deal with shortage conditions (Rept. No. 94-26).

By Mr. METCALF, from the Committee on Interior and Insular Affairs, with amendments:

S. 7. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes (together with minority and additional views) (Rept. No. 94-28).

IMPLEMENTATION OF THE BUDGET ACT IN 1975—REPORT OF THE COMMITTEE ON THE BUDGET (REPT. NO. 94-27)

Mr. MUSKIE. Mr. President, the Senate Budget Committee has today filed a report, pursuant to section 906 of the Congressional Budget and Impoundment Control Act of 1974, to implement significant portions of the Budget Act for fiscal year 1976. The House Budget Committee has filed a substantially identical report in that body.

Against the background of a rapidly deteriorating economy, and numerous proposals advanced for Federal action to remedy it, the Congressional Budget and Impoundment Control Act assumes an even larger role than was originally contemplated when it was enacted scarcely 8 months ago. We have made substantial progress toward meeting that challenge. The Budget Committees in both Houses are now fully staffed. A Director has been appointed for the Congressional Budget Office, the functioning of which is essential to the success of this process. With this first year plan, we have embarked on implementation of the most significant budgetary reform Congress has enacted in this century. Our success will require the full cooperation of all Members and all committees. We are grateful for the support we have already received from the Members of this body, from the chairmen of its committees, and from the leadership on both sides of the aisle. We are confident of its continuation as we undertake to fulfill the mandate of the Budget Act.

The filing of these two reports implements basic provisions of the Budget Act in 1975. The House and the Senate Budget Committees will be reporting first concurrent resolutions on the budget by April 15. Congress will complete action on those resolutions by May 15. A second concurrent resolution on the budget will be reported by the Budget Committees and enacted by the Congress this coming fall.

The budget resolution reported April 15 will not deal in all the detail that subsequent resolutions in future years will involve. But in this year of severe economic distress, the Budget Committees have determined that, although not required by the act, our committees should help Congress devise a sound spending and taxing policy as the Federal Government strives to do its share to return the Nation to a healthy economic footing.

Numerous other provisions of the act will be implemented by this report. All these provisions are being implemented pursuant to discussions which began last fall between our committees and the chairmen and staffs of the House and Senate committees, and the leadership of both Houses.

We will be circulating this report as soon as it is available for distribution to the committees and to each Member of the Senate.

EXECUTIVE REPORTS OF COMMITTEES

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

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

John T. Dunlop, of Massachusetts, to be Secretary of Labor.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

CHANGE OF REFERENCE—S. 827

Mr. ROBERT C. BYRD. Mr. President, S. 827, a bill to amend the National Environmental Policy Act concerning environmental impact statements for Federal actions related to Outer Continental Shelf oil and gas lease was introduced on February 25. This bill was referred to the Public Works Committee. Inasmuch as the Committee on Interior and Insular Affairs has jurisdiction over matters concerning both the National Environmental Policy Act and the Outer Continental Shelf, those matters should have been referred to that committee. I have conferred with the chairman of the Publice Works Committee and the Parliamentarian and they concur in this judgment.

Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I ask unanimous consent that S. 827 be rereferred to the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. Without objection, the Committee on Public Works will be discharged from further consideration of the bill, and the bill will be referred 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. TOWER (for himself, Mr. BUCKLEY, Mr. FANNIN, Mr. HUMPHREY, Mr. LAXALT, Mr. THURMONT, and Mr. GARN):

S. 949. A bill to increase the corporate surtax exemption to $100,000. Referred to the Committee on Finance.

By Mr. DOLE:

S. 950. A bill to terminate the requirement for the prior approval of the export sales of agricultural commodities. Referred to the Committee on Agriculture and Foresty.

By Mr. BEALL:

S. 951. A bill to create a temporary program, as an emergency measure during the current period of high unemployment, in order to assure continued health care for unemployed persons and their families; and for this purpose to provide for continuation of coverage under employer programs of health insurance for their employees, and Federal financing from general revenues to meet the cost of such continued coverage. Referred to the Committee on Labor and Public Welfare.

By Mr. MONTOYA (for himself, Mr. RANDOLPH, Mr. BAYH, and Mr. MAGNUSON):

S. 952. A bill to provide States unable to meet the matching requirements for Federal-aid highway funds with moneys to cover Federal Highway Administration apportionments. Referred to the Committee on Public Works.

By Mr. STEVENSON:

S. 953. A bill to amend the Export Administration Act of 1969 to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restrictive trade practices or boycotts. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. WILLIAMS:

S. 954. A bill to suspend the duty on railroad and railway rolling stock exported for repairs or alterations on or before August 31, 1975. Referred to the Committee on Finance.

S. 955. A bill to authorize certain filling and construction in a portion of Upper New York Bay, Hudson County, New Jersey. Referred to the Committee on Public Works.

By Mr. HUGH SCOTT:

S. 956. A bill for the relief of Tak-Shul Chan. Referred to the Committee on the Judiciary.

By Mr. MUSKIE (for himself, Mr. BROCK, and Mr. CHILES):

S. 957. A bill to amend the Intergovernmental Personnel Act of 1970 to provide more effective means to improve personnel administration in State and local governments; to correct certain inequities in the law; and to extend coverage under the law to the Trust Territory of the Pacific Islands. Referred to the Committee on Government Operations.

By Mr. PROXMIRE (for himself, Mr. TOWER, Mr. MCINTYRE, and Mr. STEVENSON) (by request):

S. 958. A bill to provide for Federal regulation of foreign banks establishing, acquiring, operating, or controlling banks, branches, and agencies in the United States, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BROCK:

S. 959. A bill to provide for a temporary period a 20 percent investment credit for small business enterprises with respect to property placed in service which increases production or decreases cost of production. Referred to the Committee on Finance.

By Mr. HUMPHREY:

S. 960. A bill to alleviate the financial crisis confronting the public schools of the Nation by providing increased financial resources for elementary and secondary education, and by promoting the equitable distribution of such resources within the States through the establishment of a National Education Trust Fund. Referred to the Committee on Labor and Public Welfare.

By Mr. MAGNUSON (for himself, Mr. BEALL, Mr. GRAVEL, Mr. HATHAWAY, Mr. HOLLINGS, Mr. JACKSON, Mr. KENNEDY, Mr. LONG, Mr. MCINTYRE, Mr. MOSS, Mr. MUSKIE, Mr. PACKWOOD, Mr. PASTORE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STEVENS, Mr. WEICKER, and Mr. WILLIAMS):

S. 961. A bill to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain areas in order to conserve and protect such fish from depletion, and for other purposes. Referred to the Committee on Commerce.

By Mr. KENNEDY (for himself, Mr. EAGLETON, and Mr. CHURCH):

S. 962. A bill to amend the Older Americans Act of 1965 to establish a Community Service Employment Program for older Americans. Referred to the Committee on Labor and Public Welfare.

By Mr. KENNEDY (for himself and Mr. SCHWEIKER):

S. 963. A bill to amend the Federal Food, Drug, and Cosmetic Act to prohibit the administration of the drug diethylstilbestrol (DES) to any animal intended for use as food, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. DOMENICI:

S. 964. A bill to amend part A to title XVIII of the Social Security Act to cover certain additional inpatient hospital services furnished outside the United States to individuals insured for benefits provided under such part A. Referred to the Committee on Finance.

S. 965. A bill for the relief of Edward J. Becvar. Referred to the Committee on Finance.

By Mr. HARTKE (by request):

S. 966. A bill to amend the Emergency Jobs and Unemployment Assistance Act of 1974 to establish an Emergency Health Insurance Extension Program to assure continued health care for unemployed persons and their families, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. BUCKLEY:

S. 967. A bill to provide employment opportunities for unemployed and underemployed persons, to establish a program of loans to provide employment opportunities, to promote safe and efficient service by rail, and for other purposes. Referred by unanimous consent to the Committee on Commerce.

By Mr. HARTKE (by request):

S. 968. A bill relating to the appointment of the Veterans' Administration Deputy Administrator, the Chief Benefits Director, and the Chief Medical Director; to the authority of the Administrator of the Veterans' Administration to readjust the schedule of ratings for the disabilities of veterans; to the construction, alteration, and acquisition of hospitals and domiciliary facilities; to the closing of hospital and domiciliary facilities and regional offices; and to the transfer of real property under the jurisdiction or control of the Administration; and for other purposes. Referred to the Committee on Veterans' Affairs.

By Mr. HARTKE (for himself, Mr. CRANSTON, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. STAFFORD, Mr. BAYH, Mr. BEALL, Mr. CASE, Mr. CLARK, Mr. DOLE, Mr. GARY W. HART, Mr. PHILIP A. HART, Mr. HATFIELD, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. MATHIAS, Mr. MCGOVERN, Mr. MOSS, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. HUGH SCOTT, and Mr. WILLIAMS):

S. 969. A bill to amend chapter 34 of title 38, United States Code, to extend the basic educational assistance eligibility for veterans under Chapter 34 and for certain dependents under chapter 35 from 36 to 45 months. Referred to the Committee on Veterans' Affairs.

By Mr. HARTKE:

S. 970. A bill to amend the Social Security Act to provide for catastrophic health insurance coverage for the unemployed. Referred to the Committee on Finance.

By Mr. BAKER:

S. 971. A bill authorizing further appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes. Referred to the Committee on Public Works.

By Mr. MOSS:

S. 972. A bill to provide scholarships for the dependent children of public safety officers who are the victims of homicide while performing their official duties, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HUGH SCOTT (for himself, Mr. ROBERT C. BYRD, and Mr. MCCLURE):

S.J. Res. 46. A joint resolution authorizing and requesting the President to issue a proclamation designating October 5–11, 1975, as "Newspaper Week" and also designating October 11, 1975, as "Newspaper Carrier Day". Referred to the Committee on the Judiciary.

By Mr. WILLIAMS:

S.J. Res. 47. A joint resolution to authorize the President to proclaim annually the last Friday of April as "National Arbor Day". Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TOWER (for himself, Mr. BUCKLEY, Mr. FANNIN, Mr. HUMPHREY, Mr. LAXALT, Mr. THURMOND, and Mr. GARN):

S. 949. A bill to increase the corporate surtax exemption to $100,000. Referred to the Committee on Finance.

Mr. TOWER. Mr. President, it is in the public interest to maintain a strong, locally controlled small business sector in our economy. Toward this end, a healthy tax environment is essential. Today, I am introducing a bill which I submitted in the last two Congresses which is designed to provide some recognition of the tax problems faced by smaller businessmen over the past several decades as the dollar has depreciated in value. Joining me in introducing this measure today are my distinguished colleagues, Mr. BUCKLEY, Mr. FANNIN, Mr. HUMPHREY, Mr. LAXALT, Mr. THURMOND, and Mr. GARN.

Under present law a corporation is subject to a normal tax of 22 percent on all taxable income. In addition taxable income in excess of $25,000 is subject to a surtax of 26 percent for a combined rate of 48 percent on all corporate taxable income in excess of $25,000. The surtax exemption as well as the lower tax rate on the first $25,000 help to protect small businesses from too heavy a tax burden so they may compete with larger businesses and accumulate earnings with which to expand.

Congress has traditionally provided tax relief for small corporations. For example, during the period when corporations were subject to a graduated tax, the first $25,000 in taxable income was generally taxed at much lower rates than income in excess of that amount. When a flat rate for corporations was established by the Revenue Act of 1950, the $25,000 surtax exemption as we use it today was adopted. The Revenue Act of 1964 also contained provisions designed to assist the small corporations.

Prior to the Revenue Act of 1964—Public Law 88–272—the corporate normal tax rate was 30 percent and the surtax was 22 percent for a combined rate of 52 percent. The Revenue Act of 1964 provided for the reduction of the combined rate to 50 percent for 1964 and to 48 percent for 1965. In addition, that act provided for the "reversal" of the corporate tax rates so that the normal rate was reduced to 22 percent and the surtax changed to 28 percent for 1964 and 26 percent for 1965 and subsequent years.

The major reason given for the reversal of the rates was to benefit small business. The report of the Committee on Ways and Means which accompanied H.R. 8363, Revenue Act of 1964, cited the importance of small businesses in maintaining competitive prices in the economy, and noted the difficulty small businesses may have in finding outside funds to finance their expansion. The committee noted that small businesses traditionally find it necessary to expand largely out of income remaining after tax. The Senate Finance Committee noted similar reasons for the rate reduction and reversal.

I believe that Congress should continue to endorse the principles set forth in 1964 as to the merits and special needs of small businesses. I believe that an increase in the corporate surtax exemption to $100,000 is an appropriate way of doing this.

Although an exemption of $25,000 may have been adequate in 1950 and prior years, it is not adequate today. Inflation has had a particularly damaging effect on small businesses. Undervalued inventories have caused profits to be overstated and thus illusory. At the same time, the costs of replacing capital assets have soared as have costs of assets

needed for expansion. Small businesses must be granted tax relief if that sector of our economy is going to have sufficient capital available to remain healthy.

Not only has inflation weakened small businesses but now because of the depressed economy, many small businesses are suffering from a serious cash flow reduction and after-tax earnings need to be increased so they will be able to meet current operating expenses. Let us not forget that our system of small businesses is a natural resource as vital to the survival of this Nation as are the energy resources we are currently struggling to protect.

Large corporations have a number of methods available to them when they need financing for growth, modernization, diversification or simply to carry them through periods of reduced earnings. Public offerings of securities such as stocks and bonds may be made or loans may be acquired from banks and investment companies. Small businesses, however, generally must depend on retained earnings for capital needs. When all income in excess of $25,000 is taxed at the rate of 48 percent, the ability of small business to accumulate funds for expansion or to survive periods of economic depression is severely limited.

Some have suggested that small businesses might be more equitably aided if a graduated tax were imposed on corporations so that businesses would gradually become subject to higher taxes as they grow and expand. I do not agree. A graduated tax for corporations means that a heavy penalty would be imposed on businesses with fluctuating incomes as compared to businesses with more stable levels of income but with the same total income over a period of years. A graduated tax also means that tax burdens will vary as do the characteristic sizes of business units in various industries and I do not believe in such arbitrary standards for the allocation of tax burden. Finally, graduated tax rates would encourage the division and reorganization of corporations for tax reasons rather than for sound business reasons. The principal advantage of raising the surtax exemption is that an effective rate reduction could be achieved without tampering with the normal rate structure through statutory reductions.

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

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

S. 949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11(d) of the Internal Revenue Code of 1954 (relating to the surtax exemption) is amended by striking out "$25,000" and inserting in lieu thereof "$100,000":

SEC. 2. (a) The following provisions of the Internal Revenue Code of 1954 are amended by striking out "$25,000" and inserting in lieu thereof "$100,000" each place it appears therein:

(1) section 12(7),

(2) section 962(c),

(3) section 1561 (as in effect for taxable years beginning before 1975),

(4) section 1561(a)(1) (as in effect for taxable years beginning after 1974), and

(5) section 1564(a)(1)(A).

(b) The table contained in section 1564(a)(1) of such Code is amended by striking "4,167" in the column headed "Surtax exemption" and inserting in lieu thereof "16,667".

SEC. 3. The amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. DOLE:

S. 950. A bill to terminate the requirement for the prior approval of the export sales of agricultural commodities. Referred to the Committee on Agriculture and Forestry.

Mr. DOLE. Mr. President, in the past 5 months, the price of wheat has dropped 30 percent, the price of corn has dropped 33 percent and the price of soybeans has dropped by more than 46 percent. Last week the Washington Post reported cancellations of grain sales by China of more than 318,000 metric tons. That cancellation follows an earlier cancellation by the Chinese of 983,000 metric tons. The Soviet Union canceled a sale of about 32,000 tons and India canceled a sale of 164,000 tons and placed orders for next year's wheat of 127,000 tons. Those rejections of sales from our country are due in part, if not entirely, to action by the U.S. Government to discourage export sales.

I ask unanimous consent that an article from the Washington Post be printed at this point in the RECORD, to substantiate those cancellations.

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

[From the Washington Post, Feb. 26, 1975]

CHINA CANCELS ANOTHER ORDER FOR 318,000 TONS OF U.S. WHEAT

(By Bernard Brenner)

China has canceled orders for another 318,200 metric tons of American wheat, the Agriculture Department said yesterday.

The announcement brought total Chinese cancellations of American wheat purchases since late January to about 983,000 metric tons. Officials said the grain would be worth about $140 million at current prices, but may have been priced considerably higher when the orders were placed last year.

The entire 318,200-ton cancellation disclosed yesterday and half of the 610,000-ton cancellation revealed in January covered wheat ordered from the 1975 U.S. crop for delivery during the 1975–76 marketing year, which begins July 1. The latest announcement eliminated all outstanding Chinese orders for deliveries of 1975 U.S. wheat.

The remaining 300,000 tons of the January cancellation had covered 1974 crop wheat scheduled for shipment during 1974–75 marketing year, which ends June 30. That action by Chinese officials left only a remnant of 7,400 tons of American wheat scheduled for movement to China between now and June 30.

Unless new orders are placed, total U.S. wheat sales to China in the 1974–75 season will reach only 1.445 million tons, worth about $183 million. This is a sharp drop from the previous year when China purchased nearly 3.2 million tons of American wheat valued then at about $351 million.

China, which emerged briefly as the biggest single overseas buyer of American wheat in the 1973–74 marketing year, also bought 1.8 million tons of American corn in that year but has taken only 23,000 tons of corn in 1974–75.

Agriculture Department experts said they could only speculate on why the Chinese have canceled sizable wheat orders recently. They said the action may be linked to reports of good harvests in China or to Chinese foreign exchange difficulties.

Several other foreign buyers, including the Soviet Union and Iran, earlier had also canceled some U.S. wheat orders. Officials maintained, however, that the loss would be offset by recently approved increases in shipments under the U.S. Food for Peace aid program.

A weekly export sales report issued by the Agriculture Department yesterday noted that India had canceled an order for 163,900 tons of wheat for 1974–75 delivery but had placed new orders for 126,600 tons in the 1975–76 season. The Soviet Union canceled a small 31,900-ton wheat order for the current season.

The report showed new wheat orders for Iran, Chile and Western Europe but a drop in corn sales to the European Common Market and a decline in outstanding commitments for soybean sales to Japan.

FARMERS WANT MARKETS, NOT STUDIES

Mr. DOLE. In the same 5-month period, we have appropriated $4 billion for emergency unemployment, $2.5 billion for public service jobs, $347 million to bail out the northeastern railroads, and have made concessions to the automakers and the autoworkers unions as well as taking action that will provide billions of dollars of relief to other parts of the economy.

At the same time Washington has been giving out billions of dollars of aid to others, farmers have been sold down the river. They have been the subjects of a discrimination policy of discouraging farm exports. The farmers I know are not asking for billion dollar subsidies from the Government. But Kansas farmers are asking for a fair chance to compete in the market. They cannot do that when the Federal Government discourages foreign buyers from buying the grain they want.

The effect of the export prior approval system is indicated by a series of reports published by the Great Plains Wheat, Inc., on January 31, 1975, and I request unanimous consent that these reports be entered at this point in the RECORD.

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

[From Great Plains Wheat, Inc., January 31, 1975]

GPW/WASHINGTON WEEKLY REPORT

CHINESE CANCEL U.S. WHEAT CONTRACTS

Early this week one of the leading U.S. grain exporters announced the People's Republic of China had canceled orders for U.S. wheat which they had sold the Chinese. The quantity canceled, about 600,000 tons (about 22.5 million bushels), represents about two-thirds of the total quantity of U.S. wheat which the PRC had on order, still pending shipment. There were no reasons given for the cancellations, although there is a great deal of speculation as to why the Chinese no longer wished to import the wheat. The Chinese apparently did harvest particularly good crops this year, reducing their dependence on imports to meet their food requirements. Many observers indicate, however, that the principal reason for the cancellations was that the PRC is short of foreign exchange and must, for that reason, cut back on imports. This reasoning was given greater credence because of rumors (subsequently denied by the Australian Wheat Board) that the Chinese were also negotiating cancellation of contracts for wheat purchased from Australia.

AUSTRALIA ANNOUNCES WHEAT SALE TO PRC

After denying rumors that the USSR and the People's Republic of China were seeking to cancel wheat contracts they had pending with Australia, John Cass, Chairman of the Australian Wheat Board announced the successful conclusion of a sale of 1,000,000 tons (about 37 million bushels) of Australian wheat to the PRC. The contract calls for delivery of Australian Standard White Wheat, but the Wheat Board has the option to provide Prime Hard and Hard Wheat, as well as a quantity of General Purpose Wheat. The sale, negotiated in Canberra and Melbourne between AWB officials and officials of the China National Cereals, Oil and Foodstuffs Import and Export Cooperative, traveling in Australia, calls for shipment between April 1975 and March 1976. Payment is to be made within 12 months of the date of shipment. Although the announcement by Mr. Cass appeared to indicate this was a new sale, there are some indications that it is not and that rather than a sale, the action may actually constitute cancellation of an existing commitment. According to a Reuters report, only the day before the announcement of the sale, when the Wheat Board denied rumors of Chinese and Soviet cancellation or deferment of orders, Wheat Board officials stated that under a three-year agreement China had purchased 1.2 million tons (about 44.1 million bushels) of Australian wheat. They indicated no price had as yet been negotiated for the 1.5 million tons (about 55.1 million bushels) of Australian wheat on order by the Chinese this year. Without confirmation of the 1.5 million ton order to which the Wheat Board official referred, the sales contract just announced could actually constitute a reduction of the previous commitment by 500,000 tons (18.4 million bushels). Adoption of a more aggressive sales posture by the Australians tends to lend credence to this assumption.

SOVIET WHEAT ORDER CANCELLATIONS PUZZLE MARKETS

The Soviet cancellations of orders for U.S. wheat this week are being considered to be more serious and raising greater questions than did the Chinese cancellations. Observers are now speculating about Soviet intentions and what the grain situation may be in the Soviet Union. The Soviet grain crop is, according to even the official Soviet announcements, appreciably smaller than the crop harvested last year. (Official Soviet figures are higher than some of the estimates issued from other sources.) There is, furthermore, some indication that the USDA is revising downward its estimate of the Soviet 1974 wheat crop. Some USDA officials theorize that the Soviet 1974 wheat crop was of better quality than the 1973 crop and, therefore, more of it was usable. Some others contend this would make little difference, since Soviet grain needs must be considered in terms of their requirements for both food and animal feeds, and both domestically produced and imported grains are considered in terms of total quantities for all needs. There is some speculation that the Soviets may be thus expressing annoyance at having the U.S. limit Soviet purchases of U.S. corn to 1.0 million tons this year, whereas the European Community has purchased 14.0 million tons. A more plausible theory is that because of earlier concern that they might be able to buy more grains this year the Soviets may have made the necessary adjustments in grain use and may not need more grains this year. Such an adjustment would have appeared to be necessary in view of the U.S. embargo and the Soviet subsequent inability to contract additional quantities from other sources. It is fairly obvious, in any event, that the Soviets must have relaxed what earlier concerns they had regarding availabilities of 1974 crop grains and, watching prices drop on the U.S. commodity exchanges, are not in a hurry to take any additional quantities of grain, even if they still need more.

AUSTRALIANS INCREASE SALES ACTIVITY

This week the Australian Wheat Board reduced prices on Australian wheats, putting them in line with U.S. wheats, indicating a more aggressive sales posture and raising some doubts that they may have sold an additional 1.0 million tons of wheat to the People's Republic of China. The Australian Wheat Board has, furthermore, stated it has sent a three-man delegation on a sales mission to Latin America. The group, led by Leonard Dorman, General Manager of the Australian Wheat Board, will go to Peru, Chile, Colombia, and Mexico. The Wheat Board has indicated particular interest in sales to Chile, to whom Australia has sold substantial quantities in the 1960's, although at the present time the Maritime unions have in effect a ban on grain shipments to Chile. According to a *Reuters* report, John Cass, Chairman of the Australian Wheat Board, has indicated that the Australian Council of Trades Unions is due to meet on February 10th to consider the ban on shipments of grain to Chile. This will be shortly before the delegation actually arrives in Chile.

CANADA REDUCES WHEAT EXPORT PRICES

For the second time in one month, this week the Canadian Wheat Board lowered the export prices for most classes of wheat (See, GPW/Washington Weekly Report dated January 10, 1975, for a report on the earlier price cut). Export prices for Nos. 1 to 3 Canadian Western Red Spring and Nos. 1 to 4 Durums were reduced by 60¢ per bushel. Prices for Canadian Nos. 1 to 3 utility grades were lowered by 50¢ per bushel. This further export price reduction in January now brings the price of Canadian Western Red Spring 13.5% protein to about $5.40 per bushel fob St. Lawrence. This move is another effort to bring Canadian wheat export prices in line with world wheat prices, which have continued a sharp decline. Although still higher than current U.S. wheat offers, the Canadians were successful this week in participating in the weekly Japanese wheat business.

Mr. DOLE. Mr. President, those reports show that the People's Republic of China, for example, canceled a sale of about 600,000 tons in the week of January 24. At the same time, they agreed to purchase 1,000,000 tons from Australia. The reports also show that the Australians and the Canadians have taken steps to become more competitive in the world market.

That means foreign buyers like China and the Soviet Union, when faced with the uncertainty of completing their purchases in the U.S. market, go to other sources. We have spent many years developing our position in foreign markets. It now appears that we have begun a determined effort to destroy that position, beginning with the freeze on the grain sale to the Soviet Union on October 4, 1974.

All of this appears to be the result of those misinformed advocates of export restrictions who mistakenly promote the scarce mania that the American people have "suddenly found themselves running short of food."[1]

I would fully expect the Secretary of Agriculture and administration officials to take a more responsible attitude. Instead, they have made concessions to those advocates of export restriction who mistakenly believe that depression level farm prices will lead to lower prices for food. I am disappointed and disillusioned with this policy and am introducing this legislation today to prohibit such a policy of restricting farm exports.

NO BENEFIT TO CONSUMERS

Many Members of the Government persist in the invalid belief that low farm prices mean lower food prices for consumers. The market developments in recent months show that a greater fallacy never existed. Since August of 1973, the price of cattle has declined by nearly 50 percent. The price of retail meat shows nothing even near that type of reduction. In fact, reports from the Department of Agriculture show record margins for processors and middlemen.

In recent months, when the price of wheat declined by more than $1.50, the price of bread has not declined any. In fact, the price of bread from October to January rose from 35.6 cents to 37.3 cents per loaf, according to USDA. I suggest that even if wheat was given away free, there would be no reduction in the price of bread.

PRICE DECLINE CAN HURT CONSUMERS

Mr. President, the price decline for farm commodities can actually be harmful to consumers. That is because the price of wheat, corn and soybeans has now declined to a level lower than what will provide a fair return on the investment by farmers. The result must be that farmers are more likely to reduce production. They are following the same procedure that any intelligent businessman or anyone else, for 'hat matter, would follow. If you cannot get a fair return on your investment, you generally look elsewhere for a better investment. Just like anyone else, farmers cannot afford to throw their money away just to subsidize the profit margins of middlemen.

So farmers may reduce production. In fact, in the past 2 months, dozens of farmers have contacted my staff and me to advise of their intentions to reduce their planting of corn and feed grains and possibly to plow up some of the wheat they have planted. The Department of Agriculture has been urging all out production. But farmers have to make a living, just like everyone else, and with prices falling as they have, farmers are getting the signal from the market that they should reduce production. Those signals from the market are directly related to the export monitoring system that was established last year and which has discouraged exports and forced a decline in the price of farm commodities.

AGGRAVATES TRADE DEFICIT

Last year, we exported $22 billion worth of farm commodities. At the same time, we paid a whopping $24 billion for foreign oil. It is clear that our farm exports nearly offset the drastically increased price we paid for foreign oil. Without the record level of farm exports, our trade deficit would have been in a much worse position.

[1] Senator Henry Jackson, Hearing before the Permanent Subcommittee on Investigations of the Committee on Government Operations, United States Senate, October 8, 1974, p. 1.

This year, our rate of dollar outflow for foreign oil purchases is even higher. Yet we have a clear policy of discouraging exports of farm commodities that might offset that dollar outflow.

By discouraging exports with the export prior approval system, the market price for farm commodities has been driven down. This means when the Russians, Chinese, Japanese, Europeans, and other foreign buyers purchase grain in this country, they are paying much less than it is worth. So it even further aggravates our trade deficit by letting our farm commodities go at a lower price than they should.

The depressing of farm commodity prices and the aggravating effect it has on our balance-of-payments deficit means an even greater loss of jobs and national income. It means that every American, not just farmers, suffers from the discriminating export control policy since every American suffers a loss of real income when more dollars leave the country than come in.

The policy of this Government for years has been to improve our access to foreign markets. It is grossly inconsistent to now deny access to those markets and to hurt the economy as a whole by further detracting from our trade balance.

So I believe we should stop discriminating against the farmers. We should stop aggravating our already large trade deficit. We should lift the export prior approval system and prohibit it from being instituted in the future.

INTERFERENCE DESTROYS INCENTIVE

The United States has an incentive economy—not a controlled economy like that of many other nations. The level of worldwide prices the past 2 years, due to many factors, has stimulated the American farmer to step up his production of wheat, feed grains, and soybeans. The January USDA planting intention report and the indicated winter wheat production report portend greater crops of wheat, feed grains, and soybeans—our major food and feed crops— and export crops.

This expanded production is a result of the increased demand demonstrated by increased prices.

Since October 4, 1974, however, there have been some definite losses in these market prices, with wheat going from $5.04 per bushel to $3.52; corn from $3.94 per bushel to $2.63; and soybeans from $9.31 per bushel to $4.98 as of February 28, 1975.

Arguments have been made that prices fluctuate during this period due to the harvest of corn and soybeans and that farmers sell a good quantity of their wheat in January. Those fluctuations took place in the last 2 months of 1974 for corn and soybeans and in January for wheat. The wheat selloff in January was minimized this year, however, due to wheat growers' efforts at orderly marketing. They are selling their wheat throughout the year so as not to flood the market and break the price.

MARKET DROP DUE TO EXPORT CONTROL

My point is that the drop in market prices was mostly effected by the prior approval export controls as announced by the administration on October 4, 1974. That action had the same effect on the market prices as did the "dumping" of surplus grain stocks on the markets in the 1960's when we had huge surpluses.

Too often our farmers have seen their hopes for better prices destroyed through the actions of Government in dumping surplus commodities on the market. Now they have experienced it again under the guise of monitoring and prior approval. It is simply a form of export controls—a form of dumping—to lower prices. This system of reporting and approval has inhibited export sales, backing up the flow of exports in the marketing system.

Any export controls, no matter how they are disguised, have the effect of "dumping" grain on the market as surely as when it was done with surpluses.

Today I am introducing legislation which would terminate this program of export controls. It provides that—

The Secretary of Agriculture shall not require or provide on a voluntary basis for the prior approval of export sales.

Mr. President, our farmers deserve the assurance of ready access to these foreign markets. Our winter wheat farmers made plans to plant the crop they will harvest this summer last October when the wheat price was $5.04 per bushel. On February 28, that price had dropped $1.52 per bushel, 30.2 percent, as a result of the prior-approval program; corn had dropped $1.31 per bushel, 33.2 percent; and soybeans dropped $4.33 per bushel, 46.5 percent. And farmers see these declining prices as they face costs of production items averaging 13 percent higher, with fertilizer, fuel and other particular items doubling or tripling in cost.

I ask unanimous consent that this table showing price declines for farm commodities be printed at this point in the RECORD.

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

CASH PRICES (WALL STREET JOURNAL)

	Oct. 4, 1974	Feb. 28, 1975	Drop	Percent drop	February 1974	Drop	Percent drop
Wheat, per bushel	$5.04	$3.52	−$1.52	−30.2	$5.76	−$2.24	−38.9
Corn, per bushel	3.94	2.63	1.31	−33.2	3.21	.58	−18.1
Soybeans, per bushel	9.31	4.98	4.33	−46.5	6.32	1.34	−21.2
Soybean meal, per ton	188.00	103.00	85.00	−45.2	155.00	52.00	−33.5

Mr. DOLE. Mr. President, it should be stated that this table does not reflect the sharp price drop that is taking place in the market today. Nor does the table show the 30 to 50 cent lower price that farmers actually receive. Reported prices from the Kansas City or Chicago markets are always 30 to 50 cents higher than what farmers get due to handling, storage, and transportation charges.

Prices in western Kansas are reported at about $3 per bushel for wheat in the past few days.

This is unfair to our farmers—and it is unfair to our foreign customers who could well look to other nations for their future purchases.

MONITORING SYSTEM REMAINS IN PLACE

It should be pointed out that the monitoring of exports and the reporting system would continue to operate as established in the farm bill of 1973. In this manner, we would continue to receive reports of how much grain has been exported and how much grain remains available for domestic consumption. I suggest that that system is adequate to protect our domestic needs.

When grain stocks begin to be reduced, the price goes up sharply. At that time, all potential buyers in our market must pay a higher price or go elsewhere. I suggest that before we run out of grain or any other food, the price will become prohibitive for foreign buyers. There has been a great deal of concern expressed about how the Russians "will buy every last bushel of grain they can lay their hands on." But the funds available to the Russians, Chinese, or any other potential buyer is limited. When the price of wheat or any other commodity begins to rise, they begin to look elsewhere for alternate supplies or find substitute kinds of food that cost less. That is the normal function of the market.

I suggest that the market is an inherently protective function to insure that this country will never run out of food and that the price depressing prior approval system is counterproductive and in the end will cause a higher cost to consumers than letting the market operate properly would.

Mr. President, I believe that ending the export prior approval system at this point would be too late to improve the market prices for farmers. I believe the damage has been done with the restrictions and uncertainties that have led to the cancellations mentioned earlier. But it is my strong conviction that this situation should be remedied as soon as possible to prevent it from happening again.

Many farmers have told me they believe Congress and the administration will take notice of farm income needs only if farmers respond to export reductions and market declines by sharply curtailing production. This may be so, but the result could be a painful lesson.

So I would urge my colleagues to study this situation and to understand that our farmers deserve the incentive provided by expanded export markets. Without incentives, they will surely reduce production due to adverse cost factors and the resultant loss of production will be even more harmful to consumers.

By Mr. BEALL:

S. 951. A bill to create a temporary program, as an emergency measure during the current period of high unemployment, in order to assure continued health care for unemployed persons and their families; and for this purpose to provide for continuation of coverage under employer programs of health insurance for their employees, and Federal financing

from general revenues to meet the cost of such continued coverage. Referred to the Committee on Labor and Public Welfare.

BEALL URGES HEALTH INSURANCE FOR UNEMPLOYED

Mr. BEALL. Mr. President, I introduce today the "Employees' Health Insurance Extension Act of 1975." Millions of Americans are today unemployed. While this represents a loss to the Nation as a whole, we must not overlook the fact that unemployment statistics represent individuals who as a result of their unemployment, are facing serious personal and financial problems. Fortunately, we have enacted a number of stabilizers, such as unemployment insurance, to help cushion or ease the impact of unemployment on individuals and their families. However, there is another serious problem for unemployed individuals; namely, the loss of health benefits.

If during the difficult period of unemployment, the worker and his family also face emergency health problems, a difficult situation becomes impossible.

In previous downturns in the economy, the loss of health insurance has not been as big a problem, primarily because collective bargaining agreements often continue health insurance for periods varying from 1 to 3 months. However, because this recession has been so protracted, it has been estimated that 80 percent of individuals laid off last year are today without medical insurance.

The proposal I am introducing today would authorize the Secretary of HEW to pay the health insurance premiums of the unemployed worker who has lost his health benefits. The mechanism is quite simple. The unemployed individual would make application for such premium payment with the State unemployment office who would then certify the individual's eligibility both to the employee's former employer and to the carrier of the employer. It should be emphasized that this is a temporary measure. The benefits would be limited to those which are elective services and the Secretary of HEW's payment to the carrier would reflect an actuarial reduction of premiums based on the coverage provided in this emergency measure.

Mr. President, I ask unanimous consent that an editorial which appeared in the March 10 edition of "Business Week" entitled "First Aid for the Jobless" be printed at this point in the RECORD in support of emergency health insurance for the unemployed. In addition, I ask unanimous consent that the full text of my bill also be printed in the RECORD.

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

FIRST AID FOR THE JOBLESS

Hundreds of thousands of workers laid off recently are losing more than their jobs. They are losing their medical benefits as well. Without the means to pay for illnesses or accidents, they have become double victims of the deepening recession. And, to make matters worse, the hospitals and welfare programs that provide for the medically indigent are overburdened as health insurance payments run out.

In previous economic slumps, the problem never really arose. Most union contracts require employers to maintain health coverage for one to three months after laying off workers—plenty of time in a "normal" recession to work off inventories and recall workers. But the current recession is so deep and widespread that an estimated 80% of those who lost their jobs last year are now without medical insurance.

A national health insurance plan is the best solution, but it will be at least a year before a comprehensive plan is enacted. What Congress must do—and do quickly—is administer some first aid. It should tie medical insurance to the existing unemployment compensation system. Such a program would be administratively simple and would cost the government no more than $1.5-billion in premiums through mid-1976. When a national health plan is finally enacted, the emergency aid for the unemployed would end.

Washington has already shown its willingness to soften the recessions' impact by extending basic unemployment insurance to 52 weeks. It should now add this important fringe benefit.

S. 951

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Emergency Health Insurance Extension Act of 1975."

SEC. 2. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XVII—CONTINUATION OF EMPLOYEE HEALTH INSURANCE DURING PERIODS OF UNEMPLOYMENT

"SEC. 1701. (a) Every individual who is receiving benefits under any Federal or State unemployment compensation law (or would be entitled to benefits except for illness or disease) and who, at the time of termination of his employment, was covered under an employer health insurance plan for employees, and the members of his family if included in such coverage, shall be entitled to a continuation of such insurance, with premiums paid therefor by the Secretary of Health, Education, and Welfare as set out below, under the following terms and conditions:

"(1) Insurance of an individual and his family under this section shall become effective at such time as the obligation of the employer to furnish insurance coverage under the employer's health insurance program for employees otherwise expires.

"(2) This section shall not apply in the case of an individual who, together with members of his family previously covered through his employment, is covered or is eligible for coverage under an employer's health insurance program by which such coverage is available through another member of his family.

"(3) To be entitled to benefits under this section an individual shall make application therefor to the state unemployment compensation agency or other appropriate state agency, and such agency shall promptly determine eligibility and give notice of certification of eligibility or rejection of the application to the individual's last employer and the carrier for such employer's health insurance program.

"(4) Application for benefits under this section shall be made within 30 days following termination of the employment, and the initial certification shall be effective to provide for coverage commencing on the date of termination of the employment or, if later, the date of expiration of coverage of the employee and his family by insurance under the employer's health insurance program. Any certification of eligibility shall be effective for a period of four weeks, and the agency shall from time to time review and recertify any individual's eligibility in order to provide for continuation of coverage for the period during which he is unemployed and eligible for compensation benefits.

"(5) Insurance coverage provided under this section shall not apply with respect to elective services.

"(b) Payment of premium, actuarially determined for coverage under this section, shall be made by the Secretary of Health, Education and Welfare directly to the carrier or as reimbursement to the employer.

"SEC. 1702. There is authorized to be appropriated to the Secretary of Health, Education and Welfare such sums as may be necessary to carry out the provisions of this section. No payments may be made by the Secretary of Health, Education and Welfare for any benefits under this title for any period subsequent to June 30, 1976."

By Mr. MONTOYA (for himself, Mr. RANDOLPH, Mr. BAYH, and Mr. MAGNUSON):

S. 952. A bill to provide States unable to meet the matching requirements for Federal-aid highway funds with moneys to cover Federal Highway Administration apportionments. Referred to the Committee on Public Works.

ECONOMIC RELIEF TO STATES FOR BUILDING ROADS

Mr. MONTOYA. Mr. President, I am introducing a bill today to give badly needed financial relief to States which find themselves unable to make full use of their apportionments of the trust fund to build roads. President Ford's decision on February 11 to release $2 billion of impounded trust fund money was correctly claimed to provide over 250,000 badly needed jobs. There is serious doubt that more than $1 billion can be obligated because of the complications of the many categories which fully half the released money is bound to. However, providing jobs was clearly one of the important benefits which the Congress foresaw when the Highway Act was enacted in 1956. We must remember that there will be no roads built and no jobs created until the States can meet their financial requirements under the act.

There has been a remarkable coincidence in the development of this legislation. It emphasized the need for dependable legislative relief for some States. While I am not creating a cloak and dagger episode, the simple chronology of events will speak for themselves. Up until February 27 of this year, the State of New Mexico had accumulated $10,600,000 in a reimbursable account known as Advanced Construction on the Interstate, or ACI.

On February 27, New Mexico officials had still heard no word that the funds were available from ACI, which is administered by the Federal Highway Administration, though they had been urgently requested on previous occasions. Also on February 27, I announced my intention to Administrator Norbert Tieman of FHWA, and others, in hearings before the Committee of Public Works, that I would then introduce legislation to permit States to borrow against future apportionments. Still on the same day, February 27, the FHWA advanced the full $10,600,000 to the New Mexico State Highway Department. This occurred a

few hours later in the day, in Santa Fe, N.M. This $10,600,000 is adequate to meet the State matching funds requirements for the apportionments which are available between now and the end of this fiscal year. Obviously, this removes the urgency for my State to meet its matching fund requirements and permits it to participate fully in highway construction for the remainder of this fiscal year.

Mr. President, this emphasizes again the need to act resolutely in the best national interest. We cannot afford another round of "divide and conquer" by the administration, if that is what is being attempted. If this legislation is unneeded, as the administration insists that it is, then it simply will not be applicable, nor will it be used. If this legislation is needed, as the representatives of the recent Governors' Conference advised the Committee on Public Works, then it will be available. I much prefer to believe that the Governors do, indeed, know what is needed in their States to continue vital highway construction.

It is possible, as FHWA officials now advise me, that it is pure coincidence that the ACI money was advanced to New Mexico on the exact date, and only hours after, I announced to FHWA my intent to introduce legislation to help the States which need help. Certainly the outstanding efforts of the FHWA officials in Santa Fe and in Dallas have been an example throughout New Mexico's recent economic crisis in roads construction. Their sincerity and ability are beyond question. It is at the policymaking level in the administration that the coincidence is difficult to accept at face value. There is, however, no penalty if we procede with the cure for this economic disease. If it is needed, we will be prepared for some other unlikely coincidence in the future.

JOBS WITHOUT DEBT

This is the time for the Congress to act to create productive jobs, promote full employment and still hold down any drain on the Federal Treasury. The highway trust fund is not taxpayer money from the general fund. It is taxes paid into an account by road users expressly for use on roads and transportation. This legislation will not take 1 cent out of taxpayers' pockets now will it penalize any State which can meet matching fund requirements without this relief. No State will lose funds because of the provisions of this legislation. It is not an open end invitation to continue an increased Federal share of the road costs. Any increased Federal share awarded to a State now to catch up on using apportioned Federal aid highway money will be subtracted from that State's apportioned funds by September 30, 1978.

It is unwise to measure the ability of a State to meet the recently inrceased matching fund requirements, due to the release of $2 billion by President Ford, solely on the basis of whether they can scrap every other program on the State's administrative program to raise the money to claim their share of Federal money. It amounts to unintentional blackmail. A State is sorely tempted to make extraordinary sacrifices—unwise sacrifices—to avoid the dilemma of losing large amounts of Federal funds which they have themselves contributed heavily into. That is a case of the poor get poorer. We must all make real sacrifices to overcome the present economic crisis, but those sacrifices must be carefully considered, not mandatory reactions to the threat of losing fairly apportioned Federal funds.

INFLATION AND DELAY

If we should wonder about the consequences of waiting longer to build the Interstate System, recent history is a good teacher. The Defense and Interstate System was originally planned for completion by 1972. The FHWA now estimates that it will be completed by 1983 at the present level of funding, even if there is no inflation factor from now until it is completed. At the conservative estimate of 7 percent per year inflation, the completion date would be 1990. In short, the completion date is becoming so elusive that it may never be achieved. We have a responsibility to expedite the Interstate System. It is not the one and only element of a responsible transportation program, yet it is certainly vital.

The revenue which is necessary and available to States to meet Federal fund matching requirements has been caught in an economic squeeze between two jaws of a vice. Funds collected have dropped off because the high price of gasoline has discouraged gasoline sales. The funds needed have increased because the highway construction industry has been victimized by inflation. Unlike most taxes, there is no tie to the level of the national economy with road user taxes on gasoline. The taxes collected are tied to the gallons of gasoline sold. Most other taxes are tied to the dollar volume, so revenues have some chance of keeping pace with cost increases.

THE COST OF JOBS

Mr. President, the administration has estimated that public services jobs will cost the Government $8,500 each, per year. It is very surprising to me to discover that the Federal Highway Administration estimates that each job generated through highway construction computes to less than $8,000. The estimate, based on 126,000 jobs per billion dollars spent, is $7,936.50. When we can complete a vital Defense and Interstate System at a lower cost per job than public service jobs, I find it highly irresponsible of the administration to withhold the remaining trust funds approved by the Congress or to discourage its use in any way.

Mr. RANDOLPH. Mr. President, I join the able Senator from New Mexico (Mr. MONTOYA) in the introduction of legislation to alleviate a financial situation faced by several States.

For the past 8 years I have worked to end the impoundment of congressionally approved funds for highway construction. The withholding of these funds by the executive branch has been, I believe, contrary to the law and to the intention of the Congress. It has caused delays in the development of our Interstate Highway System and other needed roads and, because of growing inflation, it has contributed to the eventual higher cost of building these facilities.

Legislation enacted last year gives to the Congress greater authority over impoundment of funds. No longer can the executive branch act unilaterally in this area. I believe that from this new dual responsibility will develop a system under which the total Federal budget is established on a realistic and equitable basis.

Acting under the requirements of this legislation the President last September submitted to the Congress a deferral message withholding $10.7 billion in highway obligational authority. On February 7 of this year I introduced Senate Resolution 69 with the cosponsorship of Senator MONTOYA and other Members of this body. That resolution would override Presidential deferral and require the immediate release of all impounded funds. Subsequently, on February 11, President Ford ordered the release of $2 billion in impounded Federal-aid highway funds. This was, of course, a welcome action. It will permit accelerated highway construction in the months immediately ahead.

These additional funds will help to compensate for the impact of inflation on the highway program and they will stimulate the creation of jobs at a time when they are badly needed.

Mr. President, it appears, however, that because of the shortage of required matching funds some States will not be able to utilize any of the recently released Federal highway money. General decline in the economy and reduced highway travel have contributed to this situation.

The legislation being introduced follows a pattern adopted in 1958 during another period of economic recession. This measure permits States to, in effect, borrow against apportionments and utilize this money to match the newly released funds. I believe it to be an equitable system which will not penalize States which have sufficient funds but will allow those States in need of matching funds to fill the existing gap if they so desire. This is a flexible measure intended to assist the States in overcoming what I hope is only a temporary condition.

Mr. President, I commend the Senator from New Mexico (Mr. MONTOYA) for his leadership in bringing this proposal to the Senate. His State is one of those most seriously affected by a shortage of matching funds. While the State I have the privilege to represent does not share this problem at the present time I recognize it as a matter of great concern for a number of other States. Therefore, I am glad to support this bill and hope that it can be considered and acted on without delay.

Mr. BAYH. Mr. President, it is my pleasure to join with Senator MONTOYA, Senator RANDOLPH, and several other of my colleagues in introducing this bill to provide funds for States to meet matching requirements for Federal-aid highway funds. I believe this is one of the more important pieces of legislation introduced in this session thus far.

Mr. President, we are all acutely aware of the economic hardships which have befallen our Nation. In January we had

over 7½ million citizens who could not find work, and that number is rising. Only last Thursday the Commerce Department reported that its index of leading economic indicators fell another 1.3 percent in January for the steepest 6-month decline since the Government began collecting the statistics after World War II. Some have been heartened by the recent release of information showing that the rate of inflation subsided substantially in January, but I cannot consider this good news when the primary cause of the lower rate was our deepening recession.

There is clearly a need for the Government to act to halt the slide of our economy, and helping the States meet matching requirements under the Federal-aid highway program is a step we can and should take immediately.

Earlier this month, President Ford announced that he would release $2 billion of the impounded highway funds. This action was a step in the right direction, although many State officials maintain that much more money is needed and can be utilized. However, there are many States which will find it difficult if not impossible to meet matching requirements and take advantage of the funds which have been released. The States are in this position due to declining gasoline tax revenues and other revenue losses caused by the recession. The administration has estimated that the release of $2 billion in Federal-aid highway funds will provide about 150,000 jobs in construction and related industries. But, this estimate will be quite hollow if the bulk of the funds are not used by the States because they are unable to come up with the matching requirements.

Unfortunately, the Office of Management and Budget has announced that it opposes any further aid to the States to meet their matching problems. Thus, as has happened so often in so many areas during the last few years, it is now up to Congress to provide the leadership necessary to take full advantage of our Federal highway program.

Mr. President, I do not believe we can allow a large portion of those 150,000 jobs promised by the President, or additional jobs provided by the further release of impounded funds, to be lost due to a lack of matching money. It is up to us to take prompt and decisive action. The times require no less.

The jobs provided through the highway program will not be makework. They will not be just raking or sweeping. Instead these jobs will result in extension and improvement of our highway system. The program will increase the safety of highway travel for our citizens. The benefits will be real, visible, and lasting.

The bill we introduce today is quite simple. It provides the Secretary of Transportation with authority to increase the Federal share for a highway project up to two-third of the State's share of the cost of the particular project. This would include projects under the Federal-aid primary, secondary, and urban systems as well as the Interstate System. The increase in the Federal share will be provided from future apportionments and will be repaid to the Federal Government in equal deductions from apportionments for fiscal year 1977 and 1978.

Though I personally would prefer to see the Federal share increased up to 100 percent of State matching needs, Senator MONTOYA and Senator RANDOLPH believe a two-third limit is desirable and more practical. I bow to their expertise as distinguished members of the Public Works Committee, and I believe that this bill as drafted will meet the basic needs of the States.

Moreover, this approach will not be costly and inflationary. There will be no loss to the Federal Government, other than interest, and the highway funds will be put to quick use now, when we badly need to provide jobs. The bill also provides a simple mechanism for repayment of the loans, which will place a minimal burden on the States and involve no out-of-pocket expenses to them.

Mr. President, it is clear that the people of this Nation expect their elected officials to take all possible steps to get our economy moving forward again. It is also quite clear that while not a panacea for our economic ills, the Federal-aid highway program is a weapon which can be helpful in our battle against recession. I hope that this body will support our bill to insure that this weapon is used to maximum benefit.

By Mr. STEVENSON:

S. 953. A bill to amend the Export Administration Act of 1969 to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restrictive trade practices or boycotts. Referred to the Committee on Banking, Housing and Urban Affairs.

THE ARAB BOYCOTT

Mr. STEVENSON. Mr. President, the United States has long had a policy of opposing foreign restrictive trade practices and boycotts against countries friendly to the United States. That policy is expressely set forth in the Export Administration Act of 1969. The act also makes it U.S. policy to encourage and request domestic concerns engaged in the export trade to refuse to take any action which has the effect of furthering or supporting such trade practices and boycotts. Nonetheless, recent disclosures of Arab boycott lists and discrimination in international transactions against firms with Jewish interests make it clear that U.S. policy has not been effectively implemented.

Boycotts and restrictive trade practices designed to support Arab policy are apparently being perpetrated with impunity against U.S. companies which have dealings with Israel. Thousands of U.S. firms appear on Arab boycott lists. There are also increasing reports of discrimination against U.S. financial and investment institutions with Jewish interests. A number of investment bankinghouses have apparently been excluded from financings involving Arab investment funds. Reports indicate that last year more than half of all U.S. firms which had been asked to comply with Arab restrictive trade practices or boycotts directed against Israel had complied. The U.S. Government, too, has apparently bowed to Arab demands by agreeing to exclude Jewish personnel from Army Corps of Engineers projects in Saudi Arabia. Such actions raise grave implications for an open international trading system, a nondiscriminatory U.S. economic system and the conduct of U.S. foreign policy.

One of the major deficiencies of existing law is its failure to make clear that export controls are intended to be used to counter foreign boycotts and restrictive trade practices. Under the Export Administration Act, both the President and the Secretary of Commerce have broad authority to implement all the policies of the act. Yet, despite the existence of foreign boycott and restrictive trade practices directed against countries friendly to the United States, neither the President nor the Secretary of Commerce has taken any action under that law to restrain such behavior. Indeed, in forms prepared for filing with the Department of Commerce under the Export Administration Act, U.S. companies are explicitly told that they "are not legally prohibited from taking any action—that has the effect of furthering or supporting—restrictive trade practices or boycotts." The same forms ask U.S. companies whether they have complied or intend to comply with requests to support a foreign boycott, but at the same time state that submission of such information "is not mandatory." Such statements leave no doubt in the minds of U.S. companies that U.S antiboycott policy carries a very small stick indeed. It is no wonder that most U.S. companies have gone along with Arab demands.

With the OPEC nations' rapid accumulation of monetary reserves and their willingness to use their new-found economic power for political purposes, the problem takes on added dimensions. Any doubt about the ability of the United States to respond effectively should be removed. The President should have clear and unambiguous authority to curtail economic transactions by U.S. concerns with countries which impose boycotts or engage in restrictive trade practices. Limitations on exports to, investments in, or any other economic transactions with such countries, can be an effective tool for advancing U.S. policy.

A second deficiency of present U.S. law is its failure to make it clear that U.S. policy against foreign boycotts and restrictive trade practices extends to discriminatory actions against U.S. companies. As phrased, the antiboycott provisions of the Export Administration Act are limited to boycotts or restrictive trade practices directed against "other countries." But such action, when directed against U.S. concerns, whether as part of a boycott against another country or independently on the basis of race or religion, should be equally repugnant to American policy.

Finally, the disclosure provisions of existing law require U.S. concerns to disclose only "requests for—information or the signing of agreements" which further or support a foreign boycott. But such

requests can take broader forms and involve substantially more subtle action than the mere furnishing of information or the signing of an agreement.

Moreover, it is essential that the Government know whether U.S. companies are in fact complying with requests for action which has the effect of supporting foreign boycotts or restrictive trade practices. Since Department of Commerce forms issued pursuant to existing law make it clear that U.S. firms need not supply information on whether they are complying or intend to comply with foreign boycott requests, information which is essential to effective implementation of the law is lost.

To remedy this situation and to reaffirm and strengthen American opposition to foreign boycotts and restrictive trade practices, I am introducing a bill which would amend the Export Administration Act to: a give the President express authority to counter foreign boycotts and restrictive trade practices through controls on U.S. exports, including the curtailment by any U.S. concern of exports to, investments in, or any other economic transactions with countries which impose boycotts or engage in restrictive trade praces; b. make it clear that boycotts or restrictive trade practices directed at U.S. concerns in their domestic operations are also contrary to U.S. policy; c. provide for disclosure of all requests for action of any kind which would further or support foreign boycotts or restrictive trade practices, and d. require disclosure of any intended compliance with foreign boycott requests.

Taken together, these provisions will make it clear that the United States has no intention of supinely submitting to foreign economic threats or racial or religious discrimination. They will greatly strengthen the ability of the United States to respond to such boycotts. And they provide the information necessary to effective implementation of U.S. policy.

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

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

S. 953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION 1. (a) Section 3(5)(A) of the Export Administration Act of 1969, as amended (the "Act"), is further amended by inserting immediately after "against" the following: "United States concerns and".

(b) Section 3(5)(B) of the Act is further amended by inserting immediately after "against" the following: "United States concerns and".

SEC. 2. Section 4(b)(1) of the Act is further amended by striking out the next to the last sentence thereof and inserting in lieu thereof the following: "Such rules and regulations shall implement the provisions of section 3(5) of this Act, and require that any domestic concern which receives any request for information, for participation in agreements, or for the taking of any other action as specified in that section report the same to the Secretary of Commerce, together with any other information which the Secretary may require regarding such request and intended compliance therewith, for such action as the President may deem appropriate to carry out the policy of that section, including the curtailment by any U.S. concern of exports to, investments in, or any other economic transactions with countries which impose boycotts or engage in restrictive trade practices as specified in that section.

By Mr. WILLIAMS:

S. 955. A bill to authorize certain filling and construction in a portion of Upper New York Bay, Hudson County, N.J. Referred to the Committee on Public Works.

CAVEN POINT REDEVELOPMENT ACT

Mr. WILLIAMS. Mr. President, I am reintroducing the Caven Point Redevelopment Act today. This bill would declare the Caven Point portion of the Jersey City waterfront to be nonnavigable. The developable sections of this area are currently owned by Jersey City. It is only 4 feet under water, and it has never been used for navigational purposes in the past.

Clear title to this property is essential to the city's Liberty Harbor redevelopment program. Liberty Harbor is a 3,000-acre tract of land in Upper New York Bay. The site extends from the Jersey City-Bayonne line on the south to the Morris Canal Basin and Grand Street on the north, and from the New Jersey Turnpike Extension on the west to the U.S. Pierhead Line on the east. Over the years large portions of the site have been filled for use as railroad yards and for various shipping and warehousing functions. Today, however, much of the land lies vacant and abandoned. This largely vacant, abandoned, and underutilized acreage represents what is probably the most magnificent development opportunity presently available in the New York-New Jersey metropolitan region.

The site itself presents startling contrasts. The land is largely derelict, weed-covered, and abandoned. The railroads, which once made this site a major transportation link, are bankrupt and have largely ceased operations. Miles of shorefront are dotted with abandoned piers and wrecks. Nonetheless, this site stands at the core of the metropolitan region. To the east are the bustling harbor, Ellis Island, and the Statue of Liberty. To the west is the Jersey Turnpike Extension, with its direct linkages to the metropolitan highway network. To the south, on the water's edge, are new active container ports at Port Jersey. Just across the bay rise the spectacular towers of lower Manhattan.

The Redevelopment Plan for Jersey City includes the construction of new homes and apartments, and it provides for major new industrial and shipping activities as well. In addition, the State of New Jersey is developing Liberty State Park to the east of the proposed new residential communities. The park will greatly enhance public access to the waterfront and serve as a unique recreation resource for Jersey City as a whole.

Jersey City and its surrounding environs have literally served as a gateway for this country for centuries. In the 17th century the present site of Jersey City was a commercial focal point for the Dutch traders who settled Manhattan and for the settlers who began to bring their farm products to New York. In the 18th century the establishment of a new land route to Philadelphia made Paulus Hook a vital link between New York and the south and west. In the late 19th and early to mid 20th centuries, Ellis Island, merely a few hundred yards from Jersey City's waterfront, was the "Gateway to the New World" for more than 16 million immigrants to this country. In its peak year, 1,285,349 immigrants passed through Liberty Harbor and Ellis Island.

I am hopeful that this legislation will help to revitalize an area which is currently at the core of our eastern metropolitan region, and which has played a significant role in our Nation's history as well.

By Mr. MUSKIE (for himself, Mr. BROCK, and Mr. CHILES):

S. 957. A bill to amend the Intergovernmental Personnel Act of 1970 to provide more effective means to improve personnel administration in State and local governments; to correct certain inequities in the law; and to extend coverage under the law to the Trust Territory of the Pacific Islands. Referred to the Committee on Government Operations.

AMENDMENTS TO THE INTERGOVERNMENTAL PERSONNEL ACT OF 1970

Mr. MUSKIE. Mr. President, on behalf of myself and Senators BROCK and CHILES I introduce, for appropriate reference, a bill to amend the Intergovernmental Personnel Act of 1970.

This legislation contains essentially the same provisions included in S. 4135, introduced in the second session of the 93d Congress. The major difference between this bill and S. 4135 is the deletion of a provision in the latter bill to extend programs of the IPA to Indian tribal governments. I am pleased that this provision was included in the Indian Self-Determination Act of 1974 and, therefore, is no longer necessary.

The principal purpose of the amendments is to extend for 3 additional fiscal years, to October 1, 1978, the authority of the Civil Service Commission to make grants for up to 75 percent of the costs of programs and projects under the Intergovernmental Personnel Act. Under current law, the Federal share would be reduced to 50 percent on July 1, 1975.

Mr. President, I am convinced that the current state of our economy, which has put an unusual squeeze on every aspect of State and local budgets, more than adequately justifies extending the current 75–25 funding mix. Any reduction in the Federal share of the costs of intergovernmental personnel project grants would hit hardest at those governments which need the most help. At the present time, the pressing need for improving personnel administration in local governments accounts for about 62 percent of IPA grant outlays. Under a reduction to a 50–50 funding ratio these jurisdictions, in many cases, would have to abandon projects to further improve their personnel administration system, or else choose projects which could more easily be supported with a noncash participation. Other recent Federal assistance

programs have recognized the desirability of a reduced matching requirement.

Mr. President, these amendments also include a number of technical changes to the Intergovernmental Personnel Act. I ask unanimous consent that a section-by-section analysis and the text of the bill be included in the RECORD following my remarks.

The Subcommittee on Intergovernmental Relations will hold a hearing on this legislation on Friday, March 14, 1975. It is my hope that the Senate will act expeditiously to approve the amendments before the current 75–25 percent funding ratio expires at the end of this fiscal year.

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

SECTION ANALYSIS

Paragraph 1 of section 1 continues for three more fiscal years, to October 1, 1978, the Commission's authority to make grants to State and local governments and other organizations for up to 75 percent of the costs of programs and projects to strengthen personnel administration in State and local governments and to train and develop State and local government employees. Under the current law, the Federal share of such costs will be reduced to 50 percent by July 1, 1975.

Paragraph 2 of section 1 raises the limit on reimbursements to State and local governments for Government Service Fellowships from one-fourth (25%) to 75 percent of the salary of a recipient of a Government Service Fellowship, and establishes an obligated service requirement for recipients.

Paragraph 3 of section 1 defines the Trust Territory of the Pacific Islands as a jurisdiction which is eligible to participate in all of the IPA programs.

Paragraph 4 of section 1 includes the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands in the allocation of formula grant funds (80% of appropriated grant funds).

Paragraph 1 of section 2 defines the Trust Territory of the Pacific Islands as an eligible jurisdiction for the purpose of participating in intergovernmental mobility assignments.

Paragraph 2 of section 2 permits a Federal employee on a mobility assignment to act as the attorney or agent for a State or local government or institution of higher education in representations before another Federal agency, except his employing agency or an agency with which he was employed during the year prior to his assignment. Currently, conflict of interest statutes prohibit such representations by mobility assignees except for Federal employee mobility assignments to an Indian tribe which are authorized under provisions of the Indian Self-Determination and Education Assistance Act (P.L. 93–638).

Paragraph 3 of section 2 provides technical amendments to assure fairness and equity for persons participating in mobility assignments. If enacted, Federal retirement and other benefits, in the rare case where such programs apply to certain State and D.C. Government employees, would not be lost by such employees while they are on mobility assignments. Federal agencies would also be permitted to supplement the pay of State or local employees on detail to Federal agencies to assure comparability of pay with other State or local employees doing work of equal responsibility. Federal agencies would be authorized to reimburse State and local governments and institutions of higher education for various fringe benefit costs (e.g., health and life insurance, retirement, etc.) of employees on detail from such organizations. This is in line with a recent decision of the Comptroller General of the United States (B–157936) permitting reimbursement for such fringe benefits.

Paragraph 4 of section 2 authorizes an executive agency to reimburse mobility assignees for certain miscellaneous travel expenses (e.g., automobile registrations, drivers' licenses, etc.).

Section 3 provides an effective date for these amendments of not later than 90 days after enactment of an earlier date after enactment if the Commission so decides.

S. 957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Intergovernmental Personnel Act of 1970 (84 Stat. 1909–1929) is amended as follows:

(1) Section 202(a), section 203(a), section 303(a), and section 304(a), relating to grants to State and local governments and other organizations, are amended by striking out "after the expiration of three years following the effective date of the grant provisions of this Act" and substituting therefor "on and after October 1, 1978".

(2) Section 305, relating to Government Service Fellowships, is amended—

(A) by striking out from paragraph (2) of subsection (a) "one-fourth", and inserting "75 per centum" in place thereof;

(B) by renumbering paragraph (3) of subsection (c) as paragraph (4) and deleting therefrom the words "and continuation";

(C) by striking the word "and" at the end of paragraph (2) of subsection (c); and

(D) by inserting in subsection (c) a new paragraph (3) as follows:

"(3) require, as a condition for the award of such fellowship, that the recipients enter into a written agreement, enforceable by the government concerned, to serve with such jurisdiction upon the completion of the fellowship, for a period equal to the length of the fellowship. Such agreement shall provide that in the event the recipient fails (except for good and sufficient reason, as determined by the jurisdiction concerned) to carry out such agreement, he shall be liable for payment of all expenses (excluding salary) of such fellowship. Any amount for which a recipient becomes liable shall be paid to the jurisdiction concerned within the three-year period beginning on the date he becomes so liable; and shall be available for use by such jurisdiction for advanced education of its employees; and";

(3) Section 502, relating to the definitions of eligible jurisdictions, is amended by inserting in paragraph (3) "the Trust Territory of the Pacific Islands," immediately before "and a territory or possession of the United States,";

(4) Section 506, relating to the distribution of grants, is amended by striking out of section 506(b)(5) "and the District of Columbia," and by inserting in place thereof: ", the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands."

SEC. 2. Title 5, United States Code, is amended as follows:

(1) Section 3371, relating to definitions of eligible jurisdictions for the purpose of intergovernmental mobility assignments, is amended by inserting "the Trust Territory of the Pacific Islands," after "Puerto Rico," in paragraph (1);

(2) Section 3373, relating to the assignment of Federal employees to State and local governments, is amended by adding the following at the end thereof:

"(e) Notwithstanding the provisions of sections 203 and 205 of title 18, and employee of an executive agency assigned under this subchapter to a State or local government or institution of higher education may act as an agent or attorney on behalf of that State or local government or institution of higher education before any other agency, other than his employing agency or an agency with which he was employed during the one year period previous to his assignment under this subchapter, in connection with a proceeding, application, contract, claim, or controversy in which the United States is a party or has a direct and substantial interest.";

(3) Section 3374, relating to assignments of employees from State or local governments, is amended—

(A) by adding the following flash sentence at the end of subsection (b):

"However, the above exceptions are not applicable to employees who are subject to coverage under chapters 83, 87, and 89 of this title by virtue of employment immediately prior to assignment and appointment under this section.";

(B) by striking out the semicolon at the end of paragraph (1) of subsection (c), and by adding the following: "except to the extent that the pay received from the State or local government is less than the appropriate rate of pay which the duties would warrant under the provisions of chapter 51 and subchapter III of chapter 53 of this title, or other applicable authority;" and

(C) by striking out the period at the end of subsection (c) and adding the following: ", or for the contributions of the employer, or a part thereof, to employee benefit systems.";

(4) Section 3375(a), relating to the travel expenses of a Federal, State, or local government employee while on a mobility assignment, is amended by striking out "and" after paragraph (4); renumbering paragraph (5) as paragraph "(6)" and inserting the following:

"(5) Section 5724a(b) of this title for miscellaneous expenses related to change of station where movement or storage of household goods is involved; and"

SEC. 3. The amendments made by this Act shall take effect after the ninetieth day following its enactment or any earlier date following the date of enactment or any earlier date following the date of enactment that the Commission may prescribe.

By Mr. PROXMIRE (for himself, Mr. TOWER, Mr. MCINTYRE, and Mr. STEVENSON) (by request):

S. 958. A bill to provide for Federal regulation of foreign banks establishing, acquiring, operating, or controlling banks, branches, and agencies in the United States, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

REGULATION OF FOREIGN BANKING

Mr. PROXMIRE. Mr. President, at the request of the Federal Reserve Board I am introducing a bill providing for the regulation and supervision of foreign banks operating in the United States. This legislation is substantially similar to S. 4205 introduced in the last Congress.

As the Chairman of the Board of Governors of the Federal Reserve System points out in his letter to the Senate Banking Committee, banking has increasingly become a multinational business in recent years. By the end of 1974, 25 countries operated 150 banking facilities in the United States with total assets of $50 billion. Although foreign banks now constitute a substantial segment of our domestic banking system, these banks are not under the same controls which are applicable to domestic banks. For example, a foreign bank may establish branches in more than one State and may engage in activities not closely related to banking.

The legislation recommended by the

Board would place all foreign banks operating in the United States under the same regulations as are applied to domestic banks. Thus, the legislation would insure that foreign and domestic banks compete with one another on a fair and equitable basis.

Mr. President, I ask unanimous consent that at the end of my remarks, a copy of the bill be published in the RECORD together with a section-by-section analysis of the bill, a summary of its principal features, and a letter from the Chairman of the Board of Governors of the Federal Reserve System.

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

S. 958

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 "Foreign Bank Act of 1975".

AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 2. Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) by striking out "paragraph (5)" in paragraph (1) of subsection (a) and inserting in lieu thereof "paragraph (6)";

(2) by redesignating paragraphs (5) and (6) of subsection (a) as paragraphs (6) and (7), respectively, and by adding after paragraph (4) of subsection (a), a new paragraph as follows:

"(5) For the purposes of this Act, any company which is a foreign bank shall also be deemed to have control over a bank, if such bank is a branch or agency of the foreign bank established or operating under the laws of the United States, any State of the United States, or the District of Columbia.";

(3) by adding at the end of subsection (b) the following new sentence:

" 'Company covered in 1975' means a company which becomes a bank holding company as a result of the enactment of the Foreign Bank Act of 1975 and which would have been a bank holding company on December 3, 1974, if that Act had been enacted on that date.";

(4) By striking out subsection (c) and inserting in lieu thereof the following:

"(c) 'Bank' means (1) any institution organized under the laws of the United States, any State of the United States, or the District of Columbia which (A) accepts deposits that the depositor has a legal right to withdraw on demand, and (B) engages in the business of making commercial loans, or (2) any branch or agency of a foreign bank established or operating under the laws of the United States, any State of the United States, or the District of Columbia, at which deposits are received, credit balances are maintained incident to or arising out of the exercise of commercial banking powers, checks are paid, money is lent, or other commercial banking activities are performed. Such term does not include (i) any organization operating under section 25 or section 25(a) of the Federal Reserve Act, or (ii) any company organized under the laws of any State of the United States or the District of Columbia which does not do business within the United States except as an incident to its activities outside the United States. 'District Bank' means any bank organized or operating under the Code of Law for the District of Columbia.";

(5) by striking out "or (3)" in subsection (d) and inserting in lieu thereof "(3)";

(6) by striking out the period in subsection (d) and inserting in lieu thereof the following:

"; or (4) if such bank holding company either is a foreign bank or has a subsidiary which is a foreign bank, any branch or agency of such foreign bank established or operating under the laws of the United States, any State of the United States, or the District of Columbia."; and

(7) by adding at the end thereof the following new subsections:

"(j) The term 'foreign bank' means any company that is organized or created under the laws of a foreign country and which is principally engaged in the banking business outside the United States. For the purposes of this Act, this term includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions which engage in banking activities usual in connection with the transaction of the business of banking in the countries where such foreign banks are organized or created.

"(k) The term 'foreign country' means any country other than the United States, and any colony, dependency, or possession of any such country, and includes, for the purposes of this Act, any territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands.

"(l) A 'foreign bank holding company covered in 1975' means a company that became a bank holding company prior to the date of enactment of the Foreign Bank Act of 1975 and which has a subsidiary that is defined as a 'bank' as a result of the enactment of the Foreign Bank Act of 1975."

SEC. 3. Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended—

(1) by striking out the first sentence of subsection (b) and inserting in lieu thereof the following:

"Upon receiving from a company any application for approval under this section, the Board shall give notice to the Comptroller of the Currency, if the applicant company or any bank the voting shares or assets of which are sought to be acquired is a national banking association or a district bank, or if the bank sought to be acquired is a branch of a foreign bank established under section 18 of the Foreign Bank Act of 1975, or a branch or agency of a foreign bank established or operating under the Code of Law for the District of Columbia, or to the appropriate supervisory authority of the interested State, if the applicant company or any bank the voting shares or assets of which are sought to be acquired is a State bank, or if the bank sought to be acquired as a branch or agency of a foreign bank established or operating under the laws of any State of the United States, and shall allow thirty days within which the views and recommendations of the Comptroller of the Currency or the State supervisory authority, as the case may be, may be submitted.";

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

"(d) Except as provided in subsection (g) of this section, no application shall be approved under this section which will permit any bank holding company or any subsidiary thereof to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of any additional bank located outside of the State in which the operations of such bank holding company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which such company became a bank holding company, whichever is later, unless the acquisition of such shares or assets of a State bank by an out-of-State bank holding company is specifically authorized by the statute laws of the State in which such bank is located, by language to that effect and not merely by implication. For the purposes of this section, the State in which the operations of a bank holding company's subsidiaries are principally conducted is that State in which total deposits of all such banking subsidiaries are largest: *Provided, however,* That for the purposes of this section, the State in which the operations of a bank holding company's subsidiaries are principally conducted for any company which becomes, as a result of the enactment of the Foreign Bank Act of 1975, a bank holding company on the date of such enactment, is that State in which total assets of all such banking subsidiaries are greatest."; and

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

"(f) Every bank that is a subsidiary of a holding company (1) which is a foreign bank having total world-wide bank assets in excess of $500,000,000, (2) which is organized under the laws of a foreign country and owns or controls a foreign bank having total world-wide bank assets in excess of $500,000,000, or (3) of which control is held directly or indirectly by the shareholders of a foreign bank having total world wide bank assets in excess of $500,000,000, the majority of whom are not citizens of the United States or companies controlled by citizens of the United States, shall become and remain a member bank as such term is defined in section 1 of the Federal Reserve Act.

"(g) Notwithstanding any other provision of this section, a company covered in 1975 and a foreign bank holding company covered in 1975 may retain and operate all branches and agencies of foreign banks which, as a result of the enactment of the Foreign Bank Act of 1975, are defined as banks under section 2(c) and which such company had established on or before December 3, 1974. After the date of enactment of the Foreign Bank Act of 1975, no application shall be approved under this section which will permit any bank holding company or any subsidiary thereof to establish or operate any additional branch or agency of a foreign bank located outside of the State in which the operations of such bank holding company's banking subsidiaries are principally conducted as determined in subsection (d) of this section, unless (1) the establishment or operation of such a branch or agency is specifically authorized to State banks by the statute laws of the State in which the operations of such bank holding company's banking subsidiaries are principally conducted as determined in subsection (d) of this section, by language to that effect and not merely by implication, and (2) the statute laws of the State in which such branch or agency is to be located specifically authorize an out-of-State bank organized under the laws of the State in which the operations of such bank holding company's banking subsidiaries are principally conducted as determined in subsection (d) of this section, to establish or operate such a branch or agency, by language to that effect and not merely by implication: *Provided, however,* That applications may be approved under this section for any such bank holding company or any subsidiary thereof (A) to establish an additional branch of a foreign bank in any State where such bank holding company or subsidiary thereof had established a branch of a foreign bank on or before December 3, 1974, if the establishment or operation of such additional branch is specifically authorized by the statute laws of the State in which such additional branch is to be located, and (B) to establish an additional agency of a foreign bank in any State where such bank holding company or subsidiary thereof had established an agency of a foreign bank on or before December 3, 1974, if the establishment or operation of such additional agency is specifically authorized by the statute laws of the State in which such additional agency is to be located. For the purposes of this

subsection and subsection (d) of this section, a company covered in 1975 or a foreign bank holding company covered in 1975 or any subsidiary thereof shall not be deemed to have established an additional branch or agency of a foreign bank, or acquired another additional bank located outside of the State in which the operations of such bank holding company's banking subsidiaries are principally conducted as determined in subsection (d) of this section, if such bank holding company or subsidiary thereof changes or converts a branch or agency referred to in the preceding proviso into a branch, agency, or other form of banking organization, as the case may be. Notwithstanding any such conversion, this subsection shall not prohibit a company covered in 1975 or a foreign bank holding company covered in 1975 or any subsidiary thereof from applying to establish additional branches or agencies under the preceding proviso: *Provided, however,* That for the purposes of such proviso, any such company or subsidiary thereof may only establish additional branches if it has converted its form of banking organization in that State to a branch, and may only establish additional agencies if it has converted its form of banking organization in that State to an agency. For the purposes of this subsection, a branch or agency of a foreign bank shall be considered as 'established', if the foreign bank has been granted a license, certificate of authority, or other necessary approval to operate such branch or agency by the appropriate State supervisory authority. Notwithstanding any other provision of this subsection, no company covered in 1975, no foreign bank holding company covered in 1975, and no subsidiary thereof, shall at any time own or control in any State outside of the State in which the operation of such bank holding company's bank subsidiaries are principally conducted as determined in subsection (d) of this section, (i) both a branch and agency of the same foreign bank, (ii) both a branch of a foreign bank and a national or State bank, or (iii) both an agency of a foreign bank and a national or State bank, unless such company, or any subsidiary thereof, had acquired or established both such banking subsidiaries in such State on or before December 3, 1974.

"(h) Except as provided in subsection (g) of this section, after two years from the date of enactment of the Foreign Bank Act of 1975, no company which becomes, as a result of the enactment of the Foreign Bank Act of 1975, a bank holding company on the date of such enactment, no foreign bank holding company covered in 1975, and no subsidiary thereof may, directly or indirectly, own, control, or operate any bank that is a branch or agency of a foreign bank in any State outside the State in which the operations of such bank holding company's banking subsidiaries are principally conducted as determined in subsection (d) of this section. The Board is authorized, upon application by a bank holding company, to extend the two-year period referred to above from time to time as to such bank holding company for not more than one year at a time, if, in its judgment, such an extension would not be detrimental to the public interest, but no such extension shall in the aggregate exceed three years."

SEC. 4. Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) by striking out paragraph (2) of subsection (a) and inserting in lieu thereof the following:

"(2) after two years from the date as of which it becomes a bank holding company, or in the case of a company which has been continuously affiliated since May 15, 1955, with a company which was registered under the Investment Company Act of 1940, prior to May 15, 1955, in such a manner as to constitute an affiliated company within the meaning of that Act, after December 31, 1978, or in the case of any company which becomes, as a result of the enactment of the Bank Holding Company Act Amendments of 1970, a bank holding company on the date of such enactment, after December 31, 1980, or in the case of any company which becomes, as a result of the enactment of the Foreign Bank Act of 1975, a bank holding company on the date of such enactment, after December 31, 1985, retain direct or indirect ownership or control of any voting shares of any company which is not a bank or bank holding company or engage in any activities other than (A) those of banking or of managing or controlling banks and other subsidiaries authorized under this Act or of furnishing services to or performing services for its subsidiaries, and (B) those permitted under paragraph (8) of subsection (c) of this section subject to all the conditions specified in such paragraph or in any order or regulation issued by the Board under such paragraph: *Provided,* That a company covered in 1970 may also engage in those activities in which directly or through a subsidiary (i) it was lawfully engaged in June 30, 1968 (or on a date subsequent to June 30, 1968 in the case of activities carried on as the result of the acquisition by such company or subsidiary, pursuant to a binding contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and (ii) it has been continuously engaged since June 30, 1968 (or such subsequent date): *Provided further,* That a company covered in 1975 may also engage in those activities in which directly or through a subsidiary (i) it was lawfully engaged on December 3, 1974 (or on a date subsequent to December 3, 1974 in the case of activities carried on as the result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before December 3, 1974, of another company engaged in such activities at the time of the acquisition), and (ii) it has been continuously engaged since December 3, 1974 (or such subsequent date). The Board by order, after opportunity for hearing, may terminate the authority conferred by the preceding provisos on any company to engage directly or through a subsidiary in any activity otherwise permitted by those provisos if it determines, having due regard to the purposes of this Act, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices; and in the case of any such company controlling a bank having bank assets in excess of $60,000,000 on or after the date of enactment of the Bank Holding Company Act Amendments of 1970 the Board shall determine, within two years after such date (or, if later, within two years after the date on which the bank assets first exceed $60,000,000), whether the authority conferred by the preceding first proviso with respect to such company should be terminated as provided in this sentence. Nothing in this paragraph shall be construed to authorize (1) any bank holding company referred to in the preceding first proviso, or any subsidiary thereof, to engage in activities authorized by that proviso through the acquisition, pursuant to a contract entered into after June 30, 1968, of any interest in or the assets of a going concern engaged in such activities; or (2) any bank holding company referred to in the preceding second proviso, or any subsidiary thereof, to engage in activities authorized by that proviso either through the acquisition, pursuant to a contract entered into after December 3, 1974, of any interest in or the assets of a going concern engaged in such activities, or through the acquisition after December 3, 1974 (except pursuant to a binding written contract entered into before December 3, 1974) of any shares of, interest in, or assets of any company, or any branch or agency of a foreign bank, engaged or to be engaged in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities in the United States. Any company which is authorized to engage in any activity pursuant to the preceding provisos or subsection (d) of this section but, as a result of action of the Board, is required to terminate such activity may (notwithstanding any otherwise applicable time limit prescribed in this paragraph) retail the ownership or control of shares in any company carrying on such activity for a period of ten years from the date on which its authority was so terminated by the Board.";

(2) by striking out paragraph (12) of subsection (c) and inserting in lieu thereof the following:

"(12) shares retained or acquired, or activities engaged in, by any company which becomes, as a result of the enactment of the Bank Holding Company Act Amendments of 1970, a bank holding company on the date of such enactment, or which becomes, as a result of the enactment of the Foreign Bank Act of 1975, a bank holding company on the date of such enactment, or by any subsidiary thereof, if such company—

(A) within the applicable time limits prescribed in subsection (a)(2) of this section (i) ceases to be a bank holding company, or (ii) ceases to retain direct or indirect ownership or control of those shares and to engage in those activities not authorized under this section; and

(B) complies with such other conditions as the Board may by regulation or order prescribe;"; and

(3) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or", and by adding after paragraph (13) the following new paragraph:

"(14) shares owned directly or indirectly by a company covered in 1975 in a company which does not engage in any activities other than those in which the bank holding company, or its subsidiaries, may engage by virtue of this section, but nothing in this paragraph authorizes any bank holding company, or subsidiary thereof, to acquire (A) any interest in or the assets of any going concern (except pursuant to a binding written contract entered into before December 3, 1974, or pursuant to another provision of this Act) other than one which was a subsidiary on December 3, 1974, or (B) any shares of, interest in, or the assets of any company, or any branch or agency of a foreign bank, engaged, or to be engaged, in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities in the United States, other than one which was a subsidiary on December 3, 1974, or which was acquired pursuant to a binding written contract entered into before such date."

FEDERAL RESERVE ACT AMENDMENTS

SEC. 5. Section 1 of the Federal Act (12 U.S.C. 221) is amended to read as follows:

"Whenever the word 'bank' is used in this Act, the word shall be held to include State bank, banking association, and trust company, and any branch or agency of a foreign bank established or operating under the laws of any State of the United States, except where national banks, Federal branch banks, or Federal reserve banks are specifically referred to.

"The terms 'national bank' and 'national banking association' used in this Act shall be held to be synonymous and interchangeable. The term 'Federal branch bank' shall be held to mean any branch of a foreign bank that is established and operating under

section 18 of the Foreign Bank Act of 1975. The term 'member bank' shall be held to mean any national bank, Federal branch bank, State bank, or bank or trust company which has become a member of one of the reserve banks created by this Act. The term 'board' shall be held to mean Board of Governors of the Federal Reserve System; the term 'district' shall be held to mean Federal reserve district; the term 'reserve bank' shall be held to mean Federal reserve bank; the term 'the continental United States' means the States of the United States and the District of Columbia."

SEC. 6. Section 2 of the Federal Reserve Act is amended—

(1) by striking out the last sentence of the first paragraph thereof (12 U.S.C. 222) and inserting in lieu thereof the following:

"Every national bank and every federal branch bank in any State shall, upon commencing business or within ninety days after admission into the Union of the State in which it is located, become a member bank of the Federal Reserve System by subscribing and paying for stock in the Federal reserve bank of its district in accordance with the provisions of this Act and every national bank and every federal branch bank shall thereupon be an insured bank under the Federal Deposit Insurance Act, and failure to do so shall subject such bank to the penalty provided by the sixth paragraph of this section.";

(2) by adding at the end of the third paragraph thereof (12 U.S.C. 282) a new sentence as follows:

"Every federal branch bank within each Federal reserve district shall subscribe to the capital stock of the Federal reserve bank for that district in a sum equal to 6 per centum of the paid in capital stock equivalent required to be deposited by the foreign bank holding a certificate of authority to establish and operate such federal branch bank, which shall be payable in the same manner as that prescribed for a national banking association in this section."; and

(3) by inserting after the second sentence of the sixth paragraph thereof (12 U.S.C. 501a), a new sentence as follows:

"Should any federal branch bank fail within one year after the passage of this Act to become a member bank or fail to comply with any of the provisions of this Act applicable thereto, all of the rights, privileges, and franchises of such bank granted to it under section 18 of the Foreign Bank Act of 1975, or under the provisions of this Act, shall be thereby forfeited in accordance with the same procedures applicable to national banking associations: *Provided, however,* That, except as otherwise provided in this Act, any reference in the provisions of this Act to the capital stock and surplus of a member bank or national banking association shall, for the purpose of applying any limitations or restrictions in such provisions to any federal branch bank, be deemed to be a reference to the dollar equivalent amount of the capital stock and surplus of the foreign bank holding a certificate of authority to establish and operate such federal branch bank; *Provided, further,* That any such foreign bank which has more than one federal branch bank in any State shall be required to aggregate the accounts of all such federal branch banks in such State for the purpose of computing any limitations or restrictions under any provision referred to in the preceding proviso."

SEC. 7. Paragraph 1 of Section 6 of the Federal Reserve Act (12 U.S.C. 288) is amended by adding at the end thereof the following new sentence:

"For the purposes of the preceding sentence, a member bank that is a branch or agency of a foreign bank shall be deemed to be insolvent when the foreign bank's license or certificate of authority to operate such branch or agency has been terminated or revoked, or when a receiver has been appointed for such branch or agency, or when the foreign bank licensed or holding a certificate of authority to operate such branch or agency is declared insolvent, or a receiver is appointed therefor, or is dissolved or its authority or existence is otherwise terminated or cancelled in the jurisdiction of its incorporation."

SEC. 8. Section 9 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Any branch or agency of a foreign bank established or operating under the laws of any State of the United States may apply for and be admitted to membership in the Federal Reserve System in the same manner and subject to the same provisions of law as State banks and trust companies and may continue to exercise all powers granted it by the State in which it is operating or established, and shall be entitled to all the privileges of member banks except that (1) any reference in the provisions of this Act to the capital stock and surplus of an applying bank, member bank or national bank shall, for the purpose of applying any limitations or restrictions in any such provisions to any such branch or agency, be deemed to be a reference to the dollar equivalent amount of the capital stock and surplus of the foreign bank licensed or authorized to establish or operate such branch or agency: *Provided, however,* That any foreign bank which has more than one branch or more than one agency in any State, shall be required to aggregate the accounts of all such branches or agencies in such State for the purpose of computing any restrictions or limitations in any such provisions: *Provided, further,* That every such branch or agency shall subscribe for capital stock of the Federal reserve bank of the district in which such branch or agency is located in an amount equal to either six per centum of the paid in capital stock equivalent which is required under State law to be deposited by the foreign bank licensed or authorized to establish or operate any such branch or agency or, if there is no such requirement under State law, six per centum of the paid in capital stock equivalent which would be required to be deposited by a foreign bank holding a certificate of authority to establish and operate a federal branch bank in the place in which it is located; and (2) nothing in the provisions of this Act shall authorize the Board of Governors of the Federal Reserve System to appoint examiners to examine the home office or foreign branches or agencies of the foreign bank licensed or authorized to establish or operate such branch or agency, or to regulate the organization or internal affairs of such foreign bank."

SEC. 9. Section 23A of the Federal Reserve Act (12 U.S.C. 271c) is amended by adding at the end thereof the following new paragraph:

"With respect to a member bank that is a branch or agency of a foreign bank, the provisions of this section shall not apply to (1) any extension of credit by such branch or agency to the foreign bank licensed or authorized to establish or operate such branch or agency or to any other branch or agency of such foreign bank; (2) any extension of credit by such branch or agency to a subsidiary, within the meaning of the Bank Holding Company Act of 1956, as amended, of the foreign bank licensed or authorized to establish or operate such branch or agency, if such subsidiary is organized under the laws of a foreign country and does no business within the United States, except as an incident to its international or foreign business; or (3) any extension of credit by such branch or agency to a bank holding company of which such branch or agency is a subsidiary, within the meaning of the Bank Holding Company Act of 1956, as amended, or to another subsidiary of such bank holding company, if made within one year after the effective date of the Foreign Bank Act of 1975 and pursuant to a contract entered into prior to that date."

SEC. 10. Section 25(a) of the Federal Reserve Act (12 U.S.C. 611) is amended—

(1) by inserting ", except with the approval of the Board of Governors of the Federal Reserve System," after "all of whom" in the second sentence of the fourth paragraph thereof (12 U.S.C. 614);

(2) by inserting in the second proviso of the first sentence of the twelfth paragraph thereof (12 U.S.C. 618) ", except with the approval of the Board of Governors of the Federal Reserve System," after "That";

(3) by striking out the thirteenth paragraph thereof (12 U.S.C. 619) and inserting in lieu thereof the following:

"Except as otherwise provided in this section, a majority of the shares of the capital stock of any such corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a State of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States."; and

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

"Notwithstanding any other provisions of this section, any foreign bank or any bank organized under laws of the United States, any State of the United States, or the District of Columbia, the controlling interest in which is owned by a foreign bank, group of foreign banks, or company organized under the laws of a foreign country which owns or controls a foreign bank, may, with the prior approval of the Board of Governors of the Federal Reserve System and upon such terms and conditions and subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, own and hold a majority of the shares of the capital stock of any corporation organized under this section, and any such corporation shall be subject to the same provisions of law as any other corporation organized under this section: *Provided, however,* That the Board of Governors of the Federal Reserve System shall not approve such ownership and holding of a majority of the shares of the capital stock of any corporation organized under this section, if, after consultation with the Secretary of State of the United States and the Secretary of the Treasury, the Board of Governors of the Federal Reserve System determines that such ownership and holding would adversely affect the domestic or foreign commerce of the United States or would otherwise not be in the interest of the United States."

NATIONAL BANK ACT AMENDMENTS

SEC. 11. Section 5133 of the Revised Statutes (12 U.S.C. 21) is amended by striking out the period at the end of the first sentence and adding the following new proviso:

": *Provided, however,* That subject to the provisions of section 5169 of the Revised Statutes, as amended, an association may be formed by or on behalf of a foreign bank, as such term is defined in the Bank Holding Company Act of 1956, as amended."

SEC. 12. Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by striking out the period at the end of the first sentence and adding the following new proviso:

": *Provided, however,* That the Comptroller of the Currency may in his discretion permit as directors not more than one-third the total number thereof, to serve as such, although such directors are not citizens of the United States.

SEC. 13. Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by striking

out the period at the end of the last sentence and adding the following:

"; or whenever, after consultation with the Secretary of State of the United States, the Secretary of the Treasury, and the Board of Governors of the Federal Reserve System, the Comptroller determines that it would adversely affect the domestic or foreign commerce of the United States or would otherwise not be in the interest of the United States to grant such certificate."

AMENDMENTS TO THE BANKING ACT OF 1933

SEC. 14. Section 2 of the Banking Act of 1933 (12 U.S.C. 221a) is amended by adding the following new subsection at the end thereof:

"(c) Except where otherwise specifically provided, with respect to any member bank that is a branch or agency of a foreign bank, the term 'affiliate' shall include the foreign bank which is licensed or authorized to operate such branch or agency, any other branch or agency of such foreign bank, and any affiliate of such foreign bank, as such term is defined in subsection (b) of this section."

SEC. 15. Section 20 of the Banking Act of 1933 (12 U.S.C. 377) is amended—

(1) by inserting "or section 2(c)" after "section 2(b)" in the first sentence thereof; and

(2) by striking out the period in the first paragraph thereof and by adding the following:

": *Provided, further,* That the provisions of this paragraph shall not prohibit a member bank from being affiliated in any manner described in section 2(b) or section 2(c) hereof with any such organization if such member bank is a subsidiary, within the meaning of the Bank Holding Company Act of 1956, as amended, of a bank holding company which is permitted to retain its ownership or control of any voting shares of such organization under the authority of section 4(a)(2) of the Bank Holding Company Act of 1956, as amended, or, with the specific consent of the Board of Governors of the Federal Reserve System, under section 4(c)(9) of the Bank Holding Company Act of 1956, as amended."

SEC. 16. Section 21 of the Banking Act of 1933 (12 U.S.C. 378) is amended by striking clause (B) of paragraph (2) of subsection (a) thereof and inserting in lieu thereof the following:

"(B) shall be permitted by the United States, any State, Territory, or District to engage in such business and shall be subjected by the laws of the United States, or of such State, Territory, or District to examination and regulation,".

FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS

SEC. 17. Within ninety days after the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a proposal for implementing the existing provisions of the Federal Deposit Insurance Act so as to include within the coverage of such Act, branches and agencies of foreign banks established or operating under the laws of the United States, any State of the United States, or the District of Columbia.

ESTABLISHMENT OF FEDERAL BRANCHES BY FOREIGN BANKS

SEC. 18(a) Definitions. For the purposes of this section, these terms shall have the following meanings:

(1) The term "Comptroller" means the Comptroller of the Currency.

(2) The term "foreign bank" means any corporation or similar organization organized under the laws of a foreign country, a majority of the shares of the capital stock of which are not owned by citizens of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States, and which is principally engaged in the banking business outside the United States. This term includes, without limitation, foreign commercial banks, foreign merchant banks, and other institutions which engage in banking activities usual in connection with the transaction of the business of banking in the countries or places where such foreign banks are organized or operating.

(3) The term "foreign country" means any country other than the United States and any colony, dependency, or possession of any such country, and includes, for the purposes of this section, any territory of the United States, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(4) The term "initial branch" means the first branch of a foreign bank established under this section in any State.

(5) The term "State" means any State of the United States and the District of Columbia.

(b) Establishing of branches.

Notwithstanding the laws of any State, any foreign bank may, upon receipt of a certificate of authority from the Comptroller, and subject to the provisions of this section, establish and operate one or more branches in any State: *Provided, however,* That no foreign bank may at any time in any State have both a branch established and operating under this section and a branch or agency established or operating under the laws of such State.

(c) Conversion of State branch, agency, or bank.

Any foreign bank with a branch or agency established or operating under the laws of any State and any foreign bank which owns all of the stock (except for directors' qualifying shares) of any bank organized under the laws of any State may, with the prior approval of the Comptroller and pursuant to the requirements of subsections (d), (e), (f) and (g) of this section, change or convert such branch, agency, or State bank into a branch to be established and operated under this section with any name approved by the Comptroller: *Provided, however,* That any such conversion shall not be in contravention of the State law. In any such case, all of the liabilities of such foreign bank previously payable at the offices of the State branch or agency and all of the liabilities of the State bank shall thereafter be payable by such foreign bank at the office of the branch established under this section. When the Comptroller has given such a foreign bank a certificate that the provisions of this section have been complied with, such foreign bank shall have the same powers and privileges, and shall be subject to the same duties, liabilities, and regulations, in all respects, as shall have been prescribed by the Federal Reserve Act and this section for foreign banks with branches originally established under this section.

Subject to the limitation of subsection (i) of this section, any foreign bank may (1) if it is converting a State branch under this subsection, retain and operate as additional branches under this section, any other branches established in the State of the converting branch prior to conversion; (2) if it is converting a State agency under this subsection, retain and operate as additional branches under this section, any other agencies established in the State of the converting agency prior to conversion; and (3) if it is converting a State bank under this subsection, retain and operate as additional branches under this section, any other branches established by such State bank prior to conversion.

The Comptroller may, in his discretion and subject to such conditions as he may prescribe, permit such foreign bank to retain and carry at a value determined by the Comptroller such of the assets of the converted branch, agency, or State bank as do not conform to the legal requirements relative to assets acquired and held by branches established and operating under this section.

(d) Requirements of Application.

A foreign bank, in order to obtain a certificate of authority to establish and operate a branch under this section, shall make application therefor to the Comptroller which application shall include such information with respect to the factors to be considered in subsection (f) of this section as the Comptroller may, in his discretion, prescribe as necessary or appropriate to carry out the purposes of this section.

Such application shall be made on forms prescribed and furnished by the Comptroller and shall be duly executed by the foreign bank by one or more of its principal officers.

(e) Views and recommendations.

Upon receipt of an application for a certificate of authority by a foreign bank to establish and operate a branch under this section, the Comptroller shall transmit a copy of such application to the Secretary of State of the United States, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the bank supervisory authority of the State in which such branch is to be located and shall allow thirty days within which the views and recommendations of the Secretary of State, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the State bank supervisory authority may be submitted.

(f) Factors to be considered.

The Comptroller shall not issue a certificate of authority to a foreign bank under this section if—

(1) the establishment of such a branch would adversely affect the domestic or foreign commerce of the United States, or

(2) the establishment of such a branch would otherwise not be in the interest of the United States. In making his determination with respect to the preceding factors, the Comptroller shall take into account the written comments of the Secretary of State of the United States, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the appropriate State bank supervisory authority. In every application, the Comptroller shall also take into consideration the financial and managerial resources and future prospects of the applicant foreign bank and the branch concerned, and the convenience and needs of the community to be served.

(g) Certificate.

If, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the Comptroller, it appears that such foreign bank is lawfully entitled to establish and operate a branch under this section, the Comptroller shall issue a certificate of authority to such foreign bank, under his hand and official seal, that such foreign bank has complied with the provisions of this section required to be complied with before the establishment of a branch under this section, and that such foreign bank is authorized to establish and operate a branch under this section at the location specified in such certificate.

(h) Banking powers.

Upon the issuance of a certificate of authority by the Comptroller, the foreign bank may, subject to the provisions of this section, establish and operate a branch at the location specified in such certificate, and may conduct thereat its banking business with the same rights and privileges as a national bank at that location, and, except as otherwise provided in this section, or in the Federal Reserve Act, subject to the same duties, restrictions, limitations, penalties and liabilities now or hereafter imposed on natonal banks under the provisions of the National Bank Act and the Federal Reserve Act: *Provided, however,* That in any such provision which imposes limitations or restrictions based on the capital stock and surplus of a

national bank, any reference in such provisions to the capital stock and surplus of a national bank shall be deemed for the purpose of applying the limitations or restrictions in such provisions to a branch established under this section to be a reference to the dollar equivalent amount of the capital stock and surplus of the foreign bank holding a certificate of authority to operate the branch established under this section: *Provided further*, That any foreign bank which has more than one branch established and operating under this section in any State shall be required to aggregate the accounts of all such branches in such State for the purpose of computing any limitations or restrictions under any provision referred to in the preceding proviso.

(i) Additional branches in any State.

A foreign bank with a single branch established and operating under this section in any State may, with the prior approval of the Comptroller and pursuant to the requirements of subsections (d), (e), (f), and (g) of this section, retain or establish and operate additional branches in the State in which such branch is located on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by a national bank if the principal office of such national bank were located at the same place as the initial branch in such State of such foreign bank.

(j) Change of name or location.

Any foreign bank holding a certificate of authority issued pursuant to this section must secure an amended certificate of authority if it changes its corporate name or changes the duration of its corporate existence, on such application forms and under such rules and regulations as the Comptroller may prescribe. Any foreign bank holding a certificate of authority issued pursuant to this section may not change the location of any branch established and operating under this section without obtaining the prior approval of the Comptroller and no change of location shall be valid until the Comptroller shall have issued his certificate of approval of the same.

(k) Accounts.

The accounts of each branch established and operating under this section shall be conducted independently of the accounts of the principal office of the foreign bank and its branches outside the United States.

(l) Examinations and reports—penalties.

(1) The Comptroller shall appoint examiners who shall examine every branch established and operating under this section at least once in every calendar year and any such examiner shall have all of the powers of an examiner of national banks. The cost of such examinations shall be assessed against and paid by the foreign bank holding the certificate of authority to operate such branch based on the assets of its branch as determined under subsection (k) of this section.

(2) Every foreign bank holding a certificate of authority issued pursuant to this section shall make reports of condition for each branch established and operating under this section to the Comptroller in accordance with the provisions of the Federal Deposit Insurance Act. The Comptroller may call for additional reports of condition, in such form and containing such information as he may prescribe, on dates to be fixed by him, and may, from time to time, require special reports under oath to keep him informed as to whether the provisions of this section and regulations or orders issued under this section have been complied with.

(3) Every foreign bank holding a certificate of authority issued pursuant to this section which fails to make any report required by this subsection shall be subject to a penalty of $100 for each day after the periods respectively therein mentioned, that it delays to make and transmit such report. All sums of money collected for such penalties shall be paid into the Treasury of the United States, after deduction of the costs incurred in their collection.

(m) Capital equivalency.

Upon the opening of a branch in any State and thereafter, a foreign bank holding a certificate of authority issued pursuant to this section shall keep on deposit, in accordance with such rules and regulations as the Comptroller may prescribe, with such national bank in the State where such branch is located and as such foreign bank may designate and the Comptroller may approve, investment securities of the type that may be held by national banks for their own account pursuant to paragraph "Seventh" of section 5136 of the Revised Statues, as amended, equal to an aggregate amount, based upon principal amount or market value, whichever is lower, in the case of the above-described securities, of not less than the greater of that amount of capital which would be required of a national bank being organized at that location, or 5 per cent of the total liabilities of such branch, including acceptances, but excluding (1) accrued expenses, and (2) amounts due and other liabilities to other offices, branches, or agencies of, and wholly-owned (except for directors' qualifying shares) subsidiaries of, such foreign bank: *Provided, however*, That the Comptroller may from time to time require that the assets deposited pursuant to this subsection may be maintained in such amount as he may deem necessary or desirable, for the maintenance of a sound financial condition the protection of depositors and the public interest. The deposit shall be maintained with any such national bank pursuant to a deposit agreement in such form and containing such limitations and conditions as the Comptroller may prescribe. So long as it continues business in the ordinary course such foreign bank shall, however, be permitted to collect interest on the securities so deposited and from time to time exchange, examine, and compare such securities.

(n) Domestic assets.

The Comptroller shall have the power to require every foreign bank holding a certificate of authority issued pursuant to this section to hold, under such rules and regulations as the Comptroller may prescribe, in any State where it has established a branch under this section, currency, bonds, notes, debentures, drafts, bills of exchange or other evidences of indebtedness or other obligations payable in the United States or in United States funds in an amount which the Comptroller shall prescribe as necessary in order to protect domestic depositors and creditors of any branch established under this section.

(o) Revocation of certificate of authority.

Any certificate of authority issued to a foreign bank pursuant to this section shall be revoked when voluntarily surrendered by such foreign bank or when such foreign bank is dissolved or its authority or existence is otherwise terminated or cancelled in the country of its organization, and if at any time the Comptroller is of the opinion or has reasonable cause to believe that such foreign bank has violated or failed to comply with any of the provisions of this section or any of the rules, regulations, or orders of the Comptroller made pursuant thereto, the Comptroller shall have the power, after notice and opportunity for hearing, to revoke the certificate of authority of a foreign bank to operate any branch under this section. The Comptroller may restore any such certificate of authority upon due proof of compliance with the provisions of this section and the rules, regulations, or orders of the Comptroller made pursuant thereto.

(p) Receivership.

Whenever the Comptroller has revoked the certificate of authority of a foreign bank to operate any branch under this section, or whenever any creditor of any such foreign bank shall have obtained a judgment against it in any court of record of the United States or any State of the United States and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the Comptroller shall become satisfied of the insolvency of such foreign bank, he may, after due consideration of its affairs, in any such case, appoint a receiver who shall take possession of all the property and the assets of such foreign bank in any State of the United States. Thereafter the receiver shall exercise the same rights, privileges, powers and authority with respect to such property and assets of such foreign bank as are now exercised by receivers of national banks appointed by the Comptroller.

(q) Regulations.

The Comptroller is authorized and empowered to issue such rules, regulations, and orders as he may deem necessary to enforce compliance with the provisions of this section, to prevent evasions thereof, and to ensure the proper exercise of the powers granted herein.

(r) Service of process.

Every foreign bank holding a certificate of authority issued pursuant to this section shall execute and file with the Office of the Comptroller and the applicable State bank supervisory authority an irrevocable appointment of an agent for service of process in every State where it has established a branch under this section. Such irrevocable appointment shall be on such form as the Comptroller may prescribe.

If any such agent shall be removed, resign, or die, become insane or otherwise incapable of acting, it shall be the duty of such foreign bank to appoint another agent in his place, and until such appointment shall have been made, or during the absence of any officer, or other agent of such foreign bank from the applicable State, service of process may be made upon the Comptroller, any Deputy Comptroller of the Currency, or upon any person authorized by the Comptroller to receive such service of process. If any process is served on the Comptroller, he shall immediately cause a copy thereof to be either delivered personally to such foreign bank by a person and in the manner authorized to serve process by law in the jurisdiction where service is made, or forwarded by registered mail addressed to such foreign bank at the post office address specified for mailing process as the same appears on the Comptroller's records, or if no address is there specified to the bank supervisory authority of the country of such foreign bank's organization. Nothing in this section limits or affects the right to serve any process, notice of demand required or permitted by law to be served upon a foreign corporation in any other manner now or hereafter permitted by law.

The Comptroller shall keep a record of all processes served upon him by this subsection and shall record therein the time of such service and his action with reference thereto.

(s) Venue of suits.

Actions and proceedings under this section against any foreign bank holding a certificate of authority issued pursuant to this section may be had in any circuit or district court of the United States held within the district in which any branch established under this section is located, or in any State, county, or municipal court in the county or city in which such branch is located having jurisdiction in similar cases.

(t) Civil penalties.

Any foreign bank holding a certificate of

authority issued pursuant to this section which violates or fails to comply with any provision of this section, or any rule, regulation or order of the Comptroller issued pursuant thereto, is subject to a penalty of not less than $1,000 nor more than $5,000 for each and every offense, for each day in which the violation or failure to comply continues. All sums of money collected for such penalties shall be paid into the Treasury of the United States, after deduction of the costs incurred in their collection. The civil penalties provided in this subsection shall be in addition to all other civil remedies and criminal penalties provided by law.

(u) Criminal penalties.

Any foreign bank holding a certificate of authority pursuant to this section which willfully violates any provision of this section, or any rule, regulation or order issued by the Comptroller pursuant thereto, shall upon conviction be fined not more than $1,000 for each day during which the violation continues. Any individual who willfully participates in a violation of any provision of this section shall upon conviction be fined not more than $10,000 or imprisoned not more than one year, or both.

JURISDICTIONAL AMENDMENTS

SEC. 19. Title 28, United States Code, is amended by adding the following new sections:

"§ 1364 FOREIGN BANKS AS PARTY

The district courts shall have original jurisdiction of any civil action commenced by the United States, or by direction of any officer thereof, against any foreign bank arising out of the business of any branch of such foreign bank established and operating under section 18 of the Foreign Bank Act of 1975, any civil action against any foreign bank to wind up the affairs of any such branch, and any action by such a foreign bank in the district for which the court is held under section 18 of the Foreign Bank Act of 1975 to enjoin the Comptroller, or any receiver acting under his direction, as provided by such section.

"§ 1407 ACTIONS BY FOREIGN BANKS TO ENJOIN COMPTROLLER

Any civil action by a foreign bank arising out of the business of a branch established under section 18 of the Foreign Bank Act of 1975 to enjoin the Comptroller under the provisions of any act of Congress relating to the business of any such branch, may be prosecuted in the judicial district where such branch of such foreign bank is located."

UNITED STATES CRIMINAL CODE AMENDMENTS

SEC. 20. Title 13, United States Code, is amended by adding the following new sections:

"§ 16 MEMBER BANK

The term 'member bank', as used in this Title, includes any branch or agency of a foreign bank that is a member of the Federal Reserve System.

"§ 17 NATIONAL BANK

The term 'national bank', as used in this Title, includes any branch of a foreign bank established and operating under section 13 of the Foreign Bank Act of 1975."

BANK PROTECTION ACT AMENDMENTS

SEC. 21. Section 2 of the Bank Protection Act of 1968 (12 U.S.C. 1881) is amended—

(1) by inserting the following in paragraph (1) after "national banks" and before "and district banks";

", any branch of a foreign bank established and operating under section 18 of the Foreign Bank Act of 1975,"; and

(2) by inserting the following in paragraph (2) after "State banks" and before "which are members of the Federal Reserve System":

"and any branch or agency of a foreign bank established or operating under the laws of any State".

TRUTH-IN-LENDING ACT AMENDMENTS

SEC. 22. Section 108 of the Truth-in-Lending Act (12 U.S.C. 1607) is amended—

(1) by inserting after the words "national banks" in subparagraph (A) of paragraph (1) of subsection (a) the following:

"and branches of foreign banks established and operating under section 18 of the Foreign Bank Act of 1975"; and

(2) by inserting after the words "national banks" within the parenthesis in subparagraph (B) of paragraph (1) of subsection (a), the following:

"and branches of foreign banks established and operating under section 18 of the Foreign Bank Act of 1975".

FAIR CREDIT REPORTING ACT AMENDMENTS

SEC. 23. Section 621 of the Fair Credit Reporting Act (12 U.S.C. 1681s) is amended—

(1) by inserting after the words "national banks" in subparagraph (A) of paragraph (1) of subsection (b) the following:

"and branches of foreign banks established and operating under section 18 of the Foreign Bank Act of 1975"; and

(2) by inserting after the words "national banks" within the parenthesis in subparagraph (B) of paragraph (1) of subsection (b), the following:

"and branches of foreign banks established and operating under section 18 of the Foreign Bank Act of 1975".

INTERNATIONAL INFORMATION AGREEMENTS

SEC. 24. Notwithstanding any other provision of law, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, are hereby authorized to make available, under such conditions as they may prescribe, upon request, examination, operating, or condition reports, or other information, in their possession of State banks and national banks to the banking supervisory authority of a foreign country in which such bank has or proposes to have a branch, agency, office, or banking subsidiary, including any banking affiliate which is to be in the form of a joint venture between such bank and any other person, firm, or corporation: *Provided,* That any of the foregoing information may only be made available to such foreign banking supervisory authority upon the condition that such foreign banking supervisory authority shall make available upon request to the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, its examination, operating or condition reports or other information in its possession of banks organized or operating under the laws of such foreign country which engage or propose to engage in a joint venture banking affiliate with a State or national bank, whether in the United States or such foreign country, or which do business or propose to do business through a branch, agency, office, or banking subsidiary in the United States: *Provided further,* That any such arrangement shall be contingent on the condition that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation and such foreign banking supervisory authority shall not disclose or otherwise make such reports available to any person not an officer, employee, or agent of the Board of Governors of the Federal Reserve System, of any Federal Reserve Bank, of the Comptroller of the Currency, of the Federal Deposit Insurance Corporation, or of such foreign banking supervisory authority.

FEDERAL BANKING LICENSE

SEC. 25(a) Definitions.

For the purposes of this section, the terms "bank", "company", "control", "foreign bank", "foreign country", and "subsidiary" shall have the meanings assigned to them in section 2 of the Bank Holding Company Act of 1956, as amended. The term "Comptroller" means the "Comptroller of the Currency".

(b) Requirement of License.

In addition to any other requirements imposed under the laws of the United States, any State of the United States, or the District of Columbia, no foreign bank or group of foreign banks, and no company (1) which is organized under the laws of a foreign country and which controls a foreign bank, (2) which is a subsidiary of a foreign bank, or (3) of which is held, directly or indirectly, by the shareholders of a foreign bank, the majority of whom are not citizens of the United States or companies controlled by citizens of the United States, shall, directly or indirectly, control, establish, operate, organize, acquire all or substantially all of the assets of, or merge or consolidate with, as the case may be, any bank located in any State of the United States or the District of Columbia unless such foreign bank, group of foreign banks or company, as the case may be, shall have received a federal banking license to directly or indirectly control, establish, operate, organize, acquire all or substantially all of the assets of, or merge or consolidate with such bank issued by the Comptroller under this section, or shall have received a certificate issued by the Comptroller under section 5169 of the Revised Statutes, as amended, or section 18 of the Foreign Bank Act of 1975: *Provided,* That any such foreign bank, group of foreign banks, or company shall not be required to apply for a federal banking license under this section for any bank directly or indirectly controlled, established, operated, organized, merged or consolidated, or all or substantially all of the assets of which were acquired on or before the date of enactment of the Foreign Bank Act of 1975, if, within one hundred and eighty days after the date of enactment of the Foreign Bank Act of 1975, such foreign bank, group of foreign banks, or company shall register with the Comptroller on forms prescribed by the Comptroller, which shall include such information with respect to the financial condition and operations, and management of such foreign bank, group of foreign banks, or company and such bank or banks, as the Comptroller may deem necessary or appropriate to carry out the purposes of this section.

(c) Requirements of Application.

A foreign bank, group or foreign banks, or company, in order to obtain a federal banking license under this section, shall make application therefor to the Comptroller which application shall include such information as the Comptroller, in his discretion, may prescribe as necessary or appropriate to carry out the purposes of this section.

Such application shall be made on forms prescribed and furnished by the Comptroller and shall be duly executed by one or more of the principal officers of the applying foreign bank or company, or of each applying foreign bank in a group of foreign banks.

(d) Authority Vested in the Secretary of the Treasury.

Upon receipt of an application for a federal banking license under this section, the Comptroller shall retain a copy thereof and shall transmit the original application to the Secretary of the Treasury who is authorized and empowered to approve the issuance by the Comptroller of any federal banking license under this section. The Comptroller shall also transmit a copy of an appliction for a federal banking license under this section to the Secretary of State of the United States and the Board of Governors of the Federal Reserves System, who shall submit their views and recommendations to the Secretary of the Treasury within thirty days after the date of receipt of the application.

(e) Factors to be Considered.

The Comptroller shall not issue a federal banking license to a foreign bank, group of foreign banks, or company under this section if the Secretary of the Treasury, after taking into account the views and recommendations of the Secretary of State and Board of Governors of the Federal Reserve System, determines that the issuance of a federal banking license would adversely affect the domestic or foreign commerce of the United States, or would otherwise not be in the interests of the United States. In every application, the Secretary of the Treasury shall also take into consideration the views and recommendations of the Comptroller on the financial and managerial resources and future prospects of the applicant and bank concerned, and the convenience and needs of the community to be served.

(f) Federal Banking License.

If, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the Secretary of the Treasury, it appears to the Secretary of the Treasury, after taking into account the views and recommendations of the Secretary of State and the Board of Governors of the Federal Reserve System, that such foreign bank, group of foreign banks, or company is lawfully entitled directly or indirectly to control, establish, operate, organize, acquire all or substantially all of the assets of, or merge or consolidate with such bank under this section, the Secretary of the Treasury shall direct the Comptroller to issue a federal banking license to such foreign bank, group of foreign banks, or company, under his hand and official seal, authorizing such foreign bank, group of foreign banks, or company, directly or indirectly, to control, establish, operate, organize, acquire all or substantially all of the assets of, or merge or consolidate with such bank.

(g) Revocation of Federal Banking License.

Any federal banking license issued to a foreign bank, group of foreign banks, or company pursuant to this section shall be revoked when any other approval, certificate, charter or license it may have to directly or indirectly control, establish, operate, organize, acquire all or substantially all of the assets of, or merge or consolidate with the bank for which the license has been issued, has been revoked, cancelled or otherwise terminated under the laws of the United States, any state of the United States, or the District of Columbia.

(h) Regulations.

The Secretary of the Treasury and the Comptroller are authorized and empowered to issue such rules, regulations, and orders as each of them may deem necessary in performing their respective duties and functions under this section to enforce compliance with the provisions of this section, to prevent evasions thereof, and to ensure the proper exercise of the powers granted therein.

(i) Criminal Penalties.

Any foreign bank or company which willfully violates any provision of this section or any rule, regulation, or order issued by the Secretary of the Treasury or the Comptroller pursuant thereto, shall upon conviction be fined not more than $1,000 for each day during which the violation continues, and any individual who willfully participates in a violation of any provision of this section shall upon conviction be fined not more than $10,000 or imprisoned not more than one year, or both.

SEPARABILITY

SEC. 26. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

WASHINGTON, D.C.,
March 4, 1975.

HON. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Board of Governors is transmitting herewith draft legislation providing for the regulation and supervision of foreign banks operating in the United States. Except for certain technical changes, the draft legislation is identical to that sent to the Congress on December 3, 1974.

Banking has increasingly become a multinational business in recent years. One aspect of this development has been the growing number of foreign banks establishing offices in this country to conduct both international and domestic banking activities. In doing so, foreign banks have added to the banking and financial services available to the American public and have provided additional competition to domestic banking institutions. At the same time, because foreign banks are largely subject only to the laws and regulations of individual States, they have certain advantages and disadvantages when compared with domestic banks. Specifically these differences relate to where they may establish banking operations in the United States and to the nature of their activities and the terms on which the latter may be conducted. Also, the operations of foreign banks here do not fall directly within the ambit of the central bank even though they are of growing significance to the workings of monetary policy.

The enclosed draft bill is the outgrowth of the work of the System Steering Committee on International Banking Regulation which the Board established in February 1973. Part of that Committee's assignment was to review the activities of foreign banks in this country because of their growing importance in the functioning of U.S. money and credit markets and their increasing impact on the structure of the banking system. As a result of that review, the Board is convinced that the time has come for the establishment of a national policy on the entry and operations in the United States of foreign banking institutions.

The underlying principle embodied in the draft legislation is national treatment, or nondiscrimination, a principle long advocated by the United States in its international economic and financial relations. Following this principle, the legislation would subject the entry and activities of foreign banks to the same rules and regulations as comparable domestic banking institutions. In this way, foreign banks would continue to be welcome in the United States to operate on a fair and equitable basis. The legislation would also provide for a Federal presence in the licensing and supervision of foreign bank operations in order to assure uniformity of treatment and to enable a national approach to multinational banking issues.

The Board believes that adoption of this legislation would be in the national interest and strongly recommends its prompt consideration.

Enclosed for your reference are: a copy of the draft bill; a paper indicating the technical changes made in the December 1974 version; a summary of the principal features of the bill; and a section-by-section analysis. Please let me know if I can be of further assistance.

Sincerely yours,

ARTHUR F. BURNS.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, FOREIGN BANK ACT OF 1975—SUMMARY OF PRINCIPAL FEATURES

The proposed legislation, entitled for Foreign Bank Act of 1975, would establish a national policy on foreign banks entering and operating in the United States and a system of Federal regulation and supervision of those operations.

Foreign banks have in recent years been coming to the United States in increasing numbers and operating through branches, agencies, and subsidiary banks. The scale and nature of foreign bank activities through these facilities is now significant in terms of competition within the banking industry and of the functioning of money and credit markets. This movement by foreign banks into the United States is part of the broader development of multinational banking in which United States banks are deeply involved through their extensive operations overseas. The multinational banking system that has evolved as a result of the establishment by the world's leading commercial banks of banking and financing facilities on a global basis is now a key element in the world's financial system. Its functioning has far-reaching ramifications for international financial policy and for the economic and financial policies of individual nations.

At the present time, foreign banks entering and operating in this country do so on terms and conditions almost exclusively determined by the laws and regulations of the various States. The uneven incidence of these laws and regulations has the result that in some States foreign banks are precluded from entry; in others, the form of organization and the nature of their activities are restricted in various ways. On the other hand, by careful choice of organization form, foreign banks are able to engage in deposit banking activities in several States, an opportunity presently not available to domestic banks. Also, in contrast to the large United States banks, a number of foreign banks conducting sizable banking operations through branches and agencies are not subject to the constraints imposed by the Bank Holding Company Act on nonbank activities. Few foreign banks are members of the Federal Reserve System; as a consequence, a growing and increasingly important sector of money market and credit operations is not directly subject to the monetary disciplines of the central bank. Finally, existing arrangements provide only a limited role for the Federal Government in regulating and supervising the entry and operations of foreign banks in this country despite the fact that foreign bank operations in this country and their treatment here have important implications for our external financial policy and for our relations with foreign governments.

The proposed legislation seeks to regularize the status of foreign banks in the United States on the basis of the principle of national treatment, or nondiscrimination. Its provisions are aimed at providing foreign banks with the same opportunities to conduct activities in this country as are available to domestic banking institutions and subjecting them to the same rules and regulations. In this way, equitable treatment would be afforded to comparable institutions competing in the same national market. The legislation also provides for a Federal Government role in licensing and supervising foreign bank operations because of the national policy considerations involved and would bring most of those operations directly within the purview of the Federal Reserve as the nation's central bank. The ways in which the legislation seeks to implement these general objectives are described in the following sections.

COVERAGE

At the present time, foreign banks operating in the United States exclusively through branches and agencies are not subject to the Bank Holding Company Act. Moreover, the branches and agencies of foreign banks that are subject to that Act because of their ownership of a subsidiary bank are not considered as additional "banks" for purposes of the Act. This situation is remedied

by Section 2 of the bill which amends the Bank Holding Company Act to redefine "bank" to include branches and agencies of foreign banks established or operating under the laws of the United States, any State of the United States, or the District of Columbia, at which deposits are received, credit balances are maintained incident to or arising out of the exercise of commercial banking powers, checks are paid, money is lent, or other commercial banking activities are performed. As a result, the Bank Holding Company Act would apply to virtually all foreign banks conducting depository and bank lending functions in the United States.

These amendments to the Bank Holding Company Act would not extend to New York State Investment Companies nor to certain banking organizations that are joint ventures or consortia of foreign banks. New York State Investment Companies are organized under Article XII of the New York banking law and are empowered to transact virtually all the usual activities of a commercial bank, except that they may not engage in the general business of accepting deposits. Instead, they are limited to accepting credit balances from their customers that are incident to or arise from the exercise of their lawful powers. There are currently three of these Companies that are foreign-owned and conduct the essence of a commercial banking business in this manner. Two of these Companies are wholly-owned subsidiaries of foreign banking organizations, the other being a joint-venture or consortium formed by six foreign banks. At the same time, there are about nine domestically-owned Investment Companies that are active but which conduct essentially a domestic finance company business. The foreign-owned Investment Companies are excluded from coverage under these amendments because of the limited number involved and because of the difficulty of distinguishing those Companies on a nondiscriminatory basis from the domestically-owned companies that are not essentially engaged in a commercial banking function.

Some banking organizations that are joint ventures or consortia of foreign banks will be excluded from coverage by retaining the existing standards of control in the Bank Holding Company Act. Under those standards, a company must become a bank holding company if it controls 25 per cent or more of the voting stock of a bank. Thus, a bank owned by several companies, none of which owns 25 per cent of the bank, is excluded. Currently, there is only one institution of significance that falls in this category, the European-American Bank and Trust Company. That institution, which is owned by six European banks, recently became a member of the Federal Reserve System. The singularity of such joint ventures to date, together with the potential domestic repercussions of changing the existing control sandards of the Bank Holding Company Act, are the principal reasons for excluding these joint ventures or consortia from coverage of the Act.

EQUALITY OF TREATMENT

This objective is achieved by subjecting all foreign banks to the Bank Holding Company Act through the redefinition of "bank" (Section 2 of the bill as just described), by enlarging entry alternatives through facilitating ownership of national banks (Section 12) and enabling the establishment of a Federally-licensed branch (Section 18), by permitting foreign banks and subsidiary U.S. banks thereof to own Edge Corporations (Section 10), by requiring Federal Reserve membership in most instances (Sections 3 and 5–8), and through enabling FDIC insurance on deposits in branches and agencies (Section 17).

ENTRY ALTERNATIVES

The provisions of Sections 12 and 18 would provide an alternative to State chartering and licensing, comparable to that available to domestic banks. At present, foreign ownership of national banks is inhibited by the requirement that all directors of national banks shall be citizens of the United States. The proposed amendment to the National Bank Act would allow the Comptroller of the Currency to permit not more than one-third of the directors of a national bank to be non-citizens of the United States.

The Comptroller is also authorized to license branches of a foreign bank in any State to conduct a banking business on the same basis as a national bank. This would enable foreign banks to establish branches in States where such branches are prohibited or not permitted by State law. Establishment of such branches would, however, be subject to the provisions of the Bank Holding Company Act with respect to multi-State banking operations.

EDGE CORPORATIONS

Domestic banks are presently authorized to own Edge Corporations at various locations in the United States to conduct international lending and deposit activities. Under Section 25(a) of the Federal Reserve Act, however, a majority of the shares of an Edge Corporation must be owned or controlled by citizens of the United States. Moreover, all of the directors of an Edge Corporation must be citizens of the United States. The proposed amendments to this Section would give the Board of Governors the authority to waive these provisions and, consequently, to allow foreign banks to conduct international business throughout the country on the same basis as domestic banks.

FEDERAL RESERVE MEMBERSHIP

The foreign banks operating in the United States are with few exceptions very large banks when their activities are viewed on a world-wide basis. As such, they are direct competitors, both in this country and abroad, of the large U.S. money market banks, all of which are members of the Federal Reserve System. The legislation would require Federal Reserve membership for all foreign banking operations in the United States where the foreign bank involved had world-wide assets in excess of $500 million. Such foreign banks would have to maintain reserve requirements and conform to other provisions of the Federal Reserve Act with respect to their operations in the United States, and would have access to the discount and lending facilities of the Federal Reserve. The exception made for foreign banks with less than $500 million in world-wide assets is on the grounds that banks of that size are likely to come to the United States for specialized purposes and that such treatment is comparable to that given domestic banks. Only a handful of domesic banks with assets larger than $500 million are nonmember banks.

FDIC INSURANCE

Subsidiary banks of foreign banks are now required by the Bank Holding Company Act to carry Federal Deposit Insurance. The legislation would extend that requirement to branches and agencies of foreign banks, thus assuring that depositors in virtually all banking institutions in the United States are covered by insurance. Because of the possible technical problems in implementing this requirement with respect to institutions that are not incorporated in the United States, the bill directs the Federal Deposit Insurance Corporation to submit within 90 days of its enactment proposals to extend insurance coverage to deposits in branches and agencies.

FEDERAL GOVERNMENT PRESENCE

To assure a consistent national policy toward foreign banks and to enable consideration of international financial relations in the entry of foreign banks, the legislation provides in section 25 that a Federal banking license shall be obtained for all banking facilities of foreign banks, whether organized or operating under State or Federal law. The Comptroller of the Currency is designated as the Federal licensing agent for this purpose. However, the Secretary of the Treasury must approve the issuance of any such license and before granting approval he is required to consult with the Secretary of State and the Board of Governors of the Federal Reserve System. Similarly, the Board of Governors is required to consult with the Secretary of State and Secretary of the Treasury before chartering an Edge Corporation to be owned by a foreign bank.

To facilitate discussions and agreements with foreign authorities on multinational banking issues, section 24 of the bill authorizes the Federal supervisory authorities—the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation—to enter into mutual arrangements with foreign bank supervisory authorities for the interchange of information on banking institutions. At present, the Federal supervisory agencies are strictly limited by law on the disclosure of information arising from bank examinations or other sources in the course of exercise of their supervisory functions.

GRANDFATHERING PROVISIONS

Foreign banks presently conducting banking operations in the United States have in a number of instances commercial banking facilities in more than one State. In a few cases, they have ownership interests in companies engaged in a securities business in the United States and in other nonbanking activities that are not permissible to domestic banks. Under the provisions of the bill, future multi-State banking operations and ownership interests in securities and other nonbanking companies would be limited to the same extent as domestic banks.

The proposed legislation in sections 3 and 4 gives permanent grandfather status to existing banking and nonbanking operations. Such a grant recognizes the vested interest of foreign banks in these facilities, conforms broadly to this country's obligations under its treaties of friendship, commerce and navigation, and is generally consistent with past Congressional precedent. The grandfathering date is set at the date of the original introduction of the legislation in Congress i.e., December 3, 1974. Nonconforming banking facilities established after the grandfathering date would have to be divested within two years, unless extended for up to an additional three years by the Board of Governors. Nonconforming nonbanking interest acquired after the grandfathering date would have to be divested within a period of 10 years.

The grandfathering provisions with respect to multi-State banking operations would work as follows: foreign banks would be allowed to retain banking facilities in the States in which presently located. The principal State of operations for foreign banks that become bank holding companies as a result of the enactment of this legislation would be defined to be the State in which the foreign bank's operations are the largest, as determined by a total assets test. For foreign banks that became subject to the Bank Holding Company Act prior to the date of enactment of the legislation, their principal State of operations would remain the same as when they became a bank holding company. In its principal State, a foreign bank would be able to expand its operations through any form of organization as permitted by State law: additional branching, mergers, and acquisitions. Outside the principal State of operations, a foreign bank would be able to expand through the form in which its present operations in that State are conducted—i.e., additional branches if it had branches, additional agencies if it had agencies, or if it had a subsidiary bank, that

bank could expand by branching or mergers. However, the foreign bank would be able to convert its operations in that secondary State to another form of organization provided that all of its operations in that State were so converted. In essence, a foreign bank would be able to retain its operations in the States in which it is located and to expand within those States in accordance with State law.

The securities affiliates of foreign banks are few in number and small in size with little competitive impact within the securities or banking industries. For the most part, these securities affiliates engage in brokerage activities for the foreign customers of the foreign bank and in corporate financial services such as advice on mergers and acquisitions. The underwriting and dealing activities of these securities affiliates are relatively small. The permanent grandfathering of these affiliates reflects the Board's judgment that no public purpose would be served by requiring divestiture. However, the foreign banks with grandfathered securities affiliates would not be allowed to acquire or to establish *de novo* additional securities affiliates.

The other nonbanking affiliates of foreign banks that are of a nonconforming nature are limited in number and significance. Providing permanent grandfathering status to these activities again reflects a judgment that no public purpose would be served by forcing divestiture of these interests or providing a limited grandfathering period.

SECTION-BY-SECTION ANALYSIS OF THE BILL

SECTION 1. Citation of Act:

This section provides that the Act may be cited as the Foreign Bank Act of 1975.

AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 2. Section 2(1) would make a technical conforming amendment in subsection (a) of section 2 of the Bank Holding Company Act by striking out "paragraph (5)" in paragraph (1) thereof and inserting in lieu thereof "paragraph (6)". This change reflects the fact that section 2(2) of the Bill would add a new paragraph (5) to subsection (a) of section 2 of the Bank Holding Company Act and would redesignate the present paragraph (5) of subsection (a) as paragraph (6).

Section 2(2) would redesignate paragraphs (5) and (6) of subsection (a) of section 2 of the Bank Holding Company Act as paragraphs (6) and (7), respectively, and would add a new paragraph (5) to subsection (a) which would provide that for the purposes of the Bank Holding Company Act, any company which is a foreign bank shall also be deemed to have control over a bank, if such bank is a branch or agency of the foreign bank established or operating under the laws of the United States, any State of the United States, or the District of Columbia. Since the acquisition of control over a bank or over a bank holding company requires prior Board approval under the Bank Holding Company Act and because the present provisions of the Bank Holding Company Act primarily look to control by share ownership or control over shares, it is necessary to include an explicit "control" provision covering foreign bank branches or agencies which are not separately incorporated entities, in order to ensure that a foreign bank with a branch or agency in any State of the United States or the District of Columbia would technically be deemed to have "control" over such branch or agency for purposes of the Bank Holding Company Act.

Section 2(3) would amend subsection (b) of section 2 of the Bank Holding Company Act by adding a new term—"company covered in 1975"—which is defined to mean any company which becomes a bank holding company as a result of the enactment of the Foreign Bank Act of 1975, and which would have been a bank holding company on December 3, 1974, if that Act had been enacted on that date. This term is used in the new subsection (g) of section 3 of the Bank Holding Company Act, which is proposed in section 3(4) of the Bill, and in paragraph (2) of subsection (a) of section 4 of the Bank Holding Company Act, as it would be amended by section 4 of the Bill, which sections deal, respectively, with the grandfathering of banking and nonbanking subsidiaries of such companies.

Section 2(4) would make the following changes in the definition of "bank" in subsection (c) of section 2 of the Bank Holding Company Act:

(1) The new subsection (c) would first change existing law by excluding from the definition of "bank", banks organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands. These places have been considered foreign countries for the purposes of section 25 and section 25(a) of the Federal Reserve Act, which sections govern the establishment of foreign branches by national banks [§ 25], and the acquisition of foreign banks by national banks either directly [§ 25], or through an Edge corporation [§ 25(a)]. Accordingly, banks organized under the laws of these places will be considered foreign banks for purposes of the Bank Holding Company Act and thus the acquisition of control over such banks will not require prior Board approval under section 3 of the Bank Holding Company Act.

(2) The new subsection (c) would change existing law by including within the definition of bank a branch or agency of a foreign bank established or operating under the laws of the United States, any State of the United States, or the District of Columbia, at which deposits are received, credit balances are maintained incident to or arising out of the exercise of commercial banking powers, checks are paid, money is lent, or other commercial banking activities are performed. This definition also makes it clear that the definition of "bank" in section 2(c) of the Bank Holding Company Act would specifically not include representative offices of foreign banks or any other offices of foreign banks at which no commercial banking activities are performed, e.g., an office of a foreign bank at which only investment banking activities are performed.

(3) Under existing law, "any organization which does not do business within the United States except as an incident to its activities outside the United States" is excluded from the definition of bank in subsection (c) of section 2 of the Bank Holding Company Act. In order to make it clear that this exclusion cannot be construed to include agencies or branches of foreign banks, the second sentence of the new subsection (c) would change this exclusion by specifically narrowing it to include only State-chartered Edge Act-like corporations which do no business in the United States except as an incident to their international banking activities outside the United States, such as American Express International Banking Corporation, which is organized under the laws of the State of Connecticut and which has an agency in New York City.

Section 2(5) strikes out "or (3)" in subsection (d) of section 2 of the Bank Holding Company Act and inserts in lieu thereof "(3)".

Section 2(6) would include within the definition of subsidiary in subsection (d) of section (2) of the Bank Holding Company Act, with respect to any bank holding company which either is a foreign bank or has a subsidiary which is a foreign bank, any branch or agent of such foreign bank that is established or operating under the laws of the United States, any State of the United States, or the District of Columbia. As in the case of "control" in subsection (a) of section 2 of the Bank Holding Company Act, this amendment is necessary because branches and agencies are not separately incorporated entities. Accordingly, this amendment ensures that branches and agencies will be treated the same as any other banking subsidiaries of a holding company for purposes of the Bank Holding Company Act.

Section 2(7) would add three new definitions to Section 2 of the Bank Holding Company Act:

(1) The new subsection (j) of section 2 would define foreign bank to mean any company that is organized or created under the laws of a foreign country and which is principally engaged in the banking business outside the United States. The term is explicitly defined to include, without limitation, foreign commercial banks, foreign merchant banks, and other foreign institutions which engage in banking activities usual in connection with the transaction of the business of banking in the countries where such foreign banks are organized or created. Accordingly, in determining what is a foreign bank for purposes of the Bank Holding Company Act, the traditional domestic definition of accepting demand deposits and making commercial loans will not apply.

(2) The new subsection (k) of section 2 would define the term foreign country to mean any country other than the United States and any colony, dependency, or possession thereof, and includes, for the purposes of the Bank Holding Company Act, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands. The addition of subsection (k) to section 2 would change existing law by making banks organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands foreign banks for purposes of the Bank Holding Company Act. As noted in the section analysis of section 2(4) of the Bill, such banks are presently considered foreign banks for the purposes of section 25 and section 25(a) of the Federal Reserve Act.

(3) The new subsection (l) of section 2 of the bank Holding Company Act would add a new term—"foreign bank holding company covered in 1975"—which is defined to mean a company that became a bank holding company prior to the date of enactment of the Foreign Bank Act of 1975 and which has a subsidiary that is defined as a "bank" as a result of the enactment of the Foreign Bank Act of 1975. This term is used in the new subsection (g) of section 3 of the Bank Holding Company Act, which is proposed in section 3(3) of the Bill, regarding the grandfathering of multi-State banking subsidiaries of such companies.

SEC. 3. Section 3(1) of the Bill would amend subsection (b) of section 3 of the Bank Holding Company Act by adding the requirement that the Board must give notice (1) to the Comptroller of the Currency when it receives an application by a bank holding company to acquire a branch of a foreign bank established under section 18 of the Foreign Bank Act of 1975, i.e., a federal branch established under section 18 of this Bill, or a branch or agency of a foreign bank established or operating under the Code of Law for the District of Columbia, and (2) to the appropriate State supervisory authority when it receives an application by a bank holding company to acquire a branch or agency of a foreign bank established or operating under the laws of any State of the United States. Under Section 3(a) of the Bank Holding Company Act, before a foreign bank establishes any new branch or agency in the United States, such foreign bank and any company of which such foreign bank is a subsidiary, would have to obtain the Board's approval to establish such branch or agency under the Bank Holding Company Act since the foreign bank would be taking

action that causes it and any company of which it is a subsidiary to become a bank holding company under § 3(a)(1) of the Bank Holding Company Act, or which causes a bank to become a subsidiary of a bank holding company under section 3(a)(2) of the Bank Holding Company Act. This addition merely requires the Board to give notice to the Comptroller when the foreign bank proposes to establish a federal branch (see section 18 of the Bill) or a branch or agency in the District of Columbia, and to give notice to the State bank supervisory authority when it proposes to establish a branch or agency under the laws of any State. The ultimate effect, however, of this section of the Bill is to give the appropriate supervisory authority the right to recommend disapproval of the application and require a hearing under § 3(b) of the Bank Holding Company Act before any Board approval. This treatment conforms with the present requirements of the statute with respect to the acquisition of domestically incorporated banks.

Section 3(2) of the Bill would first amend subsection (d) of section 3 of the Bank Holding Company Act by striking out "Notwithstanding any other provision of this section," in the first sentence thereof and inserting in lieu thereof "Except as provided in subsection (g) of this section,". The purpose of this amendment is to exclude from the multi-State prohibitions of subsection (d) of section 3 of the Bank Holding Company Act those banking subsidiaries of foreign banks which would be given specific grandfather treatment under the new subsection (g) of section 3 of the Bank Holding Company Act proposed in section 3(3) of the Bill. Section 3(2) would also amend subsection (d) by adding a new proviso at the end thereof specifically designed to cover those companies which become bank holding companies as a result of the enactment of the Foreign Bank Act of 1975. Under subsection (d) of section 3, a bank holding company's State of principal banking operations for purposes of section 3 is determined by looking to the State where the deposits of its banking subsidiaries are largest. In the case of branches of foreign banks, however, deposits, or similar credit balance accounts for agencies, are not the best measure of their size because of their overwhelmingly wholesale banking business. A better measure of their business for purposes of section 3 would be to determine their principal State of operations by looking to that State in which their assets are greatest, which test is adopted in the new proviso at the end of setcion 3(d).

Section 3(3) would add three new subsections to section 3 of the Bank Holding Company Act:

(1) The new subsection (f) should require every bank that is a subsidiary of a holding company (1) which is a foreign bank having total world-wide bank assets in excess of $500,000,000, (2) is organized under the laws of a foreign country, and owns or controls a foreign bank having total world-wide bank assets in excess of $500,000,000, or (3) of which control is held, directly or indirectly, by the shareholders of a foreign bank having total world-wide bank assets in excess of $500,000,000, the majority of whom are not citizens of the United States, or companies controlled by citizens of the United States, to become and remain a member bank of the Federal Reserve System.

(2) The new subsection (g) would first grandfather for companies covered in 1975 and foreign bank holding companies covered in 1975, as such terms are defined in the Bill, all branches and agencies of foreign banks which, as a result of the enactment of the Foreign Bank Act of 1975, are defined as banks under section 2(c) of the Bank Holding Company Act and which such company had established on or before December 3, 1974 (the date the Bill was originally introduced in Congress). After the date of enactment of the Foreign Bank Act of 1975, no bank holding company or subsidiary thereof would be able to establish or operate an additional branch or agency of a foreign bank outside of its State of principal banking operations unless (1) the establishment and operation of such a branch or agency is specifically authorized to State banks by the statute laws of the State in which the operation of such bank holding company's banking subsidiaries are principally conducted as determined in subsection (d) of section 3 of the Bank Holding Company Act, by language to that effect and not merely by implication, and (2) the statute laws of the State in which such branch or agency is to be located specifically authorize an out-of-State bank organized under the laws of the State in which the operations of such bank holding company's banking subsidiaries are principally conducted, as determined in subsection (d) of this section, to establish or operate such a branch or agency, by language to that effect and not merely by implication. This provision is intended to ensure that a foreign bank has no greater interstate branching rights than a State bank whose principal office is located in the foreign bank's State of principal banking operations. However, a proviso in the new subsection (g) would allow companies covered in 1975 or foreign bank holding companies covered in 1975 or any subsidiary thereof to establish additional branches in accordance with State law, in States where they had a branch established on or before the grandfathering date, and to establish additional agencies in accordance with State law, in States where they had established an agency on or before the grandfathering date. Basically, this proviso is intended to allow such companies to expand naturally their multi-State banking offices in accordance with State law. Such companies are, however, restricted to expanding in the same form of organization which they had on the grandfathering date. The third sentence of the new subsection, however, modifies the preceding proviso to some extent, by allowing such bank holding companies or their subsidiaries to convert their multi-State branches or agencies to another form of banking organization without their being deemed to have acquired an additional bank under section 3 of the Bank Holding Company Act. For example, a company whose principal State of operations is New York but which also has an agency in California, may convert its California agency to a State or Federal branch without its being deemed to have acquired an additional bank. The fourth sentence ensures that any such conversion will not cause such a bank holding company or subsidiary thereof to lose its expansion rights under the proviso in the second sentence, as after conversion, the bank holding company could continue to expand in its converted form of organization. Thus, a company with grandfathered foreign bank branches or agencies in States outside of its State of principal operations could (a) expand in the same form of organization which it had established on or before the grandfathering date or (b) expand in those States by converting its grandfathered branch or agency into a more desirable form of banking organization, including a stock association or corporation, and by then continuing to expand in that converted form of organization, e.g., if converted to a branch it could acquire additional branches, if converted to an agency it could acquire additional agencies, or if converted to a stock association or corporation it could open branches or merge with other banks under section 3(a)(4) of the Bank Holding Company Act. For purposes of the new subsection (g), a bank holding company would be deemed to have "established" a branch or agency on or before the grandfathering date, if it or its subsidiary had received approval from the appropriate State banking authorities. The last sentence of the new subsection (g) provides that no companies covered in 1975, no foreign bank holding companies covered in 1975, and no subsidiaries thereof can have both (1) a branch and agency of the same foreign bank, (2) a branch of a foreign bank and a national or State bank, or (3) an agency of a foreign bank and a national or State bank, in any State outside of their State of principal banking operations unless both of those types of banking subsidiaries in such State were established or acquired on or before the grandfathering date. The purpose of this latter provision is to ensure that outside of their State of principal banking operations, foreign banks be permitted to expand only in their grandfathered (or converted) form of banking organization.

(3) The new subsection (h) would require that all branches and agencies of foreign banks that are not grandfathered be divested or liquidated within two years of the date of enactment of the Foreign Bank Act of 1975. The Board is, however, given the option of extending such period of divestment a year at a time up to an additional three years, in total, if it determines such an extension would be in the public interest.

Under section 4(1) of the Bill, paragraph (2) of subsection (a) of section 4 of the Bank Holding Company Act would be amended in the following respects:

(1) In the case of companies being brought under the Bank Holding Company Act by this legislation, they would have ten years to divest their nonpermissible nonbanking interests unless those interests were permanently grandfathered by the new proviso to paragraph (2) of subsection (a) which would also be added by section 4(1) of the Bill. This conforms with the treatment afforded one-bank holding companies covered by the 1970 Amendments to the Bank Holding Company Act.

(2) Section 4(1) would add a new proviso to paragraph (2) of subsection (a) of section 4 of the Bank Holding Company Act which would allow a company covered in 1974, as earlier defined in section 2(3) of the Bill, to engage in the activities in which it was directly or through a subsidiary engaged on December 3, 1974. An additional provision would also be added that would allow a bank holding company to engage in those activities carried on by it as a result of the acquisition by it or by one of its subsidiaries, pursuant to a binding written contract entered into on or before December 3, 1974, of another company engaged in such activities at the time of that acquisition. This latter provision is proposed in order to prevent inequities from arising with regard to a company which may have, in good faith, entered into a binding written contract to acquire a new subsidiary on or before December 3, 1974, and which otherwise would have been required under the provisions of this legislation to divest such a subsidiary, even though it was legally committed to make the acquisition before the "grandfather date".

(3) Section 4(1) would also amend paragraph (2) of subsection (a) of section 4 of the Bank Holding Company Act by extending the discretionary review provisions contained therein to the grandfathered activities of companies covered in 1975. The mandatory review provisions of that paragraph, i.e., those requiring review within two years for a holding company that has a bank with bank assets exceeding $60 million, would be limited as now to those companies that became bank holding companies as a result of the enactment of the Bank Holding Company Act Amendments of 1970 and which would have been a bank holding company on June 30, 1968, if those amendments had been enacted on that date. The grandfathered nonbanking activities of foreign banks that

would be brought under the Bank Holding Company Act by this legislation could thus be terminated if the Board determines, after opportunity for hearing, that such action would be necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

(4) Section 4(1) of the Bill would also amend paragraph (2) to make it clear that the grandfathering provision would first, not authorize any foreign bank brought under the Bank Holding Company Act by this legislation to engage in grandfathered activities through the acquisition, pursuant to a contract entered into after December 3, 1974, of any interest in or the assets of a going concern engaged in such activities. This amendment would parallel a similar restriction placed on the permanently grandfathered activities of companies covered by the 1970 Amendments. Secondly, section 4(1) would also amend paragraph (2) to make certain that the grandfathering provision would not authorize any foreign bank brought under the Bank Holding Company Act by this legislation to engage in investment banking activities in the United States through *de novo* acquisitions after the grandfathering date. Such a foreign bank would be limited to engaging in investment banking activities directly or through subsidiaries which it owned on the grandfathering date or which it had a binding legal commitment to purchase on or before the grandfathering date.

Section 4(2) would amend paragraph (12) of subsection (c) of section 4 of the Bank Holding Company Act by giving any company, which becomes, as a result of the enactment of the Foreign Bank Act of 1975, a bank holding company on the date of such enactment, the same choice of remaining a bank holding company as that given one-bank holding companies covered by the 1970 Amendments to the Bank Holding Company Act. Essentially, this section would exempt shares retained or acquired by a company brought under the Bank Holding Company Act by this legislation if the company ceased to be a bank holding company within applicable time limits, or if the company ceased to retain ownership or control of those shares and to engage in nonpermissible nonbanking activities within applicable time limits and complied with whatever conditions the Board may deem appropriate.

Section 4(3) would amend subsection (c) of section 4 of the Bank Holding Company Act by striking the period in paragraph (13) and inserting in lieu thereof"; or" and by adding a new paragraph (14) which would exempt from the prohibitions of section 4 of the Bank Holding Company Act shares owned directly or indirectly by a company covered in 1975, as earlier defined in section 2 (3) of the Bill, in any company which does not engage in any activities other than those in which the bank holding company, or its subsidiaries, may engage by virtue of section 4 of the Bank Holding Company Act, but nothing in this pargaraph would authorize any such bank holding company, or subsidiary thereof, to acquire (1) any interest in or the assets of any going concern (except pursuant to a binding written contract entered into before December 3, 1974, or pursuant to another provision of this Act) other than one which was a subsidiary on December 3, 1974 or (2) any shares of, interest in, or the assets of any company, or any branch or agency of a foreign bank, engaged or to be engaged in the issue, floatation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities in the United States, other than one which was a subsidiary on December 3, 1974, or which was acquired pursant to a binding written contract entered into before such date. This provision parallels paragraph (11) of subsection (c) of section 4 of the Bank Holding Company Act which allows holding companies with permanently grandfathered activities to retain existing companies and to form *de novo* companies to engage in such grandfathered activities, but which does not allow such companies to acquire going concerns engaged in activities which are grandfathered for the bank holding company. This provision would, however, in addition, prohibit any company covered in 1975 from acquiring *de novo* investment banking companies or from establishing branches or agencies of foreign banks to engage only in investment banking activities under the authority of this paragraph. While Congress in 1970 felt that *de novo* companies engaged in grandfathered activities would be procompetitive, this factor should not outweigh the policies of the Glass-Steagall Act. Accordingly, foreign banks with grandfathered investment banking activities or affiliates may only conduct such activtites directly, if engaged in before the grandfathered date, or indirectly through subsidiaries acquired on or before the grandfathering date, or acquired pursuant to a binding written contract entered into before such date.

FEDERAL RESERVE ACT AMENDMENTS

SEC. 5. Section 5 of the Bill would amend the first paragraph of Section 1 of the Federal Reserve Act by including within the definition of "bank" any branch or agency of a foreign bank which is established or operating under the laws of any State of the United States. The purpose of this amendment is to include within the definition of bank, for purposes of the Federal Reserve Act, all branches and agencies of foreign banks estabilshed under State law. This amendment is thus included to ensure that in the provisions of the Federal Reserve Act all such branches and agencies will, except as otherwise provided, be treated the same as any other member bank.

Section 5 of the Bill would also amend the second paragraph of Section 1 of the Federal Reserve Act by adding a new term—"federal branch bank"—which is defined to mean any branch of a foreign bank established and operating under section 18 of the Foreign Bank Act of 1975. This term is then included within the definition of "member bank" in the following sentence. These branches will be specifically required to become members of the Federal Reserve System by the provisions of the Federal Reserve Act itself. A conforming amendment is also made to the first paragraph of Section 1 to reflect that the term "bank" will not include a State bank, banking association, and trust company, and any branch or agency of a foreign bank established or operating under the laws of any State of the United States where a Federal branch bank is specifically referred to.

SEC. 6. Section 6(1) of the Bill would amend the last sentence of the first paragraph of Section 2 of the Federal Reserve Act to require all branches of foreign banks established and operating under Section 18 of this Bill, i.e., federally established branches, to become members of the Federal Reserve System and to become "insured banks" under the Federal Deposit Insurance Act.

Section 6(2) of the Bill would amend Section 2 of the Federal Reserve Act by adding a new sentence to the third paragraph thereof which would require branches of foreign banks established and operating under Section 18 of this Bill, i.e., federally established branches, to subscribe to the capital stock of the Federal Reserve bank of their district in a sum equal to 6 per centum of the paid capital stock equivalent required to be deposited by the foreign bank holding a certificate of authority to establish and operate such federal branch bank, which would be payable in the same manner as that prescribed for a national bank under the Federal Reserve Act.

Section 6(3) of the Bill would first amend Section 2 of the Federal Reserve Act by inserting after the second sentence in the sixth paragraph thereof a new sentence which would provide that any branch of a foreign bank established and operating under section 18 of the Foreign Bank Act of 1975 would forfeit all of its rights, privileges, and franchises under that section and the Federal Reserve Act should it fail to become a member bank or otherwise fail to comply with the provisions of the Federal Reserve Act. Any noncompliance with or violation of the Federal Reserve Act would be determined in the same manner applicable to national banks as set forth in that same paragraph.

Section 6(3) would also add a proviso to the above new sentence which would provide that, except as otherwise provided in the Federal Reserve Act, any reference in the provisions of the Federal Reserve Act to the capital stock and surplus of a member bank or national banking association shall for the purpose of applying any restrictions or limitations in any such provisions to any federal branch bank be deemed to be a reference to the dollar equivalent amount of the capital stock and surplus of the foreign bank holding a certificate of authority to establish and operate such federal branch bank. Several provisions of the Federal Reserve Act look to the capital stock and surplus of a member bank for imposing certain conditions or restrictions, e.g., Federal Reserve Bank discount of paper of one borrower (12 U.S.C. 345), acceptances by member banks (12 U.S.C. 372), bank acceptances to create dollar exchange (12 U.S.C. 347c), and loans to affiliates and investment in, or loans on, their obligations (12 U.S.C. 371c). Since a branch of a foreign bank established under Section 18 of this Bill does not have its own capital stock and surplus, the parent foreign bank's capital stock and surplus would be used for the above-described tests. Were any such provisions based on such branch's capital stock equivalent, it would set limits so low as to make any such branch's operations unfeasible. Since the parent foreign bank is ultimately liable for the debts of its branch, basing these limitations on such parent's capital and surplus is a reasonable solution and one that has generally been adopted by the States currently licensing branches. However, a second proviso is also added which would require a foreign bank with more than one federal branch bank in any State to aggregate the accounts of all such branch banks for computing any of the above-described limitations, e.g. loans to affiliates by all branches in that State would be aggregated against the parent's capital and surplus.

SEC. 7. Section 7 of the Bill would amend the first paragraph of Section 6 of the Federal Reserve Act by adding a new provision at the end thereof designed to anticipate those circumstances which indicate when a branch or agency of a foreign bank effectively becomes insolvent. Since a branch or agency is but an unincorporated part of its parent foreign bank, it cannot fit within the traditional concept of insolvency as applied to most independent legal entities. Accordingly, the new provision looks to those instances where the parent foreign bank loses its license or certificate of authority to operate such a branch or agency, or when a receiver has been appointed for such branch or agency, or when the parent foreign bank is declared insolvent or a receiver appointed therefor, or is dissolved or its authority or existence is otherwise terminated or cancelled under the jurisdiction of its incorporation.

SEC. 8. Section 8 of the Bill would amend section 9 of the Federal Reserve Act by add-

ing at the end thereof a new paragraph which would enable branches and agencies of foreign banks established or operating under the laws of any State of the United States to become members of the Federal Reserve System. Such branches or agencies could continue to exercise all powers granted to them by the State in which they were established or operating and would be entitled to all the privileges of member banks and would be subject to the same provisions of law as a State member bank except that (1) the branch or agency could use the capital stock and surplus of its parent foreign bank for the purposes of computing any requirements, limitations, or restrictions imposed under the provisions of the Federal Reserve Act; provided, however, that any foreign bank which has more than one branch or more than one agency in any State, shall be required to aggregate the accounts of all such branches or agencies in such State for the purpose of computing any restrictions or limitations in any such provisions; and provided further, that every such branch or agency would subscribe to the stock of the Federal Reserve Bank of its district in an amount equal to either six per centum of the paid-in capital stock equivalent which is required under State law to be deposited by the foreign bank licensed or authorized to establish and operate any such branch or agency, or if there is no such requirement under State law, six per centum of the paid-in capital stock equivalent which would be required of a foreign bank for the establishment of a federal branch bank in the place in which it is located; and (2) nothing in the provisions of the Federal Reserve Act would authorize the Board of Governors of the Federal Reserve System to appoint examiners to examine the home office or foreign branches or agencies of the foreign bank licensed or authorized to establish and operate such branch or agency, or to regulate the organization or internal affairs of such foreign bank. The first of these exceptions recognizes that a branch or agency of a foreign bank must be able to utilize the capital stock and surplus of its parent foreign bank for computing limitations under the Federal Reserve Act, else it would be unable to operate effectively. However, it is also recognized that foreign banks with Statewide branching or agency systems should be required to aggregate the accounts of all such branches or agencies for the purpose of computing limitations, in order not to give such foreign banks a competitive advantage over State banks with similar Statewide systems. The second exception recognizes that the Board's authority to examine and regulate a foreign bank only applies to its branches and agencies (and incorporated banking subsidiaries) in this country, as such foreign bank's home office and foreign branches and agencies are subject to separate examination and regulation by the banking authorities in those jurisdictions.

SEC. 9. Section 9 of the Bill would amend Section 23A of the Federal Reserve Act by adding a new paragraph at the end thereof. In general, Section 23A of the Federal Reserve Act limits the aggregate amount of loans to affiliates and investments in the capital stock, bonds, debentures, or other obligations of affiliates which may be made by member banks to twenty per centum of such member bank's capital stock and surplus. Within the foregoing limitations, Section 23A also requires each loan or extension of credit by a member bank to an affiliate to be secured by appropriate collateral whose market value is at least 20 per centum more than the amount of the loan or extension of credit. The provisions of this section do not apply in general, however, to foreign bank affiliates of member banks, wholly-owned Edge corporations of member banks or wholly-owned subsidiaries of such Edge corporations. In order to give branches and agencies of foreign banks parallel treatment to that afforded domestic banks, Section 9 would not apply the provisions of Section 23A to (1) any extension of credit by such branch or agency to its parent foreign bank, or to any other branch or agency of such foreign bank; (2) any extension of credit by such branch or agency to a subsidiary, within the meaning of the Bank Holding Company Act of 1956, as amended, of its parent foreign bank which is organized under the laws of a foreign country and does no business within the United States except as an incident to its international or foreign business; and (3) any extension of credit to any bank holding company of which such branch or agency is a subsidiary or to another subsidiary of such bank holding company, if made within one year after the effective date of the Foreign Bank Act of 1975 and pursuant to a contract entered into prior to that date. The first exception recognizes that the provisions of Section 23A of the Federal Reserve Act logically do not apply to extensions of credit between a parent bank and its branches and agencies since they are all part of the same banking organization. The second exception parallels to a certain extent the exemption in Section 23A for foreign bank subsidiaries of member banks and wholly-owned subsidiaries of domestic member banks' wholly-owned Edge corporations. The third exception parallels treatment afforded banking subsidiaries of bank holding companies in the Bank Holding Company Act Amendments of 1966 by grandfathering extensions of credit made within one year of the effective date of the Foreign Bank Act of 1975, if made pursuant to a contract entered into prior to that date.

SEC. 10. Section 10 of the Bill would amend Section 25(a) of the Federal Reserve Act (the "Edge Act") in four respects:

Section 10(1) would amend the second sentence of the fourth paragraph of Section 25(a) of the Federal Reserve Act by adding a new provision that would give the Board the power to waive the requirement that all directors of an Edge corporation (corporations organized under Section 25(a) of the Federal Reserve Act) be citizens of the United States. This would facilitate foreign bank ownership of Edge corporations.

Section 10(2) would amend the second proviso of the first sentence of the twelfth paragraph of Section 25(a) of the Federal Reserve Act by adding a new provision that would give the Board the power to waive capital and surplus limitations imposed on the aggregate liabilities outstanding of Edge corporations. This new provision would benefit both foreign bank-owned and domestically-owned Edge corporations.

Section 10(3) is a conforming amendment as it would except from the foreign ownership prohibitions of the thirteenth paragraph of Section 25(a) of the Federal Reserve Act, foreign bank ownership approved under the new last paragraph which would be added to the section.

Section 10(4) would add a new paragraph to Section 25(a) of the Federal Reserve Act which would allow any foreign bank or any bank organized under the laws of the United States, and State of the United States or the District of Columbia, the controlling interest in which is owned by a foreign bank, group of foreign banks, or company organized under the laws of a foreign country which owns or controls a foreign bank, to own and hold a majority of the shares of an Edge corporation. However, any such foreign bank ownership would require prior approval of the Board and would be upon such terms and conditions and subject to such rules and regulations as it may prescribe. Any such foreign bank-owned Edge corporations shall be subject to the same provisions of law as any other Edge corporation. There is included a proviso, however, that the Board shall not approve any such foreign ownership and holding of the majority of the shares of an Edge corporation if, after consultation with the Secretary of State of the United States and the Secretary of the Treasury, it determines that such ownership or control would adversely affect the domestic or foreign commerce of the United States or would otherwise not be in the interest of the United States. Accordingly, while these provisions do permit direct and indirect foreign bank ownership of Edge corporations, they also give the Board the explicit power to consider what effects foreign bank ownership may have on the domestic or foreign commerce of the United States, or other interests of the United States.

NATIONAL BANK ACT AMENDMENTS

SEC. 11. Section 11 of the Bill would amend section 5133 of the Revised Statutes by adding a new proviso that would allow a national bank to be formed by or on behalf of a foreign bank, as defined in the Bank Holding Company Act of 1956, as amended. Any such formation would, however, be subject to the provisions of section 5169 of the Revised Statutes, as it would be amended by Section 13 of this Bill.

SEC. 12. Section 12 of the Bill would amend Section 5146 of the Revised Statutes by adding a new proviso that would give the Comptroller of the Currency the authority to permit not more than one-third of the directors of a national bank to serve as such without being a citizen of the United States.

SEC. 13. Section 13 of the Bill would amend Section 5169 of the Revised Statutes by adding a new provision which would give the Comptroller the power not to issue a certificate of organization for a national bank whenever, after consultation with the Secretary of State of the United States, the Secretary of the Treasury, and the Board of Governors of the Federal Reserve System, the Comptroller determines that it would adversely affect the domestic or foreign commerce of the United States, or would otherwise not be in the interest of the United States to grant such certificate.

AMENDMENTS TO THE BANKING ACT OF 1933

SEC. 14. Section 14 of the Bill would amend Section 2 of the Banking Act of 1933 by adding a new subsection (c) at the end thereof which, except where otherwise specifically provided, with respect to any member bank that is a branch or agency of a foreign bank, would define the term "affiliate" to include the foreign bank which is licensed or authorized to operate such branch or agency, any other branch or agency of such foreign bank and any affiliate of such foreign bank, as such term is defined in subsection (b) of Section 2 of the Banking Act of 1933. This amendment is necessary because the provisions of the Banking Act of 1933 do not contemplate a "bank" which is but a branch or agency of another bank and not a separately incorporated subsidiary thereof.

SEC. 15. Section 15(1) is a conforming amendment which inserts "or section 2(c)" after "section 2(b)" in the first sentence of Section 20 of the Banking Act of 1933. This amendment reflects the new definition of affiliate in Section 14 of the Bill.

Section 15(2) would amend Section 20 of the Banking Act of 1933 by adding a new proviso at the end of the first paragraph thereof which would except from the prohibitions of that section securities affiliates of a member bank which is a subsidiary, within the meaning of the Bank Holding Company Act of 1956, as amended, of a bank holding company which is permitted to retain its ownership or control of any voting shares of any such organization under the grandfathering provisions of section 4(1) of this Bill as they would amend section 4(a)(2) of the Bank Holding Company Act of 1956,

or, with the specific consent of the Board of Governors of the Federal Reserve System, under section 4(c)(9) of the Bank Holding Company Act of 1956. Under section 4(c)(9) of the Bank Holding Company Act, the Board has the authority to exempt from the prohibitions of section 4 of that Act shares owned by foreign bank holding companies if the Board determines such exemption to be consistent with the purposes of that Act and in the public interest. Some foreign banks have already become bank holding companies and have been ordered by the Board of Governors to divest their interests in securities affiliates in the United States under the authority of section 4(c)(9). Should Congress adopt the recommended grandfathering of the securities affiliates of branches and agencies of foreign banks, the Board could reconsider its prior divestiture orders under section 4(c)(9) and allow those few foreign bank holding companies affected to retain their securities affiliates. This provision would ensure that the provisions of the Banking Act of 1933 would conform to any such retention determination under section 4(c)(9) of the Bank Holding Company Act.

SEC. 16. Section 16 would amend Section 21 of the Banking Act of 1933 by amending clause (B) of subsection (A) thereof to include a reference to any person, firm, corporation, association, or similar organization permitted by the United States to engage in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, and subject by the law of the United States to examination and regulation. Essentially, this amendment recognizes that a foreign bank may lawfully engage in a deposit-taking business in the United States through the establishment of a federal branch under Section 18 of the Foreign Bank Act of 1975. The current provisions of the Banking Act of 1933 do not cover such a possibility and accordingly an amendment is needed in order to avoid any possible conflict between the federal branch provisions of this Bill and Section 21 of the Banking Act of 1933 which provides criminal penalties for any violation of its provisions.

FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS

SEC. 17. Section 17 of the Bill directs the Federal Deposit Insurance Corporation within ninety days after the enactment of the Foreign Bank Act of 1975, to submit to the Congress a proposal for implementing the existing provisions of the Federal Deposit Insurance Act so as to include within the coverage of such Act, branches and agencies of foreign banks established or operating under the laws of the United States, any State of the United States, or the District of Columbia.

ESTABLISHMENT OF FEDERAL BRANCHES BY FOREIGN BANKS

SEC. 18. This section provides for the establishment of federal branches by foreign banks.

Subsection (a). Paragraphs (2), (3) and (5) of this subsection would retain the position adopted in the proposed amendments to the Bank Holding Company Act of treating banks organized under the laws of the territories of the United States, Puerto Rico, Guam, American Samoa and the Virgin Islands as foreign banks for purposes of the section. It should be noted, however, that a "foreign bank" as defined in paragraph (2) must be a "corporation or similar organization" as, for example, a joint stock association, a majority of whose capital stock is not owned by citizens of the United States, or firms of companies, the controlling interest in which is owned by citizens of the United States. Foreign banks doing business as sole proprietorships, partnerships, and limited partnerships may not obtain a federal license to establish and operate a United States branch. The bankruptcy of a United States branch of a bankrupt foreign bank which is a sole proprietorship, partnership, or limited partnership is not a "banking corporation" for purposes of the Federal Bankruptcy Act and hence would not be exempt from the provisions of that Act. Accordingly, a conflict would be created between the receivership provisions of subsection (p) of this Section and the bankruptcy provisions of the Federal Bankruptcy Act. The other provisions are self-explanatory.

Subsection (b). Subsection (b) of Section 18 of the Bill would provide that, notwithstanding the laws of any State, a foreign bank may, upon receipt of a certificate of authority from the Comptroller of the Currency, establish and operate one or more branches in any State; provided, however, that no foreign bank may at any time in any State have both a branch established under this section and a branch or agency established or operating under the laws of such State. Under the amendments to the Bank Holding Company Act in Section 3 of the Bill, a foreign bank will not be permitted to establish any such branch if it violates the multi-State prohibitions of the Bank Holding Company Act.

Subsection (c). Subsection (c) of Section 18 of the Bill would allow a foreign bank, with the prior approval of the Comptroller of the Currency and pursuant to the requirements of subsections (d), (e), (f) and (g) of this section, to convert a branch, agency, or wholly-owned (except for directors' qualifying shares) subsidiary bank established or organized under State law, to a federal branch operating under this section; provided, however, that any such conversion could not be in contravention of State law. In any such case, the federal branch would assume all of the liabilities of the converting branch, agency, or bank. When the foreign bank would receive its certificate of authority to operate such a federal branch, such branch could thereafter be operated as any other federal branch. In addition, it is provided that such foreign bank, if it is converting a State branch, may retain and operate other branches in that State as additional branches under this Section; if it is converting a State agency, it may retain and operate any other agencies in such State as additional branches under this Section; and, if it is converting a State bank, it may retain and operate any branches of such State bank as additional branches under this Section. However, in any such retention, such foreign bank would be subject to the provisions of subsection (i) of this Section. This conversion feature would give a foreign bank flexibility as to the forms of organization in which it wishes to conduct its banking business.

This subsection would also give the Comptroller of the Currency the power to permit the foreign bank to retain and carry at a value to be determined by him such of the assets of the converted State branch, agency, or bank that do not conform to the legal requirements relative to assets held and acquired by branches established and operating under this section.

Subsection (d). Subsection (d) of Section 18 of the Bill would give the Comptroller of the Currency the power to require such information and prescribe such application forms as he may deem necessary to carry out the purposes of this Section.

Subsection (e). Subsection (e) of Section 18 would provide that the Comptroller must transmit a copy of any application for a certificate of authority to operate a branch under this section to the Secretary of State of the United States, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the State bank supervisory authority of the State where the branch is to be located, each of whom shall have thirty days to respond with their views and recommendations.

Subsection (f). Subsection (f) of Section 18 of the Bill would prohibit the Comptroller of the Currency from issuing a certificate of authority under this section if he finds the establishment of such a branch would either adversely affect the domestic or foreign commerce of the United States of would otherwise not be in the interests of the United States. In reaching any such determination, he shall take into account written comments of the Secretary of State, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the appropriate State bank supervisory authority. The Comptroller of the Currency in deciding every application would also have to take into account the financial and managerial resources and future prospects of the parent foreign bank and branch concerned, and the convenience and needs of the community to be served.

Subsection (g). Subsection (g) of Section 18 of the Bill would provide for the issuance by the Comptroller of the Currency of a certificate of authority to a foreign bank to establish and operate a branch under this section once he is satisfied that the provisions of the Section have been complied with.

Subsection (h). Subsection (h) of Section 18 of the Bill would provide that upon issuance of a certificate of authority, a foreign bank may establish and operate a branch at the location specified in the certificate and may conduct thereat its banking business with the same rights and privileges as a national bank at that location, and except as otherwise provided in this Section or the Federal Reserve Act subject to the same duties, restrictions, limitations, penalties and liabilities now or hereafter imposed on national banks under the provisions of the National Bank Act or the Federal Reserve Act. It is provided, however, that such branch may use the capital stock and surplus of its parent foreign bank in computing any limitations in any such provisions based on the capital stock and surplus of a national bank, with a further proviso that any foreign bank which has more than one federal branch in any State shall be required to aggregate the accounts of all such branches in such State for the purpose of computing any limitations or restrictions under any such provision.

Subsection (i). Subsection (i) of Section 18 of the Bill would allow a foreign bank which has established a single branch under this Section in any State to acquire or retain additional branches in such State on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by a national bank if the principal office of such national bank were located at the same place as the initial branch in such State of such foreign bank.

Subsection (j). Subsection (j) of Section 18 of the Bill would require a foreign bank to obtain the prior approval of the Comptroller of the Currency before it changes the location of any branch established under this section and require it to file with the Comptroller of the Currency an amended certificate if it changes its corporate name or the duration of its corporate existence.

Subsection (k). Subsection (k) of Section 18 of the Bill is similar to the ninth paragraph of Section 25 of the Federal Reserve Act governing foreign branches of member banks. In order to properly examine the domestic branches of foreign banks, the accounts of the United States branches should be conducted independently of those of the principal office of the foreign bank and its foreign branches.

Subsection (l). Paragraph (1) of subsection (l) of Section 18 of the Bill would

provide the Comptroller of the Currency with the power to appoint examiners, who would have the same powers as examiners of national banks, to make yearly examinations of every branch established and operating under this section with costs to be assessed against the foreign bank authorized to establish and operate such branch. Paragraph (2) requires the foreign bank to make reports of condition for each branch to the Comptroller of the Currency in accordance with the provisions of the Federal Deposit Insurance Act and gives the Comptroller of the Currency the power to call for additional reports of condition and special reports keeping him informed as to whether the branch is complying with the provisions of this section. Paragraph (3) prescribes penalties similar to those imposed on national banks (12 U.S.C. 164) for any failure to make a required report.

Subsection (m). Subsection (m) of Section 18 of the Bill would require a foreign bank, upon the establishment of a branch in any State, to keep on deposit at a national bank in the State where the branch is to be located, permissible investment securities for national banks in an amount equal to the greater of either the capital which would be required of a national bank being organized at that location, or 5 per cent of the total liabilities of such branch, including acceptances but excluding accrued expenses and amounts due and other liabilities to other offices, branches, or agencies of, and wholly-owned (except for directors' qualifying shares) subsidiaries of, such foreign bank. This subsection would further give the Comptroller of the Currency the power to require the deposit of such additional assets as he deemed necessary for the maintenance of a sound financial condition, the protection of depositors, and the public interest. The Comptroller of the Currency would also have to approve any deposit agreement covering such assets, and the foreign bank would be allowed to collect interest on all securities deposited.

Subsection (n). Subsection (n) of Section 18 of the Bill would give the Comptroller the power to require every foreign bank holding a certificate of authority issued pursuant to this section, to hold, under such rules and regulations as the Comptroller of the Currency may prescribe, in any State where it has established a branch under this section assets payable in the United States or United States funds in an amount which the Comptroller shall prescribe as necessary to protect domestic depositors and creditors of a branch established under this section. The purpose of this provision is to ensure that if a parent foreign bank becomes insolvent or otherwise goes into liquidation or receivership abroad there wil be sufficient assets in the United States to protect depositors and creditors of the branch in the United States.

Subsection (o). Subsection (o) of Section 18 of the Bill would provide that the certificate of authority of a foreign bank to operate a branch under this Section would be automatically revoked when voluntarily surrendered or when such foreign bank is dissolved or its authority or existence is otherwise terminated or cancelled in the country of its organization. The subsection would also give the Comptroller of the Currency the power to revoke, after notice and an opportunity for hearing, the certificate of authority of a foreign bank to operate any branch under this section if he is of the opinion or has reasonable cause to believe that the foreign bank has violated or failed to comply with any of the provisions of this section or any of the rules, regulations or orders of the Comptroller of the Currency made pursuant thereto. The Comptroller of the Currency may restore any such certificate of authority upon due proof of compliance. The standards governing the Comptroller's action—"of the opinion" or "Has reasonable cause to believe"—are taken from the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b)(1)).

Subsection (p). Subsection (p) of Section 18 of the Bill would provide that whenever the certificate of authority of a foreign bank to operate a branch is revoked, or whenever it is unable to satisfy judgments against it in the United States, or whenever the Comptroller of the Currency shall become satisfied of the insolvency of a foreign bank, the Comptroller of the Currency may appoint a receiver to take possession of its property in any State of the United States. Thereafter, the receiver shall exercise the same rights, privileges, powers and authority with respect thereto as are now exercised by receivers of national banks appointed by the Comptroller of the Currency. Pursuant to subsection (c) of section 1821 of Title 12 of the United States Code, the Comptroller of the Currency must name the Federal Deposit Insurance Corporation as receiver.

Subsection (q). Subsection (q) of Section 18 of the Bill would give the Comptroller of the Currency the power to issue such rules, regulations and orders as he may deem necessary to enforce compliance with the provisions of the section, to prevent evasions thereof and to ensure proper exercise of the powers granted therein.

Subsection (r). Subsection (r) of Section 18 of the Bill would require every foreign bank holding a certificate of authority under this section to appoint an agent for service of process in every State where it establishes a branch. Such appointment would be filed at the Office of the Comptroller of the Currency and at the office of the State bank supervisory authority in the State where the branch was located. If the agent shall be removed or otherwise become incapacitated to receive process, it shall be the duty of such foreign bank to appoint another agent. If, at any time, the agent or an officer or other agent of the foreign bank cannot be served, service may be made upon the Comptroller of the Currency or a Deputy Comptroller of the Currency, or any other person authorized by the Comptroller of the Currency to receive process, and he shall cause such process to be either personally served upon the foreign bank in the manner authorized by the jurisdiction where service is made, or by registered mail at the post office address kept in the records of the Comptroller of the Currency for that purpose. If no address is available, service may be made upon the bank supervisory authority of the foreign bank's country of organization.

Subsection (s). Subsection (s) of Section 18 of the Bill is substantially similar to section 94 of Title 12 of the United States Code applicable to national banks and would provide that an action or proceeding under this section may be brought against a foreign bank holding a certificate of authority under this section in the circuit or United States district court of the district in which any branch established under this section is located, or in any State, county, or municipal court in the county or city in which such any branch established under this section is located having jurisdiction in similar cases.

Subsection (t). Subsection (t) of Section 18 of the Bill would provide civil penalties for any violation of this section in addition to any civil or criminal penalties already provided by law.

Subsection (u). Subsection (u) of Section 18 of the Bill would provide criminal penalties for any willful violations of this section substantially similar to those imposed under Section 8 of the Bank Holding Company Act.

JURISDICTIONAL AMENDMENTS

SEC. 19. Section 19 of the Bill would amend Title 28 of the United States Code by providing a new section 1364 which would be substantially similar to section 1348 of Title 28 of the United States Code applicable to national banks, and which would provide that U.S. District Courts would have original jurisdiction of (1) civil suits brought by the United States or by direction of any officer thereof against a foreign bank arising out of the business of its federal branch established under Section 18 of the Bill, (2) any civil action against any foreign bank to wind up the affairs of any such branch, and (3) any action by a foreign bank to enjoin the Comptroller of the Currency or his appointed receiver.

Section 19 of the Bill would also amend Title 28 of the United States Code by providing a new section 1407 which would be substantially similar to section 1394 of Title 28 of the United States Code applicable to national banks and which would provide that actions by a foreign bank against the Comptroller of the Currency arising out of the business of a branch established under Section 18 of this Bill under the provisions of any Act of Congress relating to the business of any such branch, may be prosecuted in the judicial district where such branch of a foreign bank is located.

UNITED STATES CRIMINAL CODE AMENDMENTS

SEC. 20. Section 20 of the Bill would amend the United States Criminal Code to ensure that all sections applying to U.S. member banks would equally apply to branches and agencies of foreign banks established under State law and that all sections applying to national banks would equally apply to federal branches of foreign banks established under Section 18 of this Bill.

BANK PROTECTION ACT AMENDMENTS

SEC. 21. Section 21 of the Bill would amend the Bank Protection Act of 1968 to ensure that all branches and agencies of foreign banks established under State law would maintain the same minimum security devices as are required of State member banks, and that all federal branches of foreign banks established under Section 18 of this Bill would maintain the same minimum security devices as are required of national banks.

TRUTH-IN-LENDING ACT AMENDMENTS

SEC. 22. All foreign bank branches and agencies established under State law would be subject to the Truth in Lending Act by the provisions of section 108(a)(1)(B) of that Act (15 U.S.C. 1607) as all such branches and agencies will be members of the Federal Reserve System. However, the provisions in the Act with respect to the Comptroller of the Currency speak only of national banks. Accordingly, Section 22 of the Bill would amend that Act to ensure that federal branches established under Section 18 of the Bill would be subject to the Act and would be subject to the Comptroller's jurisdiction in enforcing compliance with that Act.

FAIR CREDIT REPORTING ACT AMENDMENTS

SEC. 23. All foreign bank branches and agencies established under State law would be subject to the Fair Credit Reporting Act by the provisions of section 621(b)(1)(B) of that Act (12 U.S.C. 1681s) as all such branches and agencies will be members of the Federal Reserve System. However, the provisions in that Act with respect to the Comptroller of the Currency speak only of national banks. Accordingly, section 23 of the Bill would amend that Act to ensure that federal branches established under Section 18 of the Bill would be subject to the Act and would be subject to the Comptroller's jurisdiction in enforcing compliance with that Act.

INTERNATIONAL INFORMATION AGREEMENTS

SEC. 24. Section 24 would authorize the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation to make available upon request exami-

nation, operating, or condition reports, or other information in their possession of State and national banks to the banking supervisory authority of a foreign country, on the condition that such foreign banking supervisory authority would also agree to make available to the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation similar reports or other information in its possession of banks organized under the laws of its country. The applicable United States bank supervisory authority could request these reports for foreign banks that would be joint venture partners of a U.S. bank, whether in the U.S. or in such foreign country, and for foreign banks already operating or applying to acquire a branch, agency, office, or subsidiary in this country. Foreign banking supervisory authorities could request reports for national or State banks which have or propose to have a branch, agency, office, or banking subsidiary in their country, including a joint venture banking affiliate. A further provision is inserted which would ensure that any reports transmitted under this provision could only be divulged to officers, employees or agents of the Board of Governors of the Federal Reserve System, a Federal Reserve Bank, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the foreign banking supervisory authority.

FEDERAL BANKING LICENSE

SEC. 25. This section would provide for mandatory federal licensing of the commercial banking operations of foreign banks in this country, whether conducted under State or Federal law.

Subsection (a). Subsection (a) of Section 25 of the Bill would provide that the terms "bank", "company", "control", "foreign bank", "foreign country", and "subsidiary", as used in this section, would have the meanings assigned to them in section 2 of the Bank Holding Company Act of 1956, as amended. Under section 2(4) of the Bill, the term "bank" in the Bank Holding Company Act is expanded to include branches and agencies of foreign banks. It does not include, however, representative offices of foreign banks. Thus, the licensing requirements of this section will apply to branches, agencies and subsidiary banks of foreign banks. The term "Comptroller" is also defined as meaning the "Comptroller of the Currency".

Subsection (b). Subsection (b) of Section 25 of the Bill would provide that, in addition to any other requirements imposed under the laws of the United States, any State of the United States, or the District of Columbia, no foreign bank or group of foreign banks, and no company (1) which is organized under the laws of a foreign country and which controls a foreign bank, (2) which is a subsidiary of a foreign bank, or (3) of which control is held, directly or indirectly, by the shareholders of a foreign bank, the majority of whom are not citizens of the United States or companies controlled by citizens of the United States, shall, directly or indirectly, control, establish, operate, organize, acquire all or substantially all of the assets of, or merge or consolidate with, as the case may be, any bank located in any State of the United States or the District of Columbia, unless such foreign bank, group of foreign banks, or company, as the case may be, shall have received a federal banking license to, directly or indirectly, control, establish, operate, organize, acquire all or substantially all of the assets of, or merge or consolidate with such bank from the Comptroller of the Currency under this section, or shall have received a certificate issued by the Comptroller of the Currency under section 5169 of the Revised Statutes, as amended (for a national bank charter), or section 18 of the Foreign Bank Act of 1975 (for a federal branch bank). It is provided, however, that this requirement shall not apply to any bank, directly or indirectly, controlled, established, operated, organized, merged or consolidated, or all or substantially all of the assets of which were acquired, on or before the date of enactment of the Foreign Bank Act of 1975, if within one hundred and eighty days after the enactment of that Act, such foreign bank, group of foreign banks or company shall register with the Comptroller on forms prescribed by the Comptroller, which shall include such information with respect to the financial condition and operations, and management of such foreign bank, group of foreign banks or company and such bank or banks, as the Comptroller may deem necessary or appropriate to carry out the purposes of this section.

Subsection (c). Subsection (c) of Section 25 of the Bill would give the Comptroller of the Currency the power to require such information and prescribe such application forms as he may deem necessary to carry out the purposes of this Section.

Subsection (d). Subsection (d) of Section 25 of the Bill would require the Comptroller of the Currency to retain a copy of any application received, and to transmit the original to the Secretary of the Treasury, who is given the power to determine whether the Comptroller should issue a federal banking license. The Comptroller is also required to transmit copies of any applications received to the Secretary of State of the United States and the Board of Governors of the Federal Reserve System, who are to submit their views and recommendations to the Secretary of the Treasury.

Subsection (e). Subsection (e) of Section 25 of the Bill would prohibit the Comptroller of the Currency from issuing a license if the Secretary of the Treasury, after taking into account the views and recommendations of the Secretary of State of the United States and the Board of Governors of the Federal Reserve System, determines that the issuance of a federal banking license would adversely affect the domestic or foreign commerce of the United States, or would otherwise not be in the interest of the United States. In every application, the Secretary of the Treasury is also to take into account the views and recommendations of the Comptroller on the financial and managerial resources of the applicant and banks concerned and the convenience and needs of the community to be served.

Subsection (f). Subsection (f) of Section 25 of the Bill would provide that the Secretary of the Treasury shall direct the Comptroller to issue a license under this section, once the Secretary of the Treasury determines that the provisions of this section have been complied with.

Subsection (g). Subsection (g) of Section 25 of the Bill would provide that a federal banking license issued to a foreign bank, group of foreign banks or company under this Section would be automatically revoked when any other approval, certificate, charter or license it may have to, directly or indirectly, control, establish, operate, organize, acquire all or substantially all of the assets of, or merge or consolidate with the bank for which the license has been issued, has been revoked, cancelled, or otherwise terminated under the laws of the United States, any State of the United States, or the District of Columbia.

Subsection (h). Subsection (h) of Section 25 of the Bill would give the Secretary of the Treasury and the Comptroller of the Currency the power to issue such rules, regulations, and orders as they may deem necessary in the performance of their respective duties and functions under this section to enforce compliance with the provisions of this section, to prevent evasions thereof and to ensure proper exercise of the powers granted therein.

Subsection (i). Subsection (i) of Section 25 of the Bill would provide criminal penalties for any willful violations of any of the provisions of this Section.

SEPARABILITY

SEC. 26. Section 26 would provide that if any provision of the Act or the application thereof is held invalid, the remainder of the Act and the application of the provision to other persons shall not be affected thereby.

Mr. STEVENSON. Mr. President, multinational banking is rapidly becoming one of the key features of the international financial system. Its emergence as a dominant force reflects the growing worldwide integration of commercial and capital markets, an element of which is expanding foreign investment, a subject which the International Finance Subcommittee, which I chair, explored in a series of hearings last year.

An important dimension of the trend toward global banking is the growth of foreign bank activity in the United States. Over the last 7 years, foreign bank assets in the United States have grown from less than $7 billion to more than $38 billion, and are now equal to more than a third the level of U.S. bank assets abroad. More than 60 foreign banks have operations in the United States today, and it is estimated that they currently account for nearly 10 percent of all commercial loans in this country.

In light of its growth and size, foreign banking in the United States has significant ramifications for U.S. financial and monetary policy as well as for the international financial system. It has also become an important factor in domestic bank competition.

Moreover, since U.S. banks operating abroad do so within a framework of foreign as well as domestic regulation, U.S. policy toward foreign banking affects the climate for U.S. bank operations abroad.

Yet despite these important national and international ramifications, foreign bank operations in the United States are governed almost exclusively by State law. The United States has no comprehensive policy toward foreign banking and thus the States must, and indeed are largely free to, develop policies of their own. However, no matter how well conceived or intentioned, exclusive State jurisdiction provides great potential for regulatory conflict and leaves the resolution of important matters of national and international policy to jurisdictions unequipped to grapple with the broader national issues involved.

The consequence is a patchwork of conflicting laws and regulations governing the activities of foreign banks in the United States. In many States, foreign banking is prohibited altogether. In others it is permitted but subject to special constraints. Foreign banks can engage in multistate banking, but U.S. banks cannot. Few foreign banks belong to the Federal Reserve System, while most large U.S. banks do. Foreign banks can engage in nonbanking activities, but U.S. banks cannot. And nonbanking activities by foreign banks are subject to few, if any, constraints.

It was to resolve these conflicts and establish a national policy on foreign banking in the United States that, I along with Senators SPARKMAN, MCINTYRE, and

TOWER, on behalf of the Federal Reserve Board, introduced S. 4205 in the last Congress. That bill focuses attention on this important issue as well as other issues relating to multinational banking and foreign investment. And it is for that reason that I join in introducing it again.

To help in the consideration of legislation on these important issues, I commend to my colleagues an important and useful study done by Franklin Edwards and Jack Zwick for the International Finance Subcommittee entitled "Foreign Banks in the United States: Activities and Regulatory Issues." It surveys the economic developments giving rise to increased foreign banking in the United States, the scope and nature of such activity, the pattern of U.S. regulation, and suggestions for legislation made to date. In addition, it analyzes such controversial issues as international reciprocity, competitive equality, multistate branching, foreign bank securities affiliates, deposit insurance coverage, reserve requirements, the implications of foreign ownership and control and the effect of foreign banking on U.S. monetary policy and the soundness of the banking system. While I reserve judgment on its recommendations, the Edwards-Zwick study makes an important contribution to the understanding of these complex issues. I ask unanimous consent that it be reprinted in the RECORD.

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

FOREIGN BANKS IN THE UNITED STATES: ACTIVITIES AND REGULATORY ISSUES

(By Franklin R. Edwards and Jack Zwick*)

INTRODUCTION

During recent years the operations of foreign-owned financial institutions in the United States have expanded dramatically. The number of new foreign banks operating here has increased. Also there has been a marked increase in the assets of foreign-owned banks established here many years ago. Today more than 100 foreign banks have facilities in the United States with total U.S. assets of some $35 billion, and the commercial and industrial loans of these banks have grown to nearly 10% of all such loans in the United States. (See Table I)

This expansion has occurred almost entirely under the supervision of individual states since there is no unified federal regulatory structure which applies to foreign-owned institutions. In the absence of a coherent federal policy, each individual state has adopted its own regulatory postures with respect to foreign-owned institutions. It is not surprising, therefore, that various proposals have been advanced to place foreign institutions under federal purview. During the past 18 months, several proposals have been introduced in the Congress and State Legislatures pertaining to the regulation of foreign banks.

Congressmen Patman[1] and Rees[2] introduced bills that would among other things:

1. Substitute federal regulation for state regulation of foreign banking;
2. Require that any foreign bank doing business only through a subsidiary and only in one state;
3. Require that foreign banks divest themselves of all non-conforming assets within a two-year period.

In addition, the Federal Reserve Board has recently introduced legislation which would place foreign banking activities under tighter federal control.[3] The proposed legislation would:

1. Require that virtually all foreign branches, agencies, investment companies, and subsidiaries be members of the Federal Reserve System and be fully subject to the requirements of the federal Bank Holding Company Act;
2. Require that all foreign banks establishing new operations in the U.S. obtain a federal banking license from the Comptroller;
3. Enable the Comptroller of the Currency to issue national charters to foreign banks where up to half of the directors may be foreigners.
4. Require all existing foreign banking affiliates to register with the Comptroller; and,
5. Require all branches and agencies of foreign banks to carry federal deposit insurance.

Of special significance in the Federal Reserve's bill is the "grandfather clause" provision, which would permit foreign banks now operating in the U.S. to retain existing operations permanently even though such activities would be prohibited by the bill in the future.

The purpose of this paper is to help place these and other proposals in perspective—i.e. to provide the background information on foreign bank activity in the United States necessary to evaluate the current situation, and to develop criteria for evaluating various schemes which have been advanced to restructure the present regulatory framework.

Recent economic developments

This paper is the first comprehensive study prepared for Congress on the subject of foreign bank activity in the U.S. since the report submitted to the Joint Economic Committee in 1966.[4] During the intervening years, international trade and finance have become much more important to the U.S. economy. In contrast to other industrialized countries, the United States had until recently not been very dependent on other economies due to the abundance of resources available at home, large domestic markets, and a large, skilled work-force. As indigenous sources of raw materials, such as oil, iron, and nickel, have begun to run low, foreign sourcing has become more important. Simultaneously, technological developments, economies of scale, and marketing opportunities abroad have encouraged firms to develop global strategies. Consequently, U.S. involvement and dependence on international trade and investment have increased significantly, in both absolute terms and as a percentage of Gross National Product.

This increased U.S. participation in world trade and investment, together with a rapidly growing volume of international transactions generally, has been accompanied by a wider range of financial services in support of these activities. Large banks have established operations in many foreign locations to finance trade and to attend to the numerous needs of their major corporate customers. An internationalization of banking has resulted, characterized by banks and banking consortia operating through branches, affiliates, and subsidiaries in a large number of banking markets, both geographically and functionally.

The overall dimension and geographic focus of American bank participation in this expansion can be seen from Tables II, III, IV, and V.[5] As these statistics suggest, several U.S. banks have acquired worldwide branch and affiliate networks during the past ten years, thereby becoming truly multinational institutions. American banks have also made numerous foreign investments through Edge and Agreement corporations set up under the authority of the Federal Reserve Act. The total assets held abroad by U.S. banks exceed $125 billion, more than four times the present assets of foreign banks in the U.S.

In addition, U.S. banks have expanded their activities into a wide variety of specialized financial operations including development finance, factoring, installment finance, equipment leasing, and mutual fund management operations. They have also entered into investment banking activities abroad that they are not permitted in the United States. The American banks and their overseas operations not only service foreign affiliates of U.S. corporations; they are also active in the domestic markets of foreign countries in which they are located, serving local as well as third-country customers. The U.S. banks are unsurpassed in the worldwide scope and range of financial services they provide. It is within the context of these banking development that the so-called invasion of the U.S. market by foreign banks must be analyzed and appraised.

Other economic factor have also contributed to the growth of foreign banking in the U.S. and to multinational banking in general. Unprecedented levels of activity have developed in the eurocurrency markets, and these markets have become more closely linked to national currency markets. The United States continues to be the most important link in the international financial network due to the sheer size of its financial market, the important role of the U.S. dollar, and the relative weight of U.S. production and consumption in the whole economy. Most recently, prices of oil and other commodities have brought severe economic and political difficulties to both industrialized and developing countries. This development, coupled with worldwide capital shortages, floating exchange rates, and global inflation, has forced a realization that our economic and financial problems are inextricably interwoven with those of other nations.

The trends depicted above together with such recent developments as the foreign exchange problems of several major banks make the regulation of foreign banks (and, for that matter, all multinational banks) far more urgent and complicated than in 1966. The development of a coherent and comprehensive regulatory structure should be given high priority. Ways must be found to maintain orderly money markets, trade, and investment, and, above all, to allocate increasingly scarce resources, capital, and products on a global basis.

Legislative directions

Three thrusts for regulatory reform are clearly identifiable. The first seeks to preserve the basic characteristics of our present regulatory structure—the dual banking system, and the separation of commercial and investment banking functions. The second seeks to develop some type of transnational regulatory machinery to promote a sound, efficient, and competitive banking and financial structure on a global basis. Proponents of this view are persuaded that the present nationalistic regulatory structures fail to provide either adequate safeguards for depositors or sufficient control by individual countries over their money supplies. Officials have also become increasingly concerned that the rules and administrative procedures affecting international markets may lack precision and adequate remedies for dealing with liquidity or solvency problems as they arise in foreign-owned banking entities. A final legislative thrust endeavors to assure that both U.S. and foreign banks are treated equally and equitably under U.S. banking laws.

The succeeding sections of this paper will discuss the existing regulatory framework for licensing and monitoring the activities of foreign bank entities in the United States, the scope and nature of foreign bank activities here, and the major controversial issues which have arisen because of these activities. We conclude with our recommendations.

Footnotes at end of article.

THE REGULATORY ENVIRONMENT

More than 10 foreign banking corporations conduct business activities in the United States using several major operating forms—i.e. the representative office, the agency, the branch, and the subsidiary operating under bank or trust company charter. A few foreign banking corporations have also chartered investment companies in New York State where the banking law makes provision for this form of entity. Some foreign banks or foreign banking groups have also become foreign bank holding companies in compliance with the Federal Bank Holding Company Act in 1956, as amended in 1970. These holding companies are registered with the Board of Governors of the Federal Reserve System, own numerous banks located in several states, and operate many agencies and branches, most of which are located in New York and California. Finally, a number of foreign banking corporations are minority shareholders in United States banks which they do not control, and have made both controlling and non-controlling investments in security affiliates in the United States. Table VI indicates the organizational entities operated by the foreign banking corporations and the states in which these entities are domiciled, as of 1973.

To ascertain U.S. regulatory practices pertaining to foreign banking corporations, one must look to the statutes and the policies of individual states. (An exception is the law pertaining to foreign bank holding companies, which is summarized in Appendix I.) Attitudes differ among the states regarding foreign banks, and, consequently, options open to foreign banking corporations are not uniform among states. There are ten states whose laws specifically permit some form of foreign banking activity. These are: Alaska, California, Georgia, Hawaii, Illinois, Massachusetts, New York, Oregon, Utah, and Washington. Of the eight states which permit branches, five now have operating foreign branches—Illinois, Massachusetts, New York, Oregon and Washington. Sixteen states specifically prohibit foreign banking, and the laws of the remaining twenty-six states are silent. For the most part, those states which have received and continue to receive applications from foreign branches for licenses or charters process them in the same way as they do applications from domestic banks.

As a practical matter, foreign banking corporations desirous of penetrating the American market have sought primarily to form entities in New York and California, although more recently they have begun to operate in Illinois as well. These locations are attractive for the simple reason that a substantial proportion of the country's commercial and international financial transactions originate in these states. The regulations of these three states, therefore, are particularly relevant to understanding the present controversy over foreign bank operations.

In New York, California, and Illinois agency and branch licenses are granted for a fixed time period by the respective state superintendents of banking and the state banking boards, and may be revoked for cause. New York chartered trust companies and investment companies (both domestic and foreign) differ from agencies and branches in that they are granted perpetual charters by the superintendent and the banking board. Unlike California, New York and Illinois do not require that representative offices be licensed, the rationale being that these offices do not engage in actual banking business.

The four major aspects of state banking law of greatest concern are capital requirements, lending restrictions, deposit functions, and reserve requirements. In New York, California, and Illinois the banking laws establish minimum capital stock requirements for subsidiary bank and trust companies. In practice the banking departments require initial funds greater than the statutory minimums as well as subsequent injections of capital based on location and scope of operations. While the formation of branches and agencies does not require capital injections, the state banking departments test the adequacy of the parent bank's capital before licensing such entities. Additionally, a statutory provision for branches and agencies is essentially analogous to a capital requirement. State laws oblige such licensees to hold specific types of assets in the individual states equivalent to not less than 108% of the aggregate amount of liabilities payable at or through the agencies or branches. These assets must be payable in the United States, in U.S. funds, or with the specific prior approval of the state banking superintendents, in funds clearly convertible into U.S. funds. Finally, New York law requires branches to deposit specified securities or cash equal to 5% of total liabilities in an account in the banking superintendent's name.

With respect to lending restrictions, state laws set forth size restrictions on individual loans for subsidiary banks, trust companies, and branches—normally, 10% of the banks' capital stock, surplus and undistributed profits. (Loans to U.S. federal or state government agencies are usually exempt from such lending restrictions.) The branch or agency form of entity is advantageous to many banks because the restriction on branch or agency lending is related to the capital of the parent institution, in contrast to the restrictions imposed on subsidiaries.

The state laws provide that only banks, trust companies, and branches of foreign banks (in New York and Illinois) may accept deposits. Agencies and investment companies, although prohibited from accepting deposits, are permitted to maintain what are termed "credit balances". When properly used, these credit balances represent monies held by the investment companies or agencies which arise out of, or are incidental to, the exercise of their lawful powers. Investment companies are permitted to accept deposits only if they have branch offices outside the states where they are chartered, and only then with state banking board approval. Since 1973 agencies in California have been permitted to accept deposits from abroad.

Branches of foreign banking corporations are required to maintain the same levels of reserves against deposits as do state chartered banks. State banking superintendents have the power to require state chartered banks owned by foreigners and branches of foreign banks to make good any encroachment on reserves and to levy assessments for reserve deficiencies. Agencies and investment companies are exempt from maintaning reserves on the ground that they do not accept deposits.

In addition, when the Federal Reserve Board recently sought voluntary compliance with tighter reserve requirements, both branches and agencies of foreign banking corporations were urged to comply. This request for maintenance of reserves against deposits from abroad included the "due to head office" accounts as well. State banking department spokesmen report that compliance with this request has been excellent.

In most areas there has been a close working relationship among the state banking departments and the Federal Reserve Board, although the Federal Reserve has no statutory authority over foreign banking operations. For example, branches of foreign-owned banks have traditionally been subject to state-imposed interest rate ceilings and reserve requirements which closely parallel federal requirements. Also, when the VFCR guidelines were in effect, foreign banking entities were subject to these guidelines just as were domestic banks. Finally, foreign banks submit monthly reports of conditions both to the state banking superintendents and to the Federal Reserve, and in these reports supply specific data requested by the Federal Reserve.

THE SCOPE AND NATURE OF FOREIGN BANK ACTIVITY

Agencies

The foreign "agency banks" are important both numerically and in terms of asset size. As of April 31, 1974, the 33 agencies of foreign banking corporations in New York held assets in excess of $15 billion. Twenty-eight agencies licensed by California reported more than $3 billion in assets. While there are marked differences among agencies, many of these banking offices have common characteristics. They finance trade and investment between the United States and their home countries. They buy, sell, pay, and collect bills of exchange. Many of the agencies manage the dollar balances of their parents and sister institutions and administer their dollar needs. Many act as agents of central banks and other home-country governmental institutions. Liquid balances are characteristically placed either in the domestic federal funds and interbank markets or abroad in the eurocurrency markets. A few of the agencies are regular borrowers of dollars which are exported to capital-scarce home market borrowers.

The agencies rely on two principal sources of funds. Approximately half the agencies' resources are obtained from parent or sister institutions. Until recently it was not uncommon for agencies to attract deposits from U.S. corporations in the name of parent or sister institutions which the latter would redeposit in their captive U.S. agencies. This subterfuge permitted agencies to conform with restrictions imposed on their deposit gathering activities while at the same time allowing them to attract short-dated deposits. Agencies borrow the remainder of their funds in the interbank and federal funds markets (where they are both active borrowers and lenders) and from corporate and bank customers (the latter amount to approximately 10% of their total liabilities).

A few of the agencies work closely with sister "trust company" entities in the United States. The related trust companies operate under special letter agreement with the state banking departments and do not accept deposits. The trust companies exist essentially to invest in the equities of home country corporations whose securities are listed and traded in the American equities markets.

Branches

As the name implies, branches are direct extensions of the foreign banking corporations and are empowered by statute to conduct a general banking business, including the right to receive deposits (both time and demand) from local and foreign interests. Most branches of foreign banks are located in New York (See Table VI) where their principal business activities relate to the financing of trade, both domestic and foreign, and investment of liquid dollar balances.

Certain foreign branches have a retail orientation and are actively engaged in consumer lending and the solicitation of personal accounts. Most of the recently established branches in New York belong to banks in the United Kingdom and Western Europe. The clients of these branches are frequently the subsidiaries of home-country corporate clients. The branches also extend loans to U.S. based international companies whose affiliates abroad are clients of the branches' head offices. A few of the foreign branches are very active in arbitrage operations between the euro-dollar and federal funds markets as well as in the New York foreign exchange market. Until recently, when certain British-owned banks began to pursue

retail markets aggressively, most branches of foreign banking corporations with a retail orientation featured an ethnic appeal—e.g. the Puerto Rican and Israeli branches in New York.

Foreign branches are not eligible for FDIC insurance. In California, the banking law prohibits branching without FDIC insurance, so that foreign banks which seek deposit receiving powers in California must form subsidiary banks.

In general, there are no discretionary state restrictions regarding the types of assets foreign branches may hold. State lending limits are the same as for branches of banks operating under state law and, as noted earlier, are based on the capital of the foreign parent rather than the branches themselves. Branch applications are processed in the same way as domestic applications. State laws require foreign banking corporations to maintain books and assets for the branches separate from those of the parent banks.

The important states for foreign branch activity—which include New York, California, and Illinois—all have reciprocity requirements. These states insist that their domestic banks be permitted to operate branches in the countries of the foreign banks that seek to operate branches in their states. (It is important to note that this requirement extends only to banks chartered or licensed in the state of question and does not extend to the United States market as a whole.) At present, therefore, the question of what is the appropriate principal of reciprocity is handled entirely at the state level.

Subsidiary banks

Some foreign banks have converted their New York branches into subsidiaries in order to obtain federal deposit insurance and thereby enhance the capability of attracting deposits in the retail market. The California subsidiaries reflect the fact that branching is effectively disallowed in that state by virtue of the statutory requirement that branches have FDIC insurance. (By the end of 1973 twelve foreign institutions had received charters for subsidiaries in California.) Subsidiaries together with their branches provide services aimed at the general consumer. In addition, powers and restrictions applicable to them are identical to those applicable to U.S. banks.

Securities affiliates

During the past several years, foreign banks have established broker-dealer security firms in New York and have joined regional stock exchanges. These affiliates provide first-hand information on developments in the U.S. capital markets to their parent institutions, which in many cases manage mutual funds with substantial shareholdings in U.S. corporations. The existence of these affiliates may also be viewed as a competitive response to the establishment of a large number of branch offices in major European financial centers by New York securities-brokers, which have sought the business of local investors who formerly traded in U.S. securities through local banks. Furthermore, direct representation in New York through these affiliates enables foreign banks, which are themselves an important source of business for U.S. securities dealers, to obtain an entree to the underwriting of securities and to participate as principals in the trading of securities in the New York and regional markets. In addition to underwriting and trading operations, these affiliates assist in mergers and acquisitions, and provide investment advisory services to U.S. and foreign clients. Thus, the opening of affiliates in large measure reflects the desire of foreign banks to better serve the requirements of their clients who have substantial investments in U.S. money and capital markets.

Significantly, several of the foreign banking corporations which have established or bought directly or indirectly into foreign dealer firms are also engaged in commercial banking in the United States and in foreign markets. Hence, these firms enjoy something of a privileged position vis-a-vis domestic commercial banks—the latter being estopped under the Glass-Steagall Act from combining banking with a general securities business. Recently, a few prominent foreign banking institutions have made substantial investments in U.S.-based investment banks which act as broker-dealers. This development has attracted considerable attention. Indeed, an effort to thwart this initiative, the Federal Reserve Board recently denied the request of a newly registered Foreign Bank Holding Company to retain a ⅓ interest in a New York securities affiliate.[6]

CONTROVERSIAL ISSUES

The presence of foreign banks in the United States raises five major issues. First, what principle of international reciprocity should be applied to these institutions? Second, are current U.S. banking laws and regulations discriminatory in the sense that they give a significant competitive advantage to either foreign or American banks? Third, do the operations of foreign banks prevent or impede the effective implementation of U.S. domestic monetary policy? Fourth, do the U.S. activities of foreign banks (whose parent operations are largely beyond the reach of U.S. regulators) seriously undermine our supervisory apparatus for maintaining a sound financial structure? Finally, should any limits be imposed on foreign ownership and control of banks and financial institutions operating in the U.S.?

International reciprocity

A basic question to be resolved in developing a regulatory structure to govern the international activities of multinational entities is: What concept of international reciprocity should underlie this structure? Both the expansion of international banking and the continued development of international financial markets depend upon the existence of close cooperation among countries. A U.S. regulatory scheme that does not guarantee "fair" treatment to foreign nationals, therefore, is very likely to abort the trend towards international financial integation by undermining international cooperation. In recent years the major U.S. State and Federal banking authorities have implicitly agreed that a principle of mutual nondiscrimination should be applied to multinational banks.[7] Foreign banks should be subject to the same laws that apply to domestic banks in the host country. In the United States, foreign banks should be granted the same banking powers and should be placed under the same regulatory constraints as are American banks, or foreign banks should not be permitted to engage in activities permissible in their homelands if these activities are not allowed by U.S. laws. Reciprocally, U.S. banks operating abroad should have the same powers and be subject to the same regulations applicable to home country banking institutions.

The best way for the United States and other countries to implement this principle of "equal treatment" is not always clear, however. Should our banking laws extend such treatment in a *de jure* or *de facto* way? Need both State and Federal banking laws treat foreign banks in an identical manner? Narrowly construed, there are a number of ways in which the U.S. banking laws can be made consistent with this principle of "equal treatment." [8]

We believe that these implementation issues are largely intellectual controversies, and that solutions to them should not be sought in the legislative arena. If either U.S. or foreign regulatory authorities were to apply the "equal treatment" principle in a way unacceptable to the other, although within the "letter of the law," the result would unquestionably be political and economic conflict. We believe that such conflict would be quickly resolved. The various economic interests involved are such that too many have too much to lose to not resolve such a conflict quickly. Thus, we recommend that U.S. banking regulatory authorities be given maximum freedom to determine administratively whether or not foreign countries are conforming in a satisfactory manner to the "equal treatment" principle, as well as maximum administrative flexibility to respond in the event that foreign countries do not conform to this principle. Legislative encumbrance on regulatory discretion in this area of banking can only impede the resolution of conflicts over international reciprocity.

A legislative issue which does arise in this area is whether to exempt any country (or countries) from the requirements of "equal treatment". In particular, should less developed countries be required to admit the giant banks of the developed nations in order to gain direct access to the financial markets of developed countries? In other words, is not the "infant industry" argument as valid for banking (and other financial industries) as it is for non-financial industries? We believe it is. Consequently, we recommend that a different principle of international reciprocity be applied to less-developed nations. If these nations choose to close their financial markets to American banks, their banks should still be permitted to participate directly in our markets. The precise form and content of any legislative enactment along these lines, of course, must be the subject of a more thorough study.[9]

Competitive equality under United States banking laws

Do U.S. banking laws put foreign banks on an equal competitive footing with American banks? The two areas of dispute with respect to competition that are of greatest concern in the long-run are:

(1) the power of foreign banks to operate multistate banking offices; and,

(2) the ability of foreign banks to operate (through direct ownership of) U.S. security affiliates, such as underwriting and broker-dealer firms.

U.S. commercial banks can engage in neither of these activities. There are, in addition, a number of less important instances of discriminatory treatment. These are also discussed subsequent to our analysis of the two major issues.

Multistate Branching. Some states have unilaterally permitted foreign banks to operate one or more offices within their boundaries, despite the fact that these banks already have one or more branch offices in other states. The Barclays Bank, for instance, has offices in California, Illinois, Massachusetts, and New York. Since certain domestic banks headquartered in these states do considerable banking business in foreign countries, these states have extended banking privileges to foreign banks for obvious reasons.

There is, of course, no legal obstacle to prevent these states, as well as others, from refusing to extend branching privileges to foreign banks which simultaneously operate in other states, just as they now refuse to license non-resident American banks with operations in other states. It is clear, however, that states which license foreign banks have concluded that it is in their interest to extend privileges to foreign banks, whether or not such banks also operate in other states.

In contrast, states have consistently refused to extend multistate banking privileges to American banks, either through multistate branching or through the formation of multistate bank (holding companies) subsidiaries. Presumably, if and when it becomes beneficial, states will permit U.S. banks

Footnotes at end of article.

to engage in multistate banking operations.[10] Until multistate banking is permitted, however, the current system of regulatory supervision bestows upon foreign banks a competitive advantage in that they can operate full-service multistate banking offices.

How significant is this advantage? We judge it to be of minor importance, at least at the moment. First, only a handful of states currently permit foreign banks to operate branches within their boundaries; and, only six permit the operation of full-service branch offices. (See Table VI.) Second, through the formation of bank holding companies, large U.S. banks can and do operate a wide range of multistate affiliates: loan production offices, consumer and business finance companies, mortgage banks, financial consulting services, fiduciary services, etc.[11] The chief U.S. competitors of foreign banks, therefore, presently do operate multistate organizations which enable them to provide financial services on a multistate basis, with the exception that they cannot solicit retail (small) deposit accounts. Finally, U.S. banks have formed Edge Act and Agreement corporations through which they have established multistate office networks to conduct international or foreign activities incidental to whatever international banking business they do anywhere in the country.[12] In 1972, forty-five U.S. banks operated thirty-nine such offices in six states, and this number has expanded rapidly since then. (See Table VII).

Thus, although U.S. banks cannot have multistate branch offices, they presently do possess a substantial capability to provide financial services on a multistate basis. The ability of foreign banks to operate multistate branch offices, therefore, does not at present pose a serious competitive threat to American banks.[13]

Further, if the multistate-office advantage were eventually to bestow upon foreign banks a superior ability to penetrate the retail deposit market, states could always, individually and collectively, put U.S. banks on an equal competitive footing by extending the same (multistate office) privileges to them as well as to foreign banks.[14]

For the above mentioned reasons we conclude that Federal legislation to prohibit or curb multistate branching by foreign banks is not necessary to protect American banks. Such legislation would also be contrary to the interests of states which now permit such activities, since it would probably lead to additional foreign restrictions being imposed on their banks abroad.

Securities Affiliates. A second area of alleged competitive inequality concerns the respective powers of foreign and American banks to operate security affiliates in the United States. Foreign banks, through either a New York state-licensed "investment company" [15] or through direct participation in a security affiliate (such as a broker-dealer or investment banking company) may engage in securities and investment banking activities in the U.S. Presently, foreign banks have twenty security affiliates in the United States. (See Table VI.) American banks, on the other hand, are forbidden by the Glass-Steagall Act and the Federal Bank Holding Company Act from owning or controlling security affiliates.[16]

Existing law also does not prohibit foreign banks from operating a securities or investment company affiliate in conjunction with a "branch" or "agency" because the latter entities are not "banks" under U.S. law. Specifically, section 2(c) of the Bank Holding Company Act,[17] which is the most restrictive law,[18] defines a "bank" as an "institution organized under the laws of the United States, any state of the United States, . . . which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans." Neither foreign branches nor foreign agencies met this test. Branches are offices of institutions organized under foreign law, and agencies do not accept demand deposits. An issue of growing importance, therefore, is whether the ability of foreign banks to provide securities and investment banking services in conjunction with commercial banking services will put American banks at a serious competitive disadvantage.

To assess this possibility the present powers and "securities" activities of U.S. banks must be examined. In the last decade U.S. banks have greatly extended their "securities" activities. They now underwrite the revenue bonds of states and municipalities, offer a number of automatic investment plans to depositors and shareholders, sponsor and advise both closed-end and open-end investment companies, manage over $300 billion of trust and agency accounts (which includes investment portfolios as small as $10,000), and provide direct-placement services for business customers who wish to raise funds through the issuance of long-term debt obligations.

Thus, despite the Glass-Steagall Act prohibition against engaging in the "issuance, sale, underwriting, and distribution of securities", the current exceptions to this prohibition are not unimportant.

In addition, through Edge Act and Agreement Corporation subsidiaries abroad, U.S. banks can and do engage in the underwriting, distribution, and sale of securities in foreign countries. Edge Act and Agreement Corporations are domestically-organized bank subsidiaries that are vehicles for foreign banking and investments, and are licensed and supervised solely by the Federal Reserve Board.[19] Under the impetus of competition from foreign banks in foreign markets, the Federal Reserve Board has dealt with Edge Act and Agreement Corporation subsidiaries much more liberally than it has with domestic bank holding companies. In London or Paris, for example, large U.S. banks are free to provide investment banking services, while in New York or Chicago they are not.

Thus, although foreign banks are exempt from the restrictions of the Glass-Steagall Act and the Bank Holding Company Act, they gain only one clear competitive advantage vis-a-vis U.S. banks: a U.S. (or New York) office from which to conduct a securities and investment banking business. Whether such an office gives foreign banks an important competitive edge is open to question. Our judgment is that it does not, at least at present. Foreign banks' securities and investment banking services are currently on a small scale, are provided primarily to foreign corporate customers, and rarely involve underwriting. In addition, as noted earlier, American banks are currently providing a number of securities services. Nevertheless, it cannot be denied that present U.S. laws applicable to securities and investment banking activities treat foreign and American banks differently, and that these legal differences could, in the future, result in significant differences in fact as well as in law.

There are no easy solutions to this potential problem. Divestiture by foreign banks of their U.S. securities affiliates may impose costs on foreign banks that were never envisioned by these banks (and never intended by U.S. authorities), and may conceivably invite retaliatory action by foreign countries (although this seems unlikely). On the other hand, the politically expedient remedy of "grandfathering" the existing security activities of foreign banks [20] simply replaces one kind of competitive inequality with another. Specifically, such a remedy would allow foreign banks now in the United States to continue their securities activities while closing the door to competition from foreign institutions not yet in our markets. In addition, it would retain on a permanent basis the present inequality between (some) foreign banks and American banks. In our minds there is no economic rationale to support our choosing one kind of inequality over another.

Finally, unlike the issue of interstate branching, there is little agreement among objective students of banking about what role banks should play in the securities business. The Glass-Steagall Act arose out of the economic ruins of the 1930's and has not been the subject of serious study since that time. Further, as noted earlier, American banks are presently quietly challenging some of the basic provisions of the Glass-Steagall Act, both in the courts and in regulatory offices.

It is our view, therefore, that the most pressing current need is for a thorough Congressional review of the Glass-Steagall Act. Existing inequalities between American and foreign banks are not now significant enough to necessitate immediate legislative action in this area, so that the costs of delaying a legislative decision would, in our opinion, be much less than would be the costs of adopting a hasty, uninformed, remedy (that would undoubtedly become a permanent feature of our financial system).

Once it has been decided what the "securities" role of banks should be, however, these laws should be applied equally forcefully to both American and foreign banks, even to the extent of requiring divestiture by foreign banks of non-conforming activities. If the Congress concludes that such divestiture will impose undue hardships on foreign banks, it can always establish procedures to provide just compensation to those foreign banks that can demonstrate substantial injury due to divestiture. Such a remedy would in the long run be more equitable and less costly than a "grandfather clause" solution.

Additional Competitive Issues. There are three additional issues of lesser importance which are frequently cited in the debate over competitive equality. First, foreign banks have alleged on occasion that U.S. regulators have applied a different and discriminatory merger (or competitive) standard to foreign acquisitions of U.S. Banks; [21] second, the inability of frozen bank branches to obtain deposit insurance coverage from the Federal Deposit Insurance Corporation (F.D.I.C.) is cited as putting foreign banks at a competitive disadvantage; [22] and, third, differential reserve requirements are alleged to favor foreign banks. In examination of these issues we reject the first allegation as untrue, consider the second to be relatively unimportant, and argue that legislation is needed to correct the reserve differential problem.

With respect to the competitive standards used by U.S. regulators in cases of foreign bank acquisitions, we have discovered no discriminatory treatment. In Barclays Bank's attempted acquisition of Long Island Trust Co. in 1973, New York's Superintendent of Banks denied the acquisition using a "potential competition" standard consistent with previous bank merger cases in New York State.[23] Similarly, in his subsequent approval of Barclays' acquisition of First Westchester National Bank,[24] the New York Superintendent of Banks used a competitive standard consistent with previous decisions.[25] Finally, the standards applied by the Federal Reserve in approving acquisition of First Western Bank and Trust Co. by Lloyds Bank Ltd. in 1973 [26] are totally consistent with the standards it has applied in cases involving domestic funds.

The inability of foreign banks to insure their branch deposits is of minor but growing importance because foreign banks can conduct a full-fledge retail banking business solely through U.S. bank subsidiaries, which

Footnotes at end of article.

are eligible for F.D.I.C. insurance. The California situation illustrates this well. Despite California's refusal to permit foreign branches to accept deposits because such deposits would be uninsured.[27] Japanese and British banks presently conduct a highly successful retail banking business through insured bank subsidiaries. Further, there do not appear to be important competitive disadvantages associated with operating through subsidiaries rather than branches, although some may exist. In particular, the "loan limit" of a subsidiary is governed by the subsidiary's rather than the parent's capital; subsidiaries necessitate having U.S. citizens as directors and stockholders; and ownership of a U.S. bank may bring foreign banks under the Bank Holding Company Act. In most cases, however, these are not now serious drawbacks.[28]

The final issue concerns the imposition of differential reserve requirements on foreign and American banks. Specifically, Federal Reserve Regulations M and D have in the past placed American banks at a cost disadvantage vis-a-vis their foreign rivals. Regulation M (or subsection 213.7.B) imposes a reserve requirement of 8 percent on loans by foreign branches of U.S. banks to borrowers resident in the United States. Foreign banks are not subject to this requirement and therefore have a cost advantage over foreign branches of American banks.[29]

Regulation D now imposes a similar reserve requirement on the CD deposits of both American member banks and foreign bank branches. Pursuant to a recent Federal Reserve request, foreign banks maintain such reserves voluntarily although they are under no legal compulsion to do so.[30]

All differences in reserve requirements should be eliminated either by subjecting foreign banks to the same requirements or by eliminating these requirements for U.S. banks. Our recommendation is to eliminate the Regulation M requirement. This requirement serves no useful purpose: it is not necessary to implement monetary policy effectively; and, even if it were considered necessary, it would be inadequate. In addition, we recommend that Regulation D be made mandatory for foreign branches.

Implementing monetary policy

The presence of foreign banks in the United States has caused concern on the part of the Federal Reserve as to whether it can effectively implement monetary policy. Recently, the Federal Reserve has asked foreign banks to provide information voluntarily on their U.S. operations, and has proposed legislation which would extend federal reserve requirements to the U.S. branches of foreign banks.

To evaluate these Federal Reserve proposals, some understanding of the basic goals and instruments of monetary policy is required. Monetary policy can be described largely as the activity of controlling the U.S. money supply. If the Federal Reserve can effectively manage the money supply, the traditional goals of monetary policy are capable of being achieved—control over interest rates, spending, inflation, unemployment, etc.[31] In its endeavor to manage money, however, the Federal Reserve must have access to information about the magnitude of the current money supply and must be able to make reasonably accurate forecasts of future money flows. Without such information, it would obviously be impossible to determine how to alter the money supply to achieve the desired goals of monetary policy. The recent Federal Reserve requests for more information about foreign branch activities and for greater authority to control these activities, therefore, clearly reflects its fear that foreign banks may now be undermining (or will in the future undermine) its ability to effectively implement monetary policy.

How real are these fears? First, it should be noted that foreign banks maintain deposits in this country primarily in two capacities—in branches and in U.S.-chartered bank subsidiaries.[32] Bank subsidiaries may or may not opt to be members of the Federal Reserve System, similar to American-owned, state-chartered banks. Consequently, the issue of nonmember foreign-owned bank subsidiaries should be viewed as a part of the larger issue of "nonmember" American banks. Currently, there are eight thousand nonmember banks in the United States, which account for about $55 billion of demand deposits and about twenty-five percent of the demand deposit component of the money supply. Clearly, how we decide to treat American nonmember banks should be the determining factor in how foreign-owned U.S. bank subsidiaries are treated. There is no economic rationale to support regulating foreign-owned banks differently from American-owned banks.

U.S. branches and agencies of foreign banks, on the other hand, are not eligible for Federal Reserve membership, even if they desired it. Presently, there are about 60 foreign branches with $5 billion in assets and about 60 agencies[33] with about $12 billion in assets. Thus, foreign branch deposits constitute less than 2 percent of the U.S. money supply.

Nonetheless, branches of large foreign banks are quite active in money markets and may conceivably have an effect greater than that suggested by their size. For example, in the period of monetary restraint during 1969 and 1970 the Federal Reserve found that a few very large *U.S.* multinational banks diluted the impact of monetary policy through their extensive borrowing in the Eurodollar market. As a consequence, it imposed reserve requirements against the Eurodollar borrowings of these banks.[34] Branches of large foreign banks may give rise to a similar problem, which explains the Federal Reserve's request for greater powers to impose reserve requirements on foreign branches similar to those now imposed on U.S. member banks.[35] Such reserve requirements would also put large American and foreign banks on a more equal competitive footing, as noted earlier.[36]

To summarize, the "foreign bank" monetary control issue must be viewed as part of two issues: whether mandatory membership in the Federal Reserve for all U.S. banks is necessary to achieve effective monetary control; and whether large multinational banks, American, as well as foreign, can significantly impede the implementation of monetary policy. The first of these is now the object of heated debate,[37] and the second is a topic about which little is known. We urgently need to know more about how multinational banks can dilute the powers of monetary authorities to pursue traditional monetary goals.[38] Until there is a resolution of the nonmember bank issue, and until there is some consensus about just how multinational banks may thwart monetary policy, additional foreign-bank legislation in this area would be presumptuous and possibly harmful.

This conclusion should be carefully distinguished from our earlier recommendation that Federal Reserve requirements be mandatory for foreign branches.[39] This recommendation was made to assure competitive equality among foreign and American banks. With respect to monetary policy, such reserve requirements will neither enhance nor diminish the ability of the Federal Reserve to control the money supply.

Soundness of banking system

The objective of almost all banking regulation in the United States is to maintain a sound banking system. Among other virtues, such a system encourages the use of demand deposits as a means of payment and provides an attractive savings alternative for small savers, both of which enhance economic welfare in the long-run. The recent expansion of foreign banks in the United States and the growth of multinational banking in general, however, raises serious questions about the ability of U.S. regulators to safeguard the soundness of banking institutions operating in the United States.

Before discussing these concerns, a brief review of the U.S. regulatory system may be helpful This system has a dual "safety" structure. The first is federal deposit insurance, sponsored by the Federal Deposit Insurance Corporation (F.D.I.C.). Of approximately 14,000 U.S. banks, only about 150 very small banks are not covered by F.D.I.C insurance The F.D.I.C. insures all deposit accounts up to a maximum of $40,000, and receives premium income from a uniform effective annual assessment on all insured banks equal to 1/25 of 1 percent of the bank's (assessable) deposits. Its reserve deposit insurance fund is currently about $6 billion. Further, the F.D.I.C. is authorized to borrow an additional $3 billion from the U.S. Treasury if such funds are necessary.

The second structural dimension consists of a number of restrictive regulations designed to prevent banks from taking "excessive" risks. "Portfolio" restrictions prohibit banks from owning or engaging in high-risk activities, such as owning corporate equities or corporate bonds, or doing investment banking; "capital" and "liquidity" requirements limit debt-to-equity ratios and asset composition; ceilings on the payment of interest on deposits limit price competition; and, licensing requirements for new bank and office formation limits competition through new entry. Such restrictions are designed to supplement F.D.I.C. insurance by keeping the number of bank failures low so as not to jeopardize the viability of the F.D.I.C.[40]

Finally, this supervisory structure depends heavily upon first-hand "bank examination" as an enforcement device. At least once a year, insured banks are intensively examined by a task force of trained bank examiners to determine, first, whether banks are conforming to all laws and regulations, and, second, to develop information so that regulatory authorities may make judgements about the soundness of banks and the capability of their managements.

The "safety" issue that springs from the presence of foreign banks has two aspects. First, deposits in foreign branches are not now insured by the F.D.I.C. and are not eligible for such insurance.[41] Second, given the world-wide operations of many foreign banks, can unilateral supervision by a single country be effective in guaranteeing the soundness of foreign banks?

Supervision of foreign banks, or their U.S. offices and affiliates, through examination is difficult at best. Branches, for example, are integral parts of the "parent" foreign banks, most of whose activities are beyond the reach of U.S. regulators (in law as well as in fact).

Foreign banks are chartered under foreign law and supervised by foreign banking authorities. In addition, countries such as Switzerland, Lebanon, and the Bahamas have strict banking secrecy laws. An attempt by U.S. supervisory authorities to examine parent foreign banks on foreign soil, therefore, would almost certainly raise questions of extraterritorial jurisdiction. Further, even if such examination were possible, it is unlikely that a U.S. corps of bank examiners would have the training and knowledge to render an independent and informed judgement on the soundness and managerial competence of such giant multinational banks, which operate in a multitude of different economic environments.[42]

Footnotes at end of article.

One dimension of the safety issue, therefore, is whether we should extend F.D.I.C. coverage to the deposits of foreign branches when the second prop of our supervisory structure—the limitation of risk-exposure through regulation coupled with on-the-spot examination is impractical. This issue is compounded by the fact that foreign banks directly engage (as permitted under foreign law) in "non-traditional" (banking) activities that carry greater risk exposure (such as investment banking) and by the fact that foreign banks frequently have close ties (formal and informal) to industrial and commercial companies.[43] Thus, at minimum the extension of F.D.I.C. insurance to foreign branch deposits may constitute a subsidy to foreign banks because these deposits entail greater risk for the F.D.I.C.; at worst it may threaten the viability of the F.D.I.C. itself.

Nevertheless, it is our judgment that F.D.I.C. insurance should immediately be extended to foreign branch deposits. First, not to do so would be discriminatory, since much the same argument concerning the ineffectiveness of bank supervision can be made with respect to large, multinational, American banks, which have extensive foreign operations.[44] In addition, we do not believe that the substantive difference between foreign branches and foreign-owned U.S. bank subsidiaries is sufficient to justify the differential insurance treatment which now exists. Regulatory "insulation" of subsidiaries may prove in reality to be just as difficult as "insulation" of branches. Second, the ultimate goal of bank regulation is to maintain a sound banking system, and the maintenance of public confidence in banks is essential to that goal. Since any losses suffered by U.S. depositors doing business with uninsured foreign branches could work to undermine such confidence, it would seem self-defeating to withhold insurance coverage of foreign branch deposits.

Finally, the real issue raised in this section is that of maintaining a sound financial system in a world populated by large multinational banks. It is our opinion that this problem can only be resolved by the development of some transnational regulatory machinery, such as through more coordination among national supervisory authorities, or by establishment of an international supervisory authority. There is considerable doubt in our minds that in an environment of multinational banking individual countries can continue to maintain separate and distinct supervisory standards. Nowhere is this clearer than in the case of our own banks. Large American banks are currently engaged in a range of activities abroad far greater than that now permissible at home. Under section 4(c)(13) of the 1970 Bank Holding Company Act, and sections 25 and 25(a) of the Federal Reserve Act, the Federal Reserve Board is authorized to allow banks and bank holding companies to invest in any foreign company which does no business in the United States if the Board deems that investment to be in the public interest. Consequently, large American banks are presently engaged in activities abroad that are not permitted at home, such as the underwriting of stocks and bonds. The Federal Reserve has been moved to extend greater freedom to U.S. banks abroad than at home so that American banks could be fully competitive with foreign banks in foreign markets.[45] Such a supervisory philosophy must inevitably lead to a "double" regulatory standard for even our own banks. Thus, we feel that international supervisory cooperation and coordination is essential to maintaining both a sound domestic and international banking system.

Foreign ownership and control of banks

The final issue concerns the extent to which foreign ownership and control of U.S. banks should be permitted. Although foreign control of domestic banks has become a major political issue in many countries, such as Canada,[46] foreign direct investment in U.S. banks has not reached a magnitude sufficient to alarm Americans.[47] Such investment amounts to less than $1 billion, or less than 2 percent of total U.S. bank equity. Nevertheless, with almost $100 billion of surplus dollars being accumulated each year by oil-producing nations, there may be some basis for concern.

Is banking such an essential industry as to require statutory restrictions on the amount of foreign ownership and control? Banks are clearly a critical and integral part of monetary policy. In addition, they constitute an important savings repository, especially for small U.S. savers. Can foreign control of banks somehow undermine or distort these functions? We see no reason to think that it does. Some regulation, of course, may be necessary to guarantee that foreign banks continue to perform these functions effectively, but that is well within our current governmental powers. In addition, to enact statutory restrictions on foreign bank ownership will hinder the integration of international financial markets and make recycling of "Petro-Dollars" even more difficult. Thus, at least for the present, we do not see foreign control of U.S. financial institutions as a *per se* threat to the workability and soundness of our financial system.

SUMMARY AND CONCLUSIONS

Our analysis of the operations of foreign banks in the United States indicates that some new legislation is presently needed. In addition, it points to a number of areas that urgently need study.

We recommend that legislation be enacted to:

1. Impose federal reserve requirements on foreign branches similar to those now imposed on U.S. member banks under Regulation D;

2. Eliminate the Regulation M reserve requirement on loans by foreign branches of U.S. banks to borrowers resident in the United States;

3. Extend F.D.I.C. insurance coverage to the deposits of foreign banks' U.S. branches, at their option;

4. Make federal licensing of branches and subsidiaries more accessible to foreign banks; and,

5. Extend special privileges to less-developed nations, with respect to the ability of their banks to enter U.S. financial markets without their having to reciprocate.

We also see an urgent need to study the following multinational banking issues:

1. The activities of U.S. banks abroad and their consistency with domestic banking regulations;

2. The supervisory responsibilities of the various U.S. regulatory agencies with respect to U.S. multinational banks;

3. The past performance of the Federal Reserve Board in its role as the primary supervisory authority of U.S. bank activities abroad;

4. The ability of U.S. supervisory authorities to safeguard the soundness of multinational banks, and concomitantly, the safety of U.S. depositors; and, finally,

5. The need for international cooperation to safeguard the solvency of multinational banks, either in the form of uniform regulatory standards or in the form of international regulatory bodies.

Finally, we urgently need a thorough review of the Glass-Steagall Act. In particular, the wisdom and effectiveness of the Glass-Steagall Act in a world of multinational financial markets and institutions requires careful study.

TABLE I

ASSETS AND LIABILITIES OF FOREIGN-OWNED U.S. BANKING INSTITUTIONS AS OF OCTOBER 31, 1973

[*Billions of dollars*]

ASSETS	
Commercial and industrial credits	
To U.S.	11.8
To foreign	3.6
Money market assets:	
Interbank loans and securities:	
Loans to U.S. banks [1]	4.4
Loans to foreign banks	1.1
U.S. Government agency securities	1.5
Due from parent bank and other affiliated institutions:	
In U.S.	2.9
Foreign	4.2
Clearing balances	3.0
Other assets	2.5
	35.1
LIABILITIES	
Deposits and other liabilities:	
Nonbank:	
From foreign	3.6
Bank (non-affiliated):	
From U.S.	6.8
From foreign	.5
Due to parent bank and other affiliated institutions:	
In U.S.	3.4
Foreign	10.1
Clearing balances	2.0
Other liabilities	2.3
Capital and reserves	.9
	35.1

[1] Includes loans to security dealers.

Detail may not add to total due to rounding.

Source: FR 886a form, "Monthly Report of Condition of U.S. Agencies, Branches and Domestic Banking Subsidiaries of Foreign Banks."

FOOTNOTES

* Dr. Edwards is a Professor at the Columbia University Graduate School of Business and is a member of the Columbia Multinational Enterprise Research Project; and Dr. Zwick is a Vice President at E. M. Warburg, Pincus and Co., Inc. in New York.

[1] H.R. 11440, 93rd Congress, First Session, 1973.

[2] H.R. 11590, 93rd Congress, First Session, 1973.

[3] Draft legislation submitted by Arthur F. Burns, Chairman, Federal Reserve Board, to the Committee on Banking, Housing and Urban Affairs, December 3, 1974.

[4] See Joint Economic Committee Print number 9 Foreign Banking Activity in the United States.

[5] Tables II, III, IV and V are from the unpublished manuscript, "American Banking: Trends and Prospects," Andrew F. Brimmer, 51st Annual Meeting of the Bankers' Association for Foreign Trade, Boca Raton, Florida, April 2, 1973.

[6] See Banco di Roma, Rome, Italy, 58 *Fed. Res. Bull.* 940, at 940–41 (1972), and Banco di Roma, S.P.A., Rome, Italy, 58 *Fed. Res. Bull.* 930 (1972).

[7] This principle has been widely accepted. See the Barclays Bank Merger decision, N.Y. State Banking Board, May 10, 1973, p 13; A. Brimmer, "American International Banking", Speech before the 51st Annual Meeting of the Bankers' Association for Foreign Trade, Boca Raton, Florida, April 2, 1973, p 49–51; and S. Robinson, Jr. *Multinational Banking* (A. W. Sisthoff: Leiden) 1972. On the other hand, many of our States prohibit foreign banking altogether.

[9] For a discussion of this problem, see F. Edwards, "Regulations of Foreign Banking in the United States: International Reciprocity and Federal-State Conflicts", *The Columbia Transnational Law Review*, Vol. 13, No. 2 (1974).

[9] Omitted.

[10] Interstate branching is expressly prohibited under federal law for national banks (12 U.S.C. s36, 1969) and for state banks which are members of the Federal Reserve System (12 U.S.C. s321). Thus, complete interstate branching requires Federal enabling legislation. Multistate bank holding company subsidiaries can be allowed at the discretion of individual states. Recently, California and New York have made some effort to permit interstate holding company operations. See "States Cool to Bank Bill," N.Y. Times, March 22, 1974, p. 55, col. 2.

[11] See, for example, "Citicorp Sets New Centers," N.Y. Times, Oct. 8, 1974, p. 57, col. 4.

[12] See 12 U.S.C. s615(b) (1974); 12 U.S.C. s616 (1964).

[13] Although foreign banks, with the exception of the Japanese banks in California, have not exerted much effort in the past to penetrate the retail deposit market, it is possible that their inability to obtain F.D.I.C. deposit insurance has hindered this effort. Extension of F.D.I.C. insurance to foreign branches may, therefore, accelerate foreign banks' activities in the retail deposit market. Presently, foreign branches are not "banks" as defined by 12 U.S.C. s1813(a) and, therefore, cannot apply for F.D.I.C. insurance under 12 U.S.C. s1815. State chartered bank subsidiaries of foreign banks (such as those operated by the Japanese in California) are eligible for F.D.I.C. insurance.

[14] It should be noted that an alternative route is for the Federal Reserve Board to expand the multistate banking privileges of American banks by allowing bank holding companies to operate multistate savings and loan affiliates. A ruling that the savings and loan business is "incidental to the business of banking" is not without some logic.

[15] N.Y. Bank Law s508(5) (McKinney 1971). There are only three such entities in New York: The European-American Investment Company, The French-American Corporation, and J. Henry Schroder Banking Corporation.

[16] See 48 Stat. 162 (1933), 12 U.S.C. s221(a) (1934).

[17] 12 U.S.C. § 1824 et seq. (1970).

[18] The relevant sections of the Glass-Steagall Act are: 16, 20, 21, and 32. If a foreign bank were to own or control a state-licensed U.S. bank subsidiary however, it would be subject to the Federal Bank Holding Company Act.

[19] See 12 C.F.R. § 211.1–.09 (1972).

[20] See Footnote 3, *Supra*.

[21] "N.Y. Ruling Against Barclays Resented," N.Y. Times, May 19, 1973, p. 49, col. 1.

[22] Foreign branches are not "banks" as defined by 12 U.S.C. s1813(a) and therefore cannot apply for deposit insurance under 12 U.S.C. § 1815.

[23] See: *Release*, May 10, 1973.

[24] See: *Release*, Jan. 9, 1974.

[25] See: Kohn and Carlo, *Potential Competition: Unfounded Faith or Pragmatic Foresight* (N.Y. State Banking Dept.) March, 1970.

[26] See "World Airways Sells First Western to Lloyds," N.Y. Times, Jan. 17, 1974, p. 57, col. 4.

[27] See Cal. Fin Code § 1756 and 1756.1 (West, 1964).

[28] In any case, at a later point in this paper, we recommend for reasons of depositor protection, that F.D.I.C. insurance be extended to foreign branch deposits.

[29] The exact magnitude of the cost disadvantage is a direct function of the level of the cost of funds to banks. If, for example, Eurodollar deposit rates were 9 percent, branches of American banks would have a cost disadvantage in making loans of about 80 basis points.

[30] New York branches of foreign banks are all subject to State reserve requirements against deposit liabilities in essentially the same ratio as apply to member banks of the Federal Reserve System. Nevertheless, they can in one way or another reduce or entirely eliminate the cost disadvantage associated with such reserve requirements. See F. Klopstock, "Foreign Banks in the United States: Scope and Growth of Operations," *Monthly Review*, Fed. Res. Bank of New York, June, 1973, p. 147.

[31] These goals are not always mutually compatible, of course.

[32] Foreign agencies may also have "deposits". No state can forbid an agency from holding funds deposited with its parent outside the state and repayable outside the state. Thus, an agency in California may be able to sell its parent's certificate of deposit to a non-California corporation, provided that the certificate is delivered and is repayable outside California. In practice, however, agencies derive the bulk of their funds from borrowing Eurodollars and federal funds.

[33] California "branches", which cannot accept deposits, are counted as agencies.

[34] See A. Brimmer, op. cit.

[35] Foreign governments commonly impose such reserve requirements on the foreign branches of U.S. banks, so such requirements would not be inconsistent with international custom. See G. Garvy, "Reserve Requirements Abroad", *Monthly Review*, N.Y. Fed. Res. Bank. Oct., 1973.

[36] See previous discussion on pp. 30–31 above.

[37] See Report of the President's Commission on Financial Structure and Regulation, Dec., 1971, p. 68; Press Release, Board of Governors of the Federal Reserve System, Jan. 25, 1974 (introduced in the Senate on Jan. 28, 1974 as S. 2898; and "Optional Affiliation with the Federal Reserve System for Reserve Purposes Consistent with Effective Monetary Policy", by R. Robertson and A. Phillips, Conference of State Bank Supervisors, 1974.

[38] See, for example, A. Brimmer, "Multi-national Banks and the Management of Monetary Policy in the United States", *Journal of Finance;* May, 1973, 439–454; and W. Gibson, "Eurodollars and U.S. Monetary Policy", *Journal of Money, Credit and Banking*", August, 1971, 649–665.

[39] See Supra p. 32.

[40] The F.D.I.C.'s reserve fund plus its borrowing authority from the U.S. Treasury amounts to slightly more than 1% of insured bank deposits.

[41] U.S. bank state-chartered subsidiaries of foreign banks are eligible for F.D.I.C. insurance. See also *supra* note 22.

[42] U.S. bank subsidiaries of foreign banks might be distinguished from foreign branches. The operations of such subsidiaries are not as closely integrated into the parent's operations and may, therefore, be more easily supervised. For example, to determine the subsidiary's liquidity, capital adequacy, etc., examination of the parent bank is not required. In addition, in the event of bankruptcy, the U.S. subsidiary's assets are reachable. Problems still remain, however. It is by no means a simple regulatory task to monitor and guarantee that a subsidiary's assets remain "insulated" from its parent's.

[43] Examples are the relationship between Japanese banks and other members of Zaibatsus.

[44] See F. Dahl, "International Operations of U.S. Banks: Growth and Public Policy Implications," 32 Law and Contemp. Prob., 1967, pp. 100–130.

[45] See A. Brimmer, "American International Banking", speech delivered before Bankers' Association for Foreign Trade, Boca Raton, Florida, April 2, 1973.

[46] Under Canadian law, a single foreign shareholder may hold no more than 10 percent of the voting shares of *federally* incorporated trust and loan companies, insurance companies, and sales finance companies. In addition, foreign banks are prohibited from engaging directly in banking.

[47] But see, "Foreign Outlays May Get Scrutiny", N.Y. Times, Aug. 22, 1974, p. 45 col. 5; and "Move to Study Foreign Investing in U.S. Reflects Concern on Rising Trend and Lack of Fresh Data", N.Y. Times, Aug. 29, 1974, p. 44, col. 1.

TABLE II.—INTERNATIONAL OPERATIONS OF U.S. BANKS: SELECTED INDICATORS, 1960–72

[Monetary magnitudes are in billions of dollars]

	1960	1964	1965	1966	1967	1968	1969	1970	1971	1972
I. U.S. offices: [1]										
Bank credit to foreigners [2]	$4.2	$9.4	$9.7	$9.6	$9.8	$9.2	$9.3	$9.7	$12.1	$13.4
Foreign deposits [2,3] (other than due to foreign branches)	$9.1	$13.4	$13.6	$12.6	$14.4	$14.7	$16.5	$16.5	$17.7	$17.4
Due to foreign branches [4]		$1.2	$1.3	$4.0	$4.2	$6.0	$12.8	$7.7	$.9	$1.4
II. Overseas branches of banks: [5]										
Number of banks with overseas branches	8	11	13	13	15	26	53	79	91	108
Number of overseas branches	131	181	211	244	295	375	459	536	583	627
Assets of overseas branches [6]	$3.5	$6.9	$9.1	$12.4	$15.7	$23.0	$41.1	$52.6	$67.1	[7]$90.2
III. Edge and agreement corporations:										
Number	15	38	42	49	53	63	71	77	85	[9]89
Assets	([8])	$.9	$1.0	$1.4	$1.5	$2.5	$3.5	$4.6	$5.5	[9]$4.6
Memorandum—All insured commercial banks in United States:										
Total assets	$255.7	$343.9	$374.1	$401.4	$448.9	$498.1	$527.6	$572.7	$635.8	[9]$661.8
Total deposits	$228.4	$305.1	$330.3	$351.4	$394.1	$432.7	$434.1	$479.2	$535.7	[9]$550.0

[1] All data for U.S. offices are on a balance of payments basis.

[2] Bank credit to foreigners and foreign deposits relate to all commercial banks reporting on the Treasury foreign exchange forms, and include credits and deposits of branches and agencies of foreign banks as well as U.S. banks. Bank credit includes short- and long-term loans and acceptance credits denominated in dollars; for 1960, some other short- and long-term claims are also included. Data for 1972 do not include claims of U.S. banks or their foreign branches or claims of U.S. agencies and branches of foreign banks on their head offices.

[3] Foreign deposits include demand and time deposits of 1 year or less maturity, and, beginning in 1964, include negotiable certificates of deposit issued to foreigners and international institutions.

[4] Due to branches refers to the gross liabilities due to foreign branches of large U.S. weekly reporting banks.

[5] Overseas branches include branches of member banks in U.S. possessions and territories as well as in foreign countries.

[6] Branch assets include interbranch balances.

[7] Partly estimated.

[8] Not available.

[9] Data are for end of year, except where indicated which is end of June.

Sources: Treasury forms B–2 and B–3; Division of Supervision and Regulation, Board of Governors of the Federal Reserve System. Secondary source: Unpublished speech of the Honorable Andrew Brimmer (see footnote 5).

TABLE III.—FOREIGN CREDIT OUTSTANDING AT DOMESTIC BANKING OFFICES AND AT FOREIGN BRANCHES OF U.S. COMMERCIAL BANKS, 1960–72

Year	Foreign credits: Total	Held by domestic offices for own account [1]	Held by foreign branches: Amount [2]	Held by foreign branches: Percent of total	Annual percentage change: Total	Domestic offices	Foreign branches
1960	6.6	4.2	[3] 2.4	36.3			
1964	13.3	9.4	[3] 3.9	29.3			
1965	15.2	9.7	5.5	36.1	14.3	3.2	41.0
1966	15.6	9.6	6.0	38.4	2.6	−1.0	9.1
1967	17.5	9.8	7.7	44.0	12.2	2.1	28.3
1968	19.4	9.2	10.2	52.5	10.9	−6.5	32.5
1969	25.4	9.3	16.1	63.3	30.9	1.1	57.8
1970	38.3	9.7	28.6	74.7	50.8	4.3	77.6
1971	53.1	12.1	41.0	77.2	38.6	24.7	43.4
1972	72.9	13.4	[4] 59.5	81.6	37.3	10.7	45.1

[1] All commercial banks reporting on Treasury Forms B-2 and B-3; includes credits of U.S. branches and agencies of foreign banks, as well as U.S. banks. Covers short- and long-term loans and acceptance credits denominated in dollars. For 1960, a minor amount of other short- and long-term claims (not denominated in dollars) is also included. For domestic offices, totals include loans to own foreign branches. Branch totals exclude interbranch balances and amounts due from head offices.

[2] Data for foreign branches are from U.S. Treasury (From 3954) for years 1965-68. Data for 1969–72 from the Federal Reserve Board (Form 502).

[3] Estimated.

[4] Preliminary.

TABLE IV.—DOMESTIC ASSETS AND SELECTED DEPOSITS OF U.S. MULTI-NATIONAL BANKS, 1964 AND 1972

	Deposits (as of Dec. 31, 1964): Total domestic assets	Total deposits	At domestic offices	At foreign offices	Foreign as percent of total	Deposits (as of June 30, 1972): Total domestic assets	Total deposits	At domestic offices	At foreign offices	Foreign as percent of total
Bank of America NTGSA	14,589	14,349	12,970	1,279	9.6	26,086	32,393	21,667	10,726	33.1
Chase Manhattan Bank, S.A	12,177	11,446	10,064	1,391	12.1	19,919	22,826	14,985	7,838	34.3
First National City Bank	12,149	10,946	9,166	1,760	16.1	17,847	25,035	13,471	11,584	46.2
Manufacturers Hanover	6,852	6,054	5,722	332	5.4	10,972	11,964	9,024	2,941	24.6
Chemical Bank	6,182	5,377	5,225	151	2.8	10,971	10,787	8,520	2,267	21.0
Morgan Guaranty	6,764	4,788	4,282	406	8.4	9,724	10,717	6,646	4,071	38.0
Security Pacific	4,824	4,393	4,218			9,162	9,132	7,721	1,411	16.5
Bankers Trust	4,673	3,754	3,707	186	4.2	8,152	9,521	6,550	2,971	31.2
Continental Illinois	4,754	4,123	4,128	47	2.2	7,932	8,176	5,978	2,199	26.9
FNB of Chicago	4,214	3,613	3,613			7,405	7,400	5,195	2,206	29.8
Wells Fargo Bank, N.A	3,790	3,312	3,312			7,016	6,711	5,589	1,122	16.7
Crocker National Bank	3,688	3,216	3,216			6,095	5,862	4,911	951	16.2
United California Bank	3,181	2,745	2,745			5,761	5,088	4,468	615	12.1
National Bank of Detroit	2,772	2,508	2,508			5,110	4,802	4,222	580	12.1
Mellon National Bank	3,183	2,677	2,677			4,736	4,963	3,548	1,415	28.5
Irving Trust	3,249	2,982	2,782			4,043	4,164	3,165	999	24.0
FNB of Boston	2,192	1,886	1,774	112	5.9	3,765	3,974	2,646	1,328	33.4
First Pennsylvania	1,555	1,353	1,353			3,501	2,946	2,566	380	12.9
Marine Midland Bank—N.Y	951	1,092	1,074	18	1.6	3,136	4,962	2,610	2,352	47.4
Cleveland Trust	1,640	1,847	1,847			2,774	2,361	2,358	3	
Total	100,870	92,242	86,461	5,781		174,107	193,776	135,840	57,939	

Note: Multi-National Banks are those exceptionally large institutions which play a substantial role in international affairs. All of them have one or more branches in foreign countries, and each one has a relatively large volume of loans to foreign borrowers on the books of its head office. For a fuller description of the criteria used to identify multi-national banks, see Andrew F. Brimmer, "Multi-National Banks and the Management of Monetary Policy in the United States," presented before a joint session of the American Economic Association and the American Finance Association, Toronto, Canada, Dec. 28, 1972, 19–23.

TABLE V.—CLAIMS ON FOREIGNERS REPORTED BY BANKS IN THE UNITED STATES, BY GEOGRAPHIC REGION

[Amounts outstanding in millions of dollars]

	Dec. 31, 1964: Amount	Dec. 31, 1964: Percent of total	Dec. 31, 1968: Amount	Dec. 31, 1968: Percent of total	Dec. 31, 1972 [1]: Amount	Dec. 31, 1972 [1]: Percent of total
I. Short-term claims:						
Western Europe	1,210	15.2	1,181	13.6	2,831	18.2
United Kingdom	310	3.9	318	2.1	856	5.5
Canada	1,004	12.6	533	6.1	1,927	12.4
Japan	2,810	35.3	2,889	33.2	4,172	26.8
Latin America	2,235	28.1	3,114	35.7	4,445	28.6
All other countries	698	8.8	994	11.4	2,165	13.9
Total	7,957	100.0	8,711	100.0	15,540	100.0
II. Long-term claims:						
Western Europe	1,707	39.8	526	14.7	802	16.3
United Kingdom	87	2.0	68	1.9	138	2.8
Canada	328	7.7	428	12.0	382	7.8
Japan	430	10.0	122	3.4	315	6.4
Latin America	1,275	29.8	1,375	38.5	1,992	40.5
All other countries	544	12.7	1,116	31.3	1,423	29.0
Total	4,284	100.0	3,567	100.0	4,914	100.0
III. Total claims:						
Western Europe	2,917	23.8	1,707	13.9	3,633	17.8
United Kingdom	397	3.2	386	3.1	994	4.9
Canada	1,332	10.9	961	7.8	2,309	11.3
Japan	3,240	26.5	3,011	24.5	4,487	21.9
Latin America	3,510	28.7	4,489	36.6	6,437	31.5
All other countries	1,242	10.1	2,110	17.2	3,588	17.5
Total	12,241	100.0	12,278	100.0	20,454	100.0

[1] Preliminary.

Source: Treasury Foreign Exchange Report.

TABLE VI.—SCOPE OF FOREIGN BANK ACTIVITY, BY TYPE OF ORGANIZATIONAL ENTITY AND STATE

	Foreign banking offices: Agencies 1965	Agencies 1973	Branches 1965	Branches 1973	Representative offices 1965	Representative offices 1973	State chart subsidiaries 1965	State chart subsidiaries 1973	Branches of State chart subsidiaries 1965	Branches of State chart subsidiaries 1973	Securities affiliates 1965	Securities affiliates 1973
California	11	[1] 24	1	1	7	19	7	12	14	192		
Washington, D.C						4						
Florida								1				
Illinois					6	15	1	2		1		
Massachusetts				1								
New York	22	29	23	40	62	85	6	18		27		21
Oregon			2	2								
Texas						6						
Washington		1	1	1								
Puerto Rico			7									
Virgin Islands			3	3								
Hawaii		1		3				1				
Total	33	55	37	51	75	129	14	34	14	220		21

[1] California branches that cannot accept deposits are treated as agencies.

Source: F. Edwards, "Regulation of Foreign Banking in the United States: International Reciprocity and Federal-State Conflict", The Columbia Transnational Law Review, vol. 13, No. 2 (1974).

TABLE VII.—EXPANDING NETWORK OF OUT-OF-STATE EDGE CORPORATIONS,[1] 1964 AND 1972

Category	1964	1972
Number of banks with out-of-state edge corporations	6	[2] 45
Number of out-of-state edge corporations	6	39
Located in New York	6	21
Other locations		18
Miami, Fla.		7
Los Angeles, Calif.		4
San Francisco, Calif.		2
Chicago, Ill.		2
New Orleans, La.		1
Houston, Tex.		2
Assets of out-of-state edge corporations [3] (millions of dollars)	724	4,401
Located in New York	724	3,961
Other locations		440
Miami, Fla.		123
Los Angeles, Calif.		120
San Francisco, Calif.		130
Chicago, Ill.		
New Orleans, La.		67
Houston, Tex.		

[1] Out-of-state edge corporations are international banking subsidiaries located outside of the headquarters city of the parent.

[2] Includes 18 banks that are joint owners of Allied Bank International, New York.

[3] Asset figures may differ slightly from those in table 10 because of rounding in basic statistics.

Source: A. Brimmer, supra. note. 1, 38–41, table 9

APPENDIX I

SUMMARY OF THE LAW PERTAINING TO FOREIGN BANK HOLDING COMPANIES

Foreign banks may be subject to the Federal Bank Holding Company Act. This Act defines a bank holding company as a corporation (domestic or foreign) that ". . . directly or indirectly exercises a controlling influence over the management or policies of (a) bank." It requires that a company, domestic or foreign, must obtain prior approval from the Federal Reserve Board before becoming a bank holding company; and, upon becoming a bank holding company, the company is subject to complete supervision by the Federal Reserve Board. In particular, it must submit to periodic examination by the Federal Reserve Board, and must obtain the prior approval of the Board before acquiring direct or indirect ownership or control of any company, whether bank or non-bank.

There are three restrictive aspects of the Bank Holding Company Act which are particularly relevant to foreign banks. First, the Act generally prohibits bank holding companies from engaging in nonbanking activities, except for a few limited exemptions. This restriction may be especially odious to foreign banks, since they are accustomed to combining banking with nonbanking activities.

Second, the Federal Reserve Board's merger or acquisition "standard" is frequently more stringent than that of the State regulatory authorities. A foreign bank holding company which already owns or controls one state-chartered bank subsidiary and wishes to acquire a second such subsidiary must obtain approval from the Federal Reserve Board as well as the relevant State Banking Commission. Not infrequently, the Federal Reserve puts more weight on the possible anti-competitive effects of such an acquisition than do state banking authorities.

Finally, the Bank Holding Company Act prohibits multi-state operations by holding companies unless the laws of the states involved specifically authorize such operations. Since only one state, Iowa, presently permits acquisition of a local bank by an out-of-state bank holding company, the Act effectively prevents multi-state operations.

By Mr. BROCK:

S. 959. A bill to provide for a temporary period a 20 percent investment credit for small business enterprises with respect to property placed in service which increases production or decreases cost of production. Referred to the Committee on Finance.

Mr. BROCK. Mr. President, one of the true paradoxes of a recession is the circular relationship between employment, investment, and consumer spending. Products are not being purchased because people do not have jobs. People do not have jobs because no new money is being invested. No new money is being invested because products are not being purchased.

Typically, Government has responded to this circular problem by massive and random influxes of capital through deficit spending. Twenty years of deficit spending, however, have completely mortgaged our policy options. Rather than give us a full-employment economy, our actions have given us recession, inflation, and high interest rates. Thus, we must develop new methods and policies.

Perhaps one of the most efficient stimuli to increasing investment is the investment tax credit. And the sector of our economy that responds most rapidly to a change in tax policy is small business. Therefore, I am proposing today a temporary increase to 20 percent in the small business investment credit.

This legislation will allow small business firms to claim for a period of 36 months a 20 percent tax credit on capital investments. This can be expected to increase production and stimulate employment. This credit would be allowed up to a maximum of $200,000, for the purchase of capital equipment or reinvestment during any taxable year.

I would like to emphasize that my proposed legislation is quite different from other legislation that is either pending before the House of Representatives, or was introduced into the last session of Congress. Unlike other small business relief acts, my suggestion does affect depreciation. Depreciation adjustments only allow for recovery of capital over time. During inflation capital recovery through depreciation means a return of cheaper dollars in years to come from more expensive dollar investments made today. Therefore, there is some doubt as to the stimulation provided by liberalized depreciation allowances during times of high inflation.

The Small Business Act of 1974 did call for a minor increase in the investment tax credit. However, the increase was so small, and the maximum amount allowed so insignificant, that it is doubtful that the legislation would have been an effective stimulant to capital investment.

To solve the triple problems of inflation, unemployment and high interest rates we must act prudently. Any policy suggested must appreciate and compensate for the errors previous Congresses and administrations have made. The old, cliché suggestion of "spend, spend, spend" is no longer appropriate.

Unfortunately, over the last few years the United States has consumed or given away more than it has produced. Most national efforts have centered on the problems of consumption rather than the problems of production. Recent fuel and grain shortages should have caused the United States to realize that its major long-term economic problem is underproduction of goods, shortages of materials, and a decline in labor and capital productivity.

Unless direct action is taken to stimulate investment, the high cost of money and negative impact of unemployment will surely decrease the rate of capital investment. Without a sensible and careful plan, the deadly circle of inflation, unemployment and high interest rates will intensify in the coming months.

My suggested legislation provides a direct tax incentive to break this circle. It relies on a small, direct action to cause maximum impact.

By Mr HUMPHREY:

S. 960. A bill to alleviate the financial crisis confronting the public schools of the Nation by providing increased financial resources for elementary and secondary education, and by promoting the equitable distribution of such resources within the States through the establishment of a National Education Trust Fund. Referred to the Committee on Labor and Public Welfare.

NATIONAL EDUCATION INVESTMENT ACT OF 1975

Mr. HUMPHREY. Mr. President, today I am introducing the National Education Investment Act of 1975. When I introduced similar legislation 2 years ago, I stated then that we needed to launch "decisive Federal action to address the critical problems confronting school districts across the Nation."

Today, the problems are even more critical and decisive action is even more urgent. We need to establish a new education policy for America—a policy to guarantee that all children and youth, without regard to circumstances of residence, family income, or race will have a full and equal opportunity to obtain a quality education.

The National Education Investment Act provides for——

First, loan guarantees and interest subsidies to tap major private investment resources to assist school districts across America that have increasingly experienced high debt service costs, or voter turndowns of bond referendums for vitally needed school construction, due to resulting increased local taxes. Last year, almost 45 percent of the referendums proposed by local jurisdictions across the Nation were rejected by residents.

Second, the establishment of a national education trust fund in the Treasury, from which payments would be made to State and local jurisdiction applicants which agree to substantially reduce or eliminate the taxation of real property for the purpose of financing elementary and secondary education, under a program which would promote progressive tax reform in the State and the improvement and balancing of per pupil expenditures among all local school districts.

The title of my bill, the National Education Investment Act, indicates the fundamental commitment that must be made to increasing the Federal investment in education to one-third of all public resources.

But the administration's recent budget proposals show that there are no plans

to increase that investment. On the contrary, a recent Library of Congress study reveals that President Ford's fiscal 1976 budget request for education division programs is almost $400 million below the fiscal 1975 appropriations for such programs, and $1.1 billion below the 1975 appropriations in terms of real purchasing power when double digit inflation is considered.

The budget actually reduces Federal support for elementary and secondary education from 8 percent of total public education outlays in fiscal 1975 to an estimated 6 percent in fiscal 1976. This is an intolerable burden to shift to State and local governments who already, according to some estimates, will be required to spend an additional $4 to $5 billion just to maintain the current level of human resource services.

Though Federal outlays for education assistance have risen from $1.3 billion in fiscal 1965 to more than $7.5 billion in 1975, inflation has rendered this increase largely meaningless. The real increase between 1967 and 1974 was less than $100 million. And between fiscal years 1972 and 1974, there was an actual decrease of Federal education expenditures of 884 million real dollars.

By direct contrast, the National Education Investment Act proposes that a major advance be launched in Federal policies toward education. It is not the final answer—a number of other important legislative proposals have been made toward the achievement of this objective which is so vital to the future of our Nation.

However, the legislation which I am introducing today has several characteristics which merit the most serious consideration by Congress.

First, it proposes direct measures to address profound problems—the need for up-to-date school facilities, and for ending the unconscionable inequality where a child's education is made dependent on the wealth or poverty of his or her community.

Second, this bill is comprehensive, addressed both to overcoming major fiscal resource disparities among school districts, which undermine equality of educational opportunity for all American children, and to pinpointing special education needs of children which for too long have received a totally inadequate response—including the needs of preschool children, of mentally or physically handicapped children, and of educationally deprived children in areas of poverty.

Third, the National Education Investment Act presents clearly defined measures and a definite time schedule for addressing all these problems—not through just providing more Federal dollars, but through using Federal assistance as leverage to promote counterpart efforts by State and local governments and by the private investment sector. It calls for a total national effort on behalf of our children.

I urge Congress to take action on this priority national agenda for education without delay.

Mr. President, it is necessary that two subjects be addressed directly with respect to this legislation.

First, the issue of tax reform within the States, and the issue of finding adequate revenues to pay for our schools, must not be dealt with as separate matters, in any legislation before Congress. These issues must be seen as a single, major problem demanding a comprehensive solution. On the other hand, it must not be the function of the Federal Government to dictate the answers, but rather to provide a strong incentive for the States and local jurisdictions to find equitable and constructive solutions. I believe the National Education Investment Act provides an effective program to address tax reform and education financing issues simultaneously, and to encourage State and local governments to accept the primary responsibility for carrying out this task.

Second, the issue of maintaining local control of schools should be addressed fairly and honestly. Some may view this issue as a slogan without adequate philosophical substance or clear definition, or as being used to justify resistance to school desegregation, or as being divorced from reality where school districts are increasingly finding it almost impossible to fund rising school costs and must depend more and more on outside financial resources.

However, this issue also reflects a deep feeling, a strong belief, of our people in cities and towns across America about local responsibility for the education of children. My bill undertakes to respect this belief, subject to the assurance that an equal opportunity will be provided for all children to obtain an education of high quality.

The National Education Investment Act does call upon State and local educational agencies to specify school-age populations being served and to indicate the scope of educational services, in accounting for the use of Federal assistance. And it does place requirements upon such agencies to implement and carry out certain educational programs for groups of children who have been neglected or inadequately served. But most importantly, this bill takes the basic view that States and localities should now be enabled, through the provision of adequate and dependable Federal assistance—as intended, for example, by the establishment of a National Education Trust Fund—to work out their own answers to the unique problems they confront in guaranteeing the right of every child to a quality education.

Mr. President, I ask unanimous consent that a summary of the National Education Investment Act be printed at this point in the RECORD.

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

SUMMARY: NATIONAL EDUCATION INVESTMENT ACT OF 1975

TITLE I

Establishes a program of Federal loan guarantees and interest subsidies for construction and acquisition of facilities for elementary and secondary schools. Authorization period: October 1, 1976 through September 30, 1979. Amount of authorizations: $2.5 billion in fiscal year 1977, and for the succeeding fiscal year. Establishes in the Treasury an Elementary and Secondary School Facility Construction and Acquisition Loan Guarantee and Interest Subsidy Fund to be made available to the Commissioner of Education for the purpose of guaranteeing loans and making interest subsidy payments, on behalf of State and local educational agency applicants, to non-Federal lenders making loans to such agencies. Stipulates interest-differential for reduction of borrowing costs borne by such agencies, and sets forth criteria and limitations for assistance under this title to enable such agencies to meet capital outlay obligations. Provides for appropriate measures to protect the financial interests of the United States, and to assure that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency.

Labor standards and nondiscrimination provisions are stipulated. In addition to regular reporting requirements, provides for a consolidated report to be made by the Commissioner of Education to the Congress, on assistance authorized under this title, not later than January 1, 1979.

TITLE II

Establishes a National Education Trust Fund in the Treasury, from which the Secretary of the Treasury will make payments to State and local jurisdiction applicants, to enable such applicants to substantially reduce or eliminate the taxation of real property for the purpose of financing elementary and secondary education, during an initial authorization period beginning October 1, 1976 and ending with the close of September 30, 1979. Level of authorizations: $10 billion in each of fiscal years 1977 and 1978, and such sums as may be necessary to carry out the purposes of this title, for fiscal year 1979. Provides that during the first and second fiscal year for which application is made, Federal payments shall not exceed (1) the amount of funds received by the applicant from the taxation of real property during the last full fiscal year of the applicant when such funds were raised by such taxation for the purpose of financing elementary or secondary education, or (2) the amount of funds for that year which an applicant in a State would require in order to expend for elementary and secondary education an amount per pupil which is equal to the applicable target per pupil expenditure for that applicant, as further provided (basically, increases and balances per pupil expenditures among local school districts, without penalty to high-cost or high-expenditure areas, while focusing increased assistance on areas of educational deprivation), whichever is greater.

Provides that to be eligible to receive payments under this title in any fiscal year, an applicant must (1) eliminate the taxation of real property, for the purpose of financing elementary and secondary education, on the first $35,000 of assessed value of resident owned domiciles where the head of household or immediate survivor is dependent upon certain forms of fixed retirement income, and (2) reduce real property taxes and rent constituting real property taxes upon an individual's homestead (where such taxes are used to finance elementary and secondary education) to not more than 5 per centum of that individual's income.

Federal payments under this title in the second fiscal year for which application is made, and thereafter, are made further contingent upon appropriate certification by the State of the applicant that in the preceding fiscal year, all local educational agencies in the State had per pupil expenditures which met the required level for elementary and secondary school children, as provided under this title. Moreover, the applicant must have planned and will carry out programs to meet identified needs for early childhood development, vocational education, comprehensive

educational programs designed to meet the special education needs of mentally or physically handicapped children and children with specific learning disabilities, and compensatory education for children who are educationally deprived. Provision is made for an incentive increase of 10 per cent in payments to an applicant to meet such obligations, and for the withholding of 20 per cent of the payment for which the applicant would otherwise be eligible, where such obligations have not been assumed.

Provides that in the third fiscal year for which application is made, or in any fiscal year for which application is made by a State which meets certain enumerated requirements, including the presentation of a State plan under which specific obligations are assumed, only the State will be eligible to apply for Federal payments from the trust fund. The amount of payment to such State shall be equal to 33⅓ per cent of the expenditures for elementary and secondary education by the State in the preceding fiscal year.

To be eligible for this assistance, the State must comply with the provisions of this title with respect to the substantial reduction or elimination of the taxation of real property, the achievement of the required level of per pupil expenditures by all local educational agencies, the planning and carrying out of educational programs as stated above, and certain general provisions. In addition, the State must have adopted a State tax system under which combined State and local fiscal effort is maintained on behalf of elementary and secondary education, and that assures an equitable distribution within the State of the burden of financing elementary and secondary education, making such financing a function of the total taxable wealth of the State, achieved primarily by basing State taxes upon total personal income.

By Mr. MAGNUSON (for himself, Mr. BEALL, Mr. GRAVEL, Mr. HATHAWAY, Mr. HOLLINGS, Mr. JACKSON, Mr. KENNEDY, Mr. LONG, Mr. MCINTYRE, Mr. MOSS, Mr. MUSKIE, Mr. PACKWOOD, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STEVENS, Mr. WEICKER, and Mr. WILLIAMS):

S. 961. A bill to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce for referral to the appropriate committee the Emergency Marine Fisheries Protection Act of 1975, a bill which passed the Senate last year as S. 1988. This bill would extend the contiguous fisheries zone of the United States to 200 nautical miles, and would give the United States management authority over anadromous fish spawned in our waters throughout their migratory range.

This is essentially the same bill that passed the Senate on December 11, 1974, by a vote of 68 to 27. It is intended to give the United States expanded management jurisdiction over the fish off our shores. The reason for this extension of jurisdiction is to manage and conserve valuable marine resources presently threatened by overfishing. This is an interim measure and will terminate automatically at the time an acceptable international agreement on the question of fisheries jurisdiction is forthcoming from the United Nations Law of the Sea Conference and such agreement is either in force or is provisionally applied.

The list of fish stocks off our shores which are being depleted grows each year. Scientists have now concluded that approximately 25 different stocks of fish are at such a low level that they are either considered to be depleted or threatened with depletion. The following is a list, though not necessarily complete, of stocks which are either damaged or threatened off U.S. coasts at present and are of direct interest to U.S. fishermen: haddock, in the Atlantic; herring, in the Atlantic; mackerel, in the Pacific; menhaden, in the Atlantic; sablefish, in the Pacific; shrimp, in the Pacific; yellowtail flounder, in the Atlantic; and halibut in the Atlantic and Pacific. Three other species, although presently of lesser interest to U.S. fishermen, are also severely damaged—Alaska pollack, Pacific; yellow-finned sole, Pacific; and hake, Pacific. It is because of the rapid decline of these species of fish that the United States must exert management control over a 200-mile zone, a zone which roughly encompasses nearly all of our continental shelf and nearly all of our important coastal species.

This bill will prevent depletion of fishery resources. Patterned after U.S. fisheries position put forth in the U.N. Law of the Sea Conference, it would provide this Nation with the management authority needed to enact and enforce conservation measures. The bill is founded on the rationale that a coastal nation has a much greater stake in protecting the fish off its shores than do long-distance fishing nations whose fleets can move elsewhere if the fish disappear. With management authority out to 200 miles, the United States will be able to control the massive foreign fishing effort that it cannot now control. Most importantly, this bill will provide the United States with a much stronger bargaining position when dealing with long-distance fishing nations whose fleets operate near our shores. It will give us the kind of leverage we need to protect our fish stocks.

Mr. President, I wish to point out to my colleagues that the principal objection to S. 1988 raised by the administration has been the timing of the bill and not its substance. The Department of State believes that Senate action at this time would be inappropriate because it might interfere with their objectives in the Law of the Sea Conference now underway. In my view, an adverse impact on U.S. interests will not take place if Congress considers this proposed legislation. The nations of the world know our fishery position and it is contained in my bill. That Congress would seek to finalize our position should be of no surprise give the well-known problem of overfishing throughout the world. I believe a majority of coastal nations concur with the 200-mile limit concept. Most agree that action to protect fish is needed now, not in 1980 or later.

I believe that the vote in the Senate last session indicated to the Department of State that this body considers fisheries to be one of the most important issues being considered in the Law of the Sea negotiations. It is my view that a separate treaty could be, and ought to be, carved out from this extremely complex—perhaps fatally so—attempt to prepare one unified Law of the Sea treaty dealing with all ocean issues. Fisheries simply cannot wait for the world to become educated on the nuances of the "archipelago theory" or the intricate facets of the so-called Enterprise. We need immediate attention to the fish depletion problem. Given the positions already taken by coastal nation countries, the 200-mile limit should be unanimously adopted together with certain international requirements as to how fish would be managed within that zone.

What I am introducing has nothing whatever to do with any other matter being discussed at the Law of the Sea Conference. It stands on its own two feet; it is the greatest real problem which the Conference must deal with and time is running out. Previous attempts to get all nations which fish in a certain area to agree on an effective international conservation treaty has failed and it has been very difficult to turn around the momentum of overfishing in previous years through the treaty process. The only way to stop this spiral is to provide for a different management scheme, one which relies upon the incentive of coastal nations to maintain a constant fish resource off their shores. This is what S. 1988 does, and this is why I vigorously urge its enactment.

I expect that the Senate Committee on Commerce will hold hearings soon and will again move quickly to report this bill. The 200-mile fishing—or economic—zone will, I believe, soon become reality, either through this legislation or by means of an international agreement. We must begin now to prepare ourselves to manage this broad expanse of ocean and, more immediately, to prevent the disappearance of the very resource which makes it important.

I ask unanimous consent to print the bill in its entirety at this point in the RECORD.

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

S. 961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Marine Fisheries Protection Act of 1975".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) Valuable coastal and anadromous species of fish off the shores of the United States are in danger of being seriously depleted by excessive fishing effort.

(2) Stocks of coastal and anadromous species which inhabit waters of the 3-mile territorial sea and the existing 9-mile contiguous fishery zone of the United States are being depleted by foreign fishing efforts outside the 12-mile combined zone in which the United States presently possesses fishery management responsibility and authority.

(3) International negotiations have so far failed to result in effective international agreements on the conservation and management of threatened stocks of fish.

(4) There is danger that further depletion of these fishery resources will occur before

an effective general international agreement on fishery jurisdiction can be negotiated, signed, ratified, and implemented, unless emergency action is taken pending such international agreement.

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—

(1) to take emergency action to protect and conserve threatened stocks of fish by asserting fishery management responsibility and authority over fish in an extended contiguous fishery zone and over certain species of fish beyond such zone, until a general international agreement on fishery jurisdiction comes into force or is provisionally applied;

(2) to extend, as an emergency measure, the fishery management responsibility and authority of the United States to 200 nautical miles;

(3) to extend, as an emergency measure, fishery management responsibility and authority of the United States over anadromous species of fish which spawn in and fresh or estuarine waters of the United States; and

(4) to commit the Federal Government to act to prevent further depletion, to restore depleted stocks, and to protect and conserve fish to the full extent of such emergency responsibility and authority, and to provide for the identification, development, and implementation within 1 year of the date of enactment of this Act of the best practicable management system consistent with the interests of the Nation, the several States, and of other nations.

(c) POLICY.—It is further declared to the policy of the Congress in this Act—

(1) to maintain the existing territorial or other ocean jurisdiction of the United States without change, for all purposes other than the protection and conservation of certain species of fish and fish in certain ocean areas pending international agreement on fishery jurisdiction;

(2) to authorize no action, activity, or assertion of jurisdiction in contravention of any existing treaty or other international agreement to which the United States is party other than that necessary to further the purposes of this Act; and

(3) to authorize no impediment to our interference with the legal status of the high seas, except with respect to fishing to the extent necessary to implement this Act.

DEFINITIONS

SEC. 3. As used in this Act, unless the context otherwise requires—

(1) "anadromous species" means those species of fish which spawn in fresh or estuarine waters of the United States but which migrate to ocean waters;

(2) "citizen of the United States" means any person who is a citizen of the United States by birth, by naturalization or other legal judgment, or, with respect to a corporation, partnership, or other association, by organization under and maintenance, after the date of enactment of this Act, in accordance with the laws of any State: *Provided*, That (A) the controlling interest therein is owned or beneficially vested in individuals who are citizens of the United States; and (B) the chairman, and not less than two-thirds of the members, of the board of directors or other governing board thereof are individuals who are citizens of the United States;

(3) "coastal species" means all species of fish which inhabit the waters off the coasts of the United States, other than highly migratory and anadromous species;

(4) "contiguous fishery zone" means a zone contiguous to the territorial sea of the United States within which the United States exercises exclusive fishery management and conservation authority;

(5) "controlling interest" means (A) 75 percent of the stock of any corporation, or other entity, is vested in citizens of the United States free from any trust or fiduciary obligation in favor of any person not a citizen of the United States, (B) 75 percent of the voting power in such corporation, or such other entity, is vested in citizens of the United States, (C) no arrangement or contract exists providing that more than 25 percent of the voting power in such corporation, or such other entity, may be exercised in behalf of any person who is not a citizen of the United States, and (D) by no means whatsoever is control of any interest in such corporation, or such other entity, conferred upon or permitted to be exercised by any person who is not a citizen of the United States *Provided*, That any corporation, or other entity, subject to a controlling interest acquired prior to the date of enactment of this Act with the approval of the Secretary granted pursuant to section 9 or section 37 of the Shipping Act of 1916, as amended, (46 USC 808, 835) shall be deemed to be subject to a controlling interest owned or beneficially vested in individuals who are citizens of the United States.

(6) "fish" includes mollusks, crustaceans, marine mammals (except the polar bears, walrus, and sea otter), and all other forms of marine animal and plant life (but not including birds), and the living resources of the Continental Shelf as defined in the Act of May 20, 1964 (78 Stat. 196);

(7) "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting of any species of fish for any purpose, and any activity at sea in support of such actual or attempted catching, taking, or harvesting;

(8) "fishing vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or a type which is normally used for, fishing;

(9) "fishing-support vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type which is normally used for, aiding or assisting one or more fishing vessels at sea in the performance of any support activity, including, but not limited to, supply, storage, refrigeration, or processing;

(10) "highly migratory species" means those species of fish which spawn and migrate during their life cycle in waters of the open ocean, including, but not limited to, tuna;

(11) "optimum sustainable yield" refers to the largest economic return consistent with the biological capabilities of the stock, as determined on the basis of all relevant economic, biological, and environmental factors;

(12) "person" includes any government or entity thereof (and a citizen of any foreign nation);

(13) "Secretary" means the Secretary of Commerce, or his delegate;

(14) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the territories and possessions of the United States;

(15) "stock", with respect to any fish, means a type, species, or other category capable of management as a unit;

(16) "traditional foreign fishing" means long-standing, active, and continuous fishing for a particular stock of fish by citizens of a particular foreign nation in compliance with any applicable international fishery agreements and with the laws of such foreign nation; and

(17) "United States", when used in a geographical context, includes all States.

FISHERIES MANAGEMENT RESPONSIBILITY

SEC. 4. (a) CONTIGUOUS FISHERY ZONE.—(1) There is established, for the duration of this Act, a fishery zone contiguous to the territorial sea of the United States. The United States shall exercise exclusive fishery management responsibility and authority within this contiguous fishery zone.

(2) The contiguous fishery zone has as its inner boundary the outer limits of the territorial sea, and as its seaward boundary a line drawn so that each point on the line is 197 nautical miles from the inner boundary.

(3) Notwithstanding any other provision of law, the fishery management responsibility and authority of the United States within the contiguous fishery zone of the United States shall not include or be construed to extend to highly migratory species, except to the extent such species are not managed pursuant to bilateral or multilateral international fishery agreements.

(b) ANADROMOUS SPECIES.—(1) The fishery management responsibility and authority of the United States with respect to anadromous species, for the duration of this Act, extends to such species wherever found throughout the migratory range of such species: *Provided*, That such responsibility and authority shall not extend to such species to the extent found within the territorial waters or contiguous fishery zone of any other nation.

(c) GENERAL.—The United States shall manage and conserve, and have preferential rights to, fish within the contiguous fishery zone, and with respect to anadromous species of fish, pursuant to the responsibility and authority vested in it pursuant to this section, subject to traditional foreign fishing rights as defined and recognized in accordance with section 5 of this Act.

(d) REGULATIONS.—The Secretary is authorized to promulgate such regulations in accordance with section 553 of title 5, United States Code, as are necessary to implement the purposes of this Act. The Secretary is further authorized to amend such regulations in the manner originally promulgated.

FOREIGN FISHING RIGHTS

SEC. 5. (a) GENERAL.—The Secretary and the Secretary of State, after consultation with the Secretary of the Treasury, may authorize fishing within the contiguous fishery zone of the United States, or for anadromous species or both, by citizens of any foreign nation, in accordance with this section, only if such nation has traditionally engaged in such fishing prior to the date of enactment of this Act.

(b) PROVISIONS.—The allowable level of traditional foreign fishing shall be set upon the basis of the portion of any stock which cannot be harvested by citizens of the United States. Allowed traditional foreign fishing and fishing by citizens of the United States annually shall not, for any stock, exceed the optimum sustainable yield for such stock.

(c) RECIPROCITY.—Traditional foreign fishing rights shall not be recognized pursuant to this section unless any foreign nation claiming such rights demonstrates that it grants similar traditional fishing rights to citizens of the United States within the contiguous fishery zone of such nation, if any exist, or with respect to anadromous species which spawn in the fresh or estuarine waters of such nations.

(d) PROCEDURES.—(1) In determining the allowable level of foreign fishing with respect to any stock, the Secretary shall utilize the best available scientific information, including, but not limited to, catch and effort statistics and relevant available data compiled by any foreign nation claiming traditional fishing rights. The National Oceanic and Atomospheric Administration shall take steps to verify the authenticity of the foreign catch statistics and any other relevant data furnished for the purpose of this paragraph, including placing observers aboard foreign-flag fishing vessels as necessary during any fishing operations which may be authorized for foreign-flag fishing vessels pursuant to this Act.

(2) The Secretary is authorized to establish reasonable fees which shall be paid by the citizens of any foreign nation engaged in exercising foreign fishing rights recognized

under this section. Such fees shall be set in an amount sufficient to reimburse the United States for administrative expenses incurred pursuant to this section and for an equitable share of the management and conservation expenses incurred by the United States in accordance with this Act, including the cost of regulation and enforcement.

(e) PROHIBITION.—Except as provided in this Act, it shall be unlawful for any person not a citizen of the United States to own or operate a fishing vessel or fishing support vessel engaged in fishing in the internal waters, territorial sea, of contiguous fishery zone of the United States or for anadromous species of fish.

MARINE FISHERIES MANAGEMENT AND CONSERVATION PLANNING

SEC. 6. (a) OBJECTIVES.—It is the intent of the Congress that the following objectives be considered and included (to the extent practicable) in plans, programs, and standards for the management and conservation of marine fisheries; (1) evaluation of actual and foreseeable costs and benefits attributable thereto; (2) enhancement of total national and world food supply; (3) improvement of the economic well-being of fishermen; (4) maximum feasible utilization of methods, practices, and techniques that are optimal in terms of efficiency, protection of the ecosystem of which fish are a part, and conservation of stocks and species; and (5) effectuation of the purposes stated in section 2(b)(4) of this Act. Due consideration shall be given to alternative methods for achieving these objectives.

(b) FISHERIES MANAGEMENT COUNCIL.—There is established a Fisheries Management Council (hereinafter refered to as the "Council"). The Council shall consist of 11 individual members, as follows:

(1) a Chairman, a qualified individual who shall be appointed by the President, by and with the advice and consent of the Senate;

(2) three Government members, who shall be the Secretary, the Secretary of the department in which the Coast Guard is operating, and the Secretary of State, or their duly authorized representatives; and

(3) seven nongovernment members, who shall be appointed by the President, by and with the advice and consent of the Senate, on the following basis—

(A) three to be selected from a list of qualified individuals recommended by each of the regional fisheries commissions or their successors, one of whom shall be a representative respectively of Atlantic, Pacific, and Gulf of Mexico commercial fishing efforts; and

(B) four to be selected from a list of qualified individuals recommended by the National Governors Conference, at least one of whom shall be a representative of a coastal State.

As used in this paragraph, a list of qualified individuals shall consist of not less than three individuals for each Council member to be appointed.

As used in this subsection, "qualified individual" means an individual who is distinguished for his knowledge and experience in fisheries management and conservation, and who is equipped by experience, known talents, and interests to further the policy of this Act effectively, positively, and independently if appointed to be a member of the Board. The terms of office of the nongovernment members of the Council first taking office shall expire as designated by the President at the time of nomination—two at the end of the first year; two at the end of the second year; and three at the end of the third year. The term of office of the Chairman of the Council shall be 2 years. Successors to members of the Council shall be appointed in the same manner as the original members and, except in the case of Government members, shall have terms of office expiring 2 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(c) POWERS AND DUTIES.—The Council shall—

(1) engage in the preparation of a plan or plans for marine fisheries management and conservation;

(2) provide information and expert assistance to States and local or regional fisheries authorities in marine fisheries management and conservation;

(3) adopt, amend, and repeal such rules and regulations governing the operation of the Council and as are necessary to carry out the authority granted under this section; conduct its affairs, carry on operations, and maintain offices; appoint, fix the compensation, and assign the duties of such experts, agents, consultants, and other full- and part-time employee as it deems necessary or appropriate;

(4) consult on an ongoing basis (A) with other Federal agencies and departments; (B) with officials of coastal States who are concerned with marine fisheries management and conservation planning; (C) with appropriate officials of other nations which are exercising traditional foreign fishing rights, through the good offices of the Secretary of State; and (D) with owners and operators of fishing vessels;

(5) enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 9), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions and duties with any person (including a government entity);

(6) prepare a survey of fisheries subject to the emergency conservation and management authority granted to the United States by this Act, including, but not limited to, depleted stocks and stocks threatened with depletion; and

(7) survey, study, and prepare a marine fisheries management plan setting forth the elements of a national management system to conserve and protect fish.

(d) REVIEW BY CONGRESS.—The Council shall submit the marine fisheries management plan adopted by the Council to the Senate Committee on Commerce and the Committee on Merchant Marine and Fisheries of the House of Representatives not later than 1 year after the date of enactment of this Act. The marine fisheries management plan shall be deemed approved at the end of the first period of 180 calendar days of continuous session of Congress after such date of transmittal unless the House of Representatives and the Senate pass resolution in substantially the same form stating that the marine fisheries management plan is not favored. If the House and the Senate pass resolutions of disapproval under this subsection, the Council shall prepare, determine, and adopt a revised plan. Each such revised plan shall be submitted to Congress for review pursuant to this subsection. For purposes of this section (1) continuity of session of Congress is broken only by an adjournment sine die; and (2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 180-day period.

(e) MISCELLANEOUS.—(1) The marine fisheries management plan which is adopted by the Council and which becomes effective after review by the Congress is not subject to review by any court.

(2) The Council shall have a seal which shall be judicially recognized.

(3) The Administrator of General Services shall furnish the Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(4) A member of the Council who is not otherwise an employee of the Federal Government may receive $300 per diem when engaged in the actual performance of his duties as a member of the Council plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties. Each member of the Council shall be authorized such sums as are necessary to enable him to appoint and compensate an adequate qualified full-time professional staff responsible and subject to his control, but not otherwise subject to control by the Council.

(f) TERMINATION.—The Council shall cease to exist 30 days after adoption by Congress of the marine fisheries plan pursuant to subsection (d) of this section.

(g) AUTHORIZATION.—There are hereby authorized to be appropriated for the purposes of this section a sum not to exceed $1,000,000 for each of the fiscal years ending June 30, 1975, and June 30, 1976.

INTERNATIONAL FISHERY AGREEMENTS

SEC. 7. (a) GENERAL.—The Secretary of State, upon the request of and in cooperation with the Secretary, shall initiate and conduct negotiations with any foreign nation which is engaged in, or whose citizen are engaged in, fishing in the contiguous fishery zone of the United States or for anadromous species. The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose contiguous fishery zone or equivalent economic zone citizens of the United States are engaged in fishing or with respect to anadromous species as to which such nation asserts management responsibility and authority and for which citizens of the United States fish. The purpose of such negotiations shall be to enter into international fishery agreements in a bilateral or multilateral basis to effectuate the purposes, policy, and provisions of this Act. Such agreements may include, but need not be limited to, agreements to provide for the management and conservation of—

(1) coastal species, which are found in both the contiguous fishery zone of the Untied States and the equivalent such zone of a foreign nation adjacent thereto;

(2) anadromous species, which are found during the course of their migrations in ocean areas subject to the fishery management responsibility and authority of more than one nation;

(3) highly migratory species which are or may be covered by international fishery agreements; and

(4) coastal species, which are found in areas subject to the fishery management responsibility and authority of any foreign nation, through measures which allow citizens of the United States to harvest an appropriate portion of such species in accordance with traditional United States fishing rights in such areas.

(b) REVIEW.—The Secretary of State shall review, in cooperation with the Secretary, each treaty, convention, and other international fishery agreements to which the United States is party to determine whether the provisions of such agreements are consistent with the purposes, policy, and provisions of this Act. If any provision or terms of any such agreement are not so consistent, the Secretary of State shall initiate negotiations to amend such agreement: *Provided,* That nothing in this Act shall be construed to abrogate any duty or responsibility of the United States under any lawful treaty, convention, or other international agreement which is in effect on the date of enactment of this Act.

(c) BOUNDARIES AGREEMENT.—The Secretary of State is authorized and directed to initiate and conduct negotiations with ad-

jacent foreign nations to establish the boundaries of the contiguous fishery zone of the United States in relation to any such nation.

(d) NONRECOGNITION.—It is the sense of the Congress that the U.S. Government shall not recognize the limits of the contiguous fishery zone of any foreign nation beyond 12 nautical miles from the base line from which the territorial sea is measured, unless such nation recognizes the traditional fishing rights of citizens of the United States, if any, within any claimed extension of such zone or with respect to anadromous species, or recognizes the management of highly migratory species by the appropriate existing bilateral or multilateral international fishery agreements irrespective of whether such nation is party thereto.

RELATIONSHIP TO STATE LAWS

SEC. 8. Nothing in this Act shall be construed to extend the jurisdiction of any State over any natural resources beneath and in the waters beyond the territorial sea of the United States, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within the territorial sea of the United States.

PROHIBITED ACTS AND PENALTIES

SEC. 9. (a) PROHIBITED ACTS.—It is unlawful for any person to—

(1) violate any provision of this Act, or any regulation issued under this Act, regarding fishery within the contiguous fishery zone or with respect to anadromous species;

(2) violate any provision of any international fishery agreement to which the United States is party negotiated or reviewed pursuant to this Act, to the extent that such agreement applies to or covers fishing within the contiguous fishery zone or fishing for anadromous species as defined in section 4 of this Act;

(3) ship, transport, purchase, sell or offer for sale, import, export, possess, control, or maintain in his custody any fish taken in violation of paragraphs (1) or (2) of this subsection where such person knew or had reason to know that such taking was not lawful;

(4) violate any duly issued regulation under this Act with respect to making, keeping, submitting, or furnishing to the Secretary any records, reports, or other information;

(5) refuse to permit a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, to board a fishing vessel or fishing-support vessel subject to his control where the purpose of such requested boarding is to inspect the catch, fishing gear, ship's log, or other records or materials; or

(6) fail to cooperate with a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, engaged in a reasonable inspection pursuant to paragraph (5) of this subsection, or to resist any lawful arrest.

(6) CIVIL PENALTIES.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by subsection (a) of this section, shall be liable to the United States for a civil forfeiture in accordance with subsection (d) of this section and for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each day of each violation. The amount of such civil penalty shall be assessed by the Secretary, or his delegate, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person who is found to have committed a prohibited act and against whom a civil penalty is assessed under paragraph (1) of this subsection may obtain review in the appropriate court of appeals of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence, as provided by section 706(2)(e) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection.

(c) CRIMINAL PENALTIES.—Any person who willfully commits an act prohibited by subsection (a) of this section shall, upon conviction, be fined not more than $50,000 or imprisoned for no more than 1 year, or both.

(d) CIVIL FORFEITURE.—(1) Any district court of the United States shall have jurisdiction, upon application by the Secretary or the Attorney General, to order forfeited to the United States any fish or fishing gear, used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section. In any such proceeding, such court may at any time enter such restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory performance bonds in connection with any property subject to civil forfeiture.

(2) If a judgment is entered under this subsection for the United States, the Attorney General is authorized to seize all property or other interest declared forfeited upon such terms and conditions as are in the interest of justice. All provisions of law relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informants with respect to forfeitures shall apply to civil forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section by such officers or other persons as may be designated for that purpose by the Secretary of the department in which the Coast Guard is operating.

ENFORCEMENT

SEC. 10. (a) GENERAL.—The provisions of this Act shall be enforced, together with regulations issued under this Act, by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, and facilities of any other Federal agency in the performance of such duties.

(b) POWERS.—Any person duly authorized pursuant to subsection (a) of this section may—

(1) board and inspect any fishing vessel or fishing-support vessel which is within the contiguous fishery zone of the United States, or which he has reason to believe is fishing for anadromous species;

(2) arrest any person, with or without a warrant if he has reasonable cause to believe that such person has committed an act prohibited by section 9(a) of this Act;

(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) seize all fish and fishing gear found onboard any fishing vessel or fishing-support vessel engaged in any act prohibited by section 9(a) of this Act.

(c) COURTS.—The district courts of the United States shall have exclusive jurisdiction over all cases or controversies arising under this Act. Such court may issue all warrants or other process to the extent necessary or appropriate. In the case of Guam, such actions may be brought and such process issued by the District Court of Guam; in the case of the Virgin Islands, by the District Court of the Virgin Islands; and in the case of American Samoa, by the District Court of the District of Hawaii. The aforesaid courts shall have jurisdiction over all actions brought under this Act without regard to the amount in controversy or the citizenship of the parties.

DURATION OF ACT

SEC. 11. (a) EFFECTIVE DATE.—The provisions of section 4 of this Act shall become effective 90 days after the date of enactment of this Act. All other provisions of this Act shall become effective on the date of enactment.

(b) TERMINATION DATE.—The provisions of this Act shall expire and cease to be of any legal force and effect on such date as the Law of the Sea Treaty, or other comprehensive treaty with respect to fishery jurisdiction, which the United States has signed or is party to, shall come into force or is provisionally applied.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 12. Except with respect to section 6 and section 9 of this Act, there are auhtorized to be appropriated for the purposes of this Act to the Secretary such sums as are necessary, not to exceed $4,000,000 for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, and to the Secretary of the department in which the Coast Guard is operating such sums as are necessary, not to exceed $13,000,000 for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.

Mr. GRAVEL. Mr. President, the bill which the Senator from Washington (Mr. MAGNUSON) is introducing today has great significance to my home State. The largest segment of the Alaskan labor force is employed in the fishing industry. Until the recent advent of oil development within the State, fishing was the major industry. Today, while it still remains a major industry, its importance is diminishing. It is only sensible, in this time of nonrenewable resource extraction, to concentrate some of our efforts on preserving renewable resources.

I was greatly dismayed, as were many Alaskans, to learn that the Third Law of the Sea Conference had adjourned without resolution of the fisheries problem. It was indeed a heartening time when Ambassador Stevenson announced the

U.S. position regarding fisheries jurisdiction. Although this position was conditional upon a comprehensive package resolving the other issues faced by the conferees, it was a position that could be embraced by all our coastal fishing interests.

I adhere to the premise that this measure could be handled by international agreement. I have had difficulty in balancing the international implications of unilateral action with the overriding need to protect our living marine resources. Only through multilateral action could we be assured there would be no international friction. But international negotiations have failed.

Since a 200-mile bill was first introduced in the Senate, we have been told to await the outcome of international negotiations. The Nixon administration, which prided itself on forging international accords, has failed to effect agreement in this area. Similarly, this International Conference that was to be the bulwark of protection for these resources has also failed. To delay enactment of this measure further only sanctions the rapacious actions in marine resource harvesting. The time is ripe to curtail the overexploitation of these resources.

The situation facing Alaska's commercial fisheries is grave, at best. In November 1973, the U.S. delegation to the International North Pacific Fisheries Commission meeting were totally frustrated in attempts to get the Japanese to refrain from the high seas harvesting of salmon. The valuable Bristol Bay salmon fishery has been seriously depleted by the Japanese fishing effort. In December, the Alaska Department of Fish and Game announced it was no longer able to carry out its constitutional mandate to manage the Bristol Bay fishery.

In May of 1974, the Governor of Alaska, in the face of an expected catastrophe, declared Bristol Bay to be a State disaster area. This was followed in June by a similar declaration from the Federal Government. Massive aid was mobilized, as the residents of this area rely mainly on commercial fishing. Few fishermen even bothered to put their vessels into the water. Alternative sources of livelihood for these people had to be found.

As if this situation were not serious enough, on June 14 the U.S. Coast Guard seized a Japanese gill-netter for fishing in violation of the International Convention for the High Seas Fishery of the North Pacific. Again, on July 1, the Coast Guard seized another Japanese gill-netter for a similar violation. This appalling behavior further underscores the need for some action on this issue.

As last year's Commerce Committee report on this measure pointed out, the inroads of foreign fleets on American coastal fisheries is destroying this valuable resource. Further delay is encouragement for these foreign fleets to take what they can get, as soon as possible. A workable international pact is years away; our coastal fisheries cannot tolerate further exploitation.

Mr. STEVENS. Mr. President, I am once again pleased to join my good friend from Washington in introducing the Emergency Marine Fisheries Protection Act which would temporarily extend our fishing zone to 200 nautical miles, in order to declare conservation principles that all nations should adhere to.

In the last session of Congress after a series of hearings by the Commerce Committee and intense consideration by both the Committee on Foreign Relations and Committee on Armed Services, the Senate adopted this bill by a substantial margin.

While I would like to hope that the upcoming Law of the Seas Conference in Geneva this spring will result in an international agreement for effective conservation and management of our valuable fisheries resource, I am most doubtful that this will come to pass. Rather, I think that we will return from Geneva armed with an even more certain knowledge that unilateral action is needed by the United States if our fisheries on both coasts are to be saved from total depletion by foreign fishing.

The rapid international intensification of effort in fishing has been underway for more than 10 years. The exploitation of fisheries has been pushed beyond the practical limit in many regions of the ocean. At least 25 stocks of fish have been, or are threatened with depletion—11 of these stocks are off our own coasts.

Having served as a congressional advisor to the Law of the Seas Conference, I support the over-all effort and believe that international law governing the oceans is desirable. Unless agreement is reached in Geneva this spring, however, I most strongly believe that we must act unilaterally to implement and enforce this temporary and emergency fisheries conservation measure embodied in this bill.

Mr. McINTYRE. Mr. President, I am pleased to join my Senate colleagues in introducing this measure which would extend, on an interium basis, our fisheries jurisdiction to 200 miles. During the last Congress, the Senate was successful in passing this urgently needed legislation. We recognized then that expeditious treatment was necessary in order to control this dangerous situation. It is my hope that the Congress will see that threat to our commercial fishing industry is worsening day by day and will move, therefore, to enact this measure in the near future.

Mr. President, we can not allow our fish stocks to become further depleted. Many of our domestic fisheries resources are already threatened with extinction. Nowhere is this problem more severe or dramatic than on the New England fishing grounds. Before the 1960's, the New England fishing grounds were, except for a few Canadian vessels, fished exclusively by U.S. fishermen. By 1961, Soviet fishing vessels reported taking 68,000 tons of fish off Georges Bank. In 1965, Soviet fishing efforts were expanded to the Chesapeake Bay with an increase take of over a half million tons. Today, our New England fisherman harvest only 12 percent of the southern New England catch and only 10 percent of the catch of George's Bank.

Despite 22 fishery agreements between the United States and other fishing nations, our situation is worsening. From all reports, the negotiations at the Law of the Seas Conference are proceeding but no firm agreement is within sight. I recognize the desirability of a comprehensive treaty, however, until this can become a reality we must insure protection for this resource which is rapidly losing its economically viability.

Over the past several years I have had the opportunity to discuss personally with New Hampshire and New England fishermen the many problems facing these small businessmen. An already demanding and dangerous job is being complicated by direct threats to our fishing fleet. Nets have been cut, boats rammed, and the economic well-being of New England threatened by the foreign fishing fleets. Soviet fishermen, utilizing fishing methods which can only damage our marine environment, have been sighted vacuuming the ocean floor and destroying nature's aquatic balance.

During the last Congress, the Committee on Armed Services, of which I am a member, explored the question of national security with regard to an extension of our fisheries jurisdiction to 200 miles. The committee found that the fears expressed of retaliatory action or curtailment of free passage were speculative. Approximately 36 coastal nations have extended their fishery limits beyond 12 miles; 25 to 30 nations expressed their support of a 200-mile fisheries limit during deliberations at the Law of the Seas Conference.

This measure is not aimed at locking other nations out of our seas. Cooperative agreements are possible which would allow for the establishment of safe fishing levels. Sound conservation practices could be enacted and established levels of fish stocks would allow for regeneration.

I support the work the U.S. delegation is doing in seeking a treaty at the Law of the Seas Conference. By way of enforcing our belief in a 200-mile fisheries zone and protecting our domestic fishing fleets we need to enact this sound, well-conceived legislative proposal.

Mr. MUSKIE. Mr. President, I am pleased to join the distinguished Senator from Washington, Mr. MAGNUSON, in cosponsoring legislation to extend U.S. fisheries jurisdiction to 200 miles from our coasts, until an international oceans agreement can be negotiated.

Similar legislation was adopted by the Senate in the last Congress, but was not brought to the House floor for a vote.

This proposal is essential to the well-being of our fishing industry; and it is essential to the conservation and rational exploitation of an important world source of protein.

There are many reasons why Congress should act quickly on this legislation. I would like to touch on three.

First. Quick action is essential to the preservation of our rapidly dwindling fisheries resource. The world demand for protein has put enormous new burdens on our stocks of fish. Within the last 5 years alone, the foreign fishing effort off our coasts has increased severalfold. Stocks can be decimated in a year or two, a rate much to fast to be dealt with effectively by international negotiations. Scientists have now concluded that about

25 stocks of fish are depleted or threatened with depletion.

Fish landings in Maine demonstrate the gravity of the situation in the Northwest Atlantic. In 1950, Maine fishermen landed 353 million pounds of fish of all species. By 1970, that total had been more than cut in half, and in 1974 fish landings totaled only 148 million pounds.

The statistics for individual species are more dramatic. Since 1966 the whiting catch has declined by 90 percent, from 30 million pounds to 3 million in 1974. Since 1950 the catch of sea herring has declined 75 percent; ocean perch, 61 percent; cod, 30 percent; pollock, 42 percent; and haddock, 97 percent, from 6.5 million pounds in 1950 to 220,000 pounds last year.

Clearly, our fish stocks are in trouble. And it must be the United States, not the Russians, English or Japanese, which takes action to protect this important source of protein.

Second. International negotiations on the law of the sea are unlikely to conclude this year. Senators PELL, CASE, STEVENS, and myself—as Senate advisers to the U.S. delegation to the Law of the Sea Conference, attended last year's meeting in Caracas. We concluded that the Conference had so far failed to make any form of substantive progress because of its inability to overcome regional and group politics. We pointed out that the delegates at Caracas have gone about as far as they can in the development of a technical and nonpolitical base for a final agreement. We urged that this whole matter be taken up by the heads of state, or at least at the ministerial level. As we said in the report, the negotiations cannot be left to those of lower rank because the questions that are holding up the agreement cannot be settled as technical matters. They require compromises and trade-offs that can only be negotiated at the political level.

We also agreed that it is imperative that the negotiations reach agreement by the end of 1975. Should the Conference go beyond its scheduled time-frame, the chances for success will be considerably diminished.

I cannot report optimistically on prospects for real progress in the negotiations this year. Consequently, I think enactment of a 200-mile fishing limit in the 94th Congress is a necessity.

Third. A unilateral U.S. 200-mile limit could improve prospects for an early Law of the Sea agreement. Fears have been expressed that a unilateral 200-mile limit might provoke retaliation from other countries. We created a stir in the Conference by indicating our vigorous support for a 200-mile limit. We were told that the United States ought not to act that irresponsibly. So we suggested a course of action that might serve as a substitute, if we were being asked to exercise restraint with respect to this kind of legislation, then it seemed to us not unreasonable to ask restraint of those who created the problem off our coasts—the Soviet Union and Japan. I suggested that to them, but got very little positive response.

If the United States does not take effective short-run action to protect the fish stocks off our coasts, who is going to do so?

There is no evidence to suggest such restraint on their part. Indeed, at most, other countries will protect their own offshore stocks, if they have anything left to protect.

I would like to emphasize that nothing in the 200-mile fish limit legislation is inconsistent with our negotiating position at the United Nations Law of the Sea Conference. Some foreign delegates to the Conference expressed reservations about America's enacting interim 200-mile fish limit legislation. But my guess is that their first reaction, after denouncing the legislation, would be to negotiate at the Conference with a new sense of urgency.

It is important to remember that this legislation will not prohibit other nations from fishing in the 200-mile zone. In fact, it would preserve the rights of nations which have traditionally fished off our shores. But it would reserve to the United States the right to manage our offshore fish stocks to assure their best, and most prudent, use.

And in a hungry world, there is a global interest in assuring a continuing supply of protein from the sea.

Mr. President, I hope the Senate will give full and favorable consideration to the legislation we introduce today. It is past time to act.

Mr. HATHAWAY. Mr. President, there are many and varied reasons for my cosponsoring the 200-mile fishing limit today.

As a Senator from Maine, I am acutely aware of the effect foreign fishing has on not only the men and women who battle the sea to earn their living, but on the sea harvest itself. I have addressed this body on this subject many times in the past 2 years, inspired by the urgent need to do something for an industry which has the capacity to feed people, yet which is sometimes tragically ignored by its Government.

Foreign fishing fleets, heavily subsidized by their governments, sweep into the waters off Maine and all too frequently destroy nets and other fishing gear belonging to Maine fishermen. There is little if any restitution by the Government for this damage. There is little if any low-interest money for American fishermen to replace the gear destroyed by foreign fishermen.

I recently chaired hearings in Maine on the fishing industry, and heard first hand from those who work on the water the problems of dealing with this sort of situation.

A healthy fisheries industry is a vital asset for any State. In Maine, earning a living from the water is a way of life; a rugged, vigorous, challenging way to make a living. There are enough dangers inherent in such a life; the Government need not add to them by ignoring this opportunity to help an industry which has the capacity to harvest a renewable crop and feed people.

Depletion of a food industry such as fisheries would be a terrible mistake.

Both coasts of this Nation participate—for profit—in harvesting the yield of the sea. In terms of money, this Nation would suffer tremendous loss of income were we to lose this industry. In terms of food, it is even more critical. The lack of protein to meet the world's need could in large part be met by intelligently harvesting the food in our seas.

We can take steps here in this Chamber to encourage that harvest. Adoption of a 200-mile limit will first of all establish our right to harvest those fish which breed in our territorial waters now—within the present limit. Second, it will offer some protection to every American fisherman against encroachment by foreign fishing fleets, a right which I consider basic.

Food is an important commodity. We cannot afford to ignore, or to treat badly, an industry which has so much to offer not only America, but all nations which need vital protein for the nutrition of its people. The fishing industry already makes a significant contribution to the world's food supply. We can help make that contribution larger, and more significant, by supporting the 200-mile limit, and by encouraging stronger Government participation in the as yet unrealized potential of harvesting the food that exists in the sea.

By Mr. KENNEDY (for himself, Mr. EAGLETON, and Mr. CHURCH):

S. 962. A bill to amend the Older Americans Act of 1965 to establish a Community Service Employment Program for older Americans. Referred to the Committee on Labor and Public Welfare.

Mr. KENNEDY. Mr. President, I am introducing today a bill to authorize a total of 190,000 part-time jobs for older workers over the next 3 years.

The older Americans community service employment bill I am introducing would extend for 3 years the title IX program that has been under attack from the Department of Labor almost since its inception.

I am introducing this bill with Senator EAGLETON, chairman of the Senate Aging Subcommittee, and Senator CHURCH, chairman of the Senate Special Committee on Aging, as a clear expression of our belief that older workers are the most vulnerable part of the labor force, particularly during moments of economic crisis.

In the last 6 months of 1974, there was a 37½-percent increase in the number of persons over 45 who were unemployed. In November 1974, some 440,000 older workers over 55 years of age were unemployed, 31 percent jobless for 15 weeks or more. By January the number had climbed to 600,000 older persons over 55 years of age out of work.

We know from experience that older workers are the last to be hired in normal times and during a recession, their chances of employment drop to near zero.

In this community service program, we target Federal funds to the needs of older persons who still desire to work and who still can make significant contributions to our society.

I introduced the title IX program in the 91st Congress where it was passed by the Senate by a 77 to 0 vote. Later

it was incorporated in the Older Americans Comprehensive Services Amendments of 1972 which was pocket-vetoed by President Nixon.

Finally signed into law on May 4, 1973, title IX was designed to expand the Operation Mainstream program initiated under OEO and to spread that model across the Nation.

Instead, the administration, which had opposed my bill from the outset, refused to request any funds to operate it.

After the Congress approved an initial appropriation of $10 million in defiance of that position, the administration announced its intention to hand over the $10 million to its prime sponsors under the comprehensive manpower legislation. This was a direct failure to heed the congressional intent that the title IX program be operated independently of LETA and with strong participation of the national organizations which had so successfully administered Operation Mainstream.

After a series of letters and Senate Appropriations Committee warnings, the administration desisted, but insisted nevertheless that the $10 million would not be continued in future years.

Last year, we appropriated another $12 million for title IX after all evaluations reported the need for the program's expansion. Again, the administration opposed that action and actually submitted a proposal to rescind those funds—despite the mounting unemployment and the failure of the traditional manpower programs to do the job.

Now they propose not only to halt all funding for title IX but to end the Operation Mainstream older workers pilot projects as well by June 1975. If that were permitted to occur, a total of 12,674 older men and women would lose their jobs, their dignity and their hopes.

Congress has rejected that rescission request and I have proposed an amendment to add $36 million to the supplemental appropriations bill to expand the program this year.

The House Appropriations Committee has approved $24 million already and, hopefully, final action on increased appropriations will come shortly.

However, we must now extend the program's authorization—which expires on June 30, 1975—and further insure, with clear legislative language, our intent that the national organizations now administering the program continue in that role.

Only through this targeted program can we protect the availability of employment opportunities to elderly citizens.

The administration assurance that existing manpower programs run by State and local governments would do the job has been proved false. Revenue sharing, whether general or special, simply cannot be relied on to serve the needs of the elderly.

In 1973, older workers over 55 years of age, represented only 1.7 percent of the enrollees in the major manpower programs. In a survey of CETA prime sponsors for the July to September quarter of 1974, of 121,000 persons enrolled under title I programs, only 3 percent were persons over 55 years of age, according to the National Council of Senior Citizens. And in title II public service employment programs studied, only 5 percent of the enrollees were over 55 years of age.

These statistics demonstrate that the broad gage Federal manpower and public service jobs programs simply cannot adequately meet the special needs of workers 55 and older. They are not geared to part-time employment. They are not geared to appreciate the special contribution that the elderly can make.

The National Farmers Union made a State-by-State survey of State CETA prime sponsors to determine their willingness to fund green thumb type projects. They found "very little enrollment to that date of elderly people." More recently, a followup showed "little change in that situation."

For that reason, we have submitted this bill to extend the title IX program, to expand it and to protect its integrity and purpose.

We have included language to restrict the Secretary of Labor's ability to try to absorb these programs under special manpower revenue sharing. We have provided a hold harmless funding at this year's level to the national organizations which have accumulated an impressive record of achievement in operating these programs.

Let me cite just a few examples of how these organizations have been successful:

NRTA-AARP's senior community service employment program has compiled a remarkable record of placing 49 percent of its enrollees into unsubsidized employment. Yet the average age of enrollees remains at 66 and those enrollees include substantial numbers of minority group members, physically handicapped and even ex-offenders.

The National Council of the Aging currently reports eight applicants for each available job. And they note that the programs are "designed to promote self-help, not dependency."

The National Farmers Union operates the green thumb program, which concentrates its activities in rural towns and communities. Its workers strengthen existing community services, direct conservation programs, and provide special outreach services to help the aged shut-ins and the handicapped. It has been the pioneer in rural community service employment and it has produced exceptional successes in the 25 States in which it operates.

The National Council of Senior Citizens has been a vigorous supporter of the title IX program and was one of the earliest innovators in the field of community service employment for older persons. They have had 1,200 formal requests from communities in all 50 States for a senior aides program—yet they cannot meet those requests with current funding.

In recent testimony, William R. Hutton, executive director of NCSC, described some of the kinds of services performed by older workers in this program. His description could apply as well for all of the national contractors:

One senior aide was assigned to work with problem children at a day care center. She was able to draw the first words from a 3-year-old child who had until then not spoken. Neither the doctor, the therapist or the little girl's parents had been able to coax the child into speaking.

The senior aide, a mother of five, a grandmother of many more, said she could tell when to work with the child on her problem and when to just give her attention and love.

Homemaker-home health aides act as the eyes, ears, and feet of elderly shut-ins who try desperately to stay out of costly nursing homes. They also arrange for "security" telephone calls to check up on their patients and to maintain the bond of communication they often arrange for other visitors as well.

Day care center aides help teach children colors and new games and take the time to be the grandma or grandpa who listens to their stories and dreams. They also act as escorts for downtown window shopping and special trips for the children.

Outreach aides seek out the isolated elderly and often are the safety line that pulls many older men and women out of their lonely rooms and back in touch with the community. They link them to needed resources before it is too late for rehabilitation, follow up on their progress and often take the role of advocates when the bureaucratic system forgets that it is dealing with human beings and not computer cards.

The health clinic aides make arrangements for transportation, calm worried patients, take temperatures and pulse, and schedule appointments. Later, they are the reassuring contact to check on the patients' progress, to see if instructions have been followed or prescriptions purchased. Where the cost of the drugs is the problem, the health clinic aides try to find ways to insure that lack of income does not spell lack of medical care.

These are some of the examples of the basic services offered by title IX programs.

Equally impressive from a budgetary point of view is the national contractors' low overhead administrative cost. When both the regional offices of the Department of Labor were compared with the national contractors in operating programs under Operation Mainstream, the national contractors' costs were found to be almost $1,000 less per man-year.

Similarly in the Kirschner report on Operation Mainstream, an evaluation commissioned by the U.S. Department of Labor:

> It has been demonstrated consistently in Operation Mainstream that by any standard the overall administration and operation of the program has been most effective when the national contractors are involved. It is also apparent that the particular national contractors involved are appropriate for the program and have demonstrated a capability to minister effectively to the needs of both older enrollees and communities served. Thus, it is recommended that: "The proposed older worker program be continued to operate under the direction of NCSC, NRTA and the National Farmers Union.

That recommendation is one that the authorizing committees and the appro-

priating committees of the Senate and the House of Representatives have shared.

The title IX, older Americans community service employment program is essential for the elderly. It offers them vital income, the opportunity to continue to contribute their skills, and the sense of personal dignity and accomplishment that comes with meaningful work.

For that reason, I have introduced this bill and hope to see its early consideration and adoption.

I ask unanimous consent that the bill be printed in the RECORD along with recent testimony in the House of Representatives by elderly groups and organizations related to title IX.

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

S. 962

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 "Older American Community Service Employment Amendments of 1975".

SEC. 2. Title IX of the Older Americans Comprehensive Services Amendments of 1973 is amended to read as follows:

"TITLE IX—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

"SHORT TITLE

"SEC. 901. This title may be cited as the 'Older American Community Service Employment Act'.

"OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

"SEC. 902. (a) In order to foster and promote useful part-time work opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older and who have poor employment prospects, the Secretary of Labor is authorized to establish an older American community service employment program.

"(b)(1) In order to carry out the provisions of this title, the Secretary is authorized to enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or Indian tribes on Federal or State reservations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), and projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement the program. No payment shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless he determines that such project—

"(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

"(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

"(C) will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 (other than political parties), except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

"(D) will contribute to the general welfare of the community;

"(E) will provide employment for eligible individuals whose opportunities for other suitable public or private paid employment are poor;

"(F) will result in an increase in employment opportunities for eligible individuals, and will not result in the displacement of employed workers or impair existing contracts;

"(G) will utilize methods of recruitment and selection (including, but not limited to, listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

"(H) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

"(I) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed in public service jobs assisted under this title shall be paid wages which shall not be lower than whichever is the highest of (i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (ii) the State or local minimum wage for the most nearly comparable covered employment, or (iii) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

"(J) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons;

"(K) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this title in accordance with regulations promulgated by the Secretary; and

"(L) will assure that, to the extent feasible, such projects will serve the needs of minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State.

"(2) The Secretary is authorized to establish, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this title.

"(c)(1) The Secretary is authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project or (B) a project located in an economically depressed area as determined in consultation with the Secretary of Commerce and the Director of the Community Services Administration.

"(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

"ADMINISTRATION

"SEC. 903. (a) In order to effectively carry out the purposes of this title, the Secretary is authorized to consult with agencies of States and their political subdivisions with regard to—

"(1) the localities in which community service projects of the type authorized by this title are most needed;

"(2) consideration of the employment situations and the types of skills possessed by available local individuals who are eligible to participate; and

"(3) potential projects and the number and percentage of eligible individuals in the local population.

"(b) If the Secretary determines that to do so would increase job opportunities available to individuals under this title, the Secretary is authorized to coordinate the program assisted under this title with programs authorized under the Comprehensive Employment and Training Act of 1973, the Economic Opportunity Act of 1964, and the Emergency Employment Act of 1971. Appropriations under this Act may not be used to carry out any program under the Comprehensive Employment and Training Act of 1973, the Economic Opportunity Act of 1974, or the Emergency Employment Act of 1971.

"(c) In carrying out the provisions of this title, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies, and instrumentalities in the use of services, equipment, and facilities.

"(d) Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

"(e) The Secretary shall not delegate any function of the Secretary under this title to any other department or agency of the Government.

"PARTICIPANTS NOT FEDERAL EMPLOYEES

"SEC. 904. (a) Eligible individuals who are employed in any project funded under this title shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

"(b) No contract shall be entered into under this title with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self insurance, as authorized by State law, that the persons employed under the contract, shall enjoy workmen's compensation coverage equal to that provided by law for covered employment.

"INTERAGENCY COOPERATION

"SEC. 905. (a) The Secretary shall consult and obtain the views in writing of the Commissioner of the Administration on Aging prior to the establishment of rules or the establishment of general policy in the administration of this title.

(b) The Secretary shall consult and cooperate with the Director of the Community Services Administration, the Secretary of Health, Education, and Welfare, and the heads of other Federal agencies carrying out related programs, in order to achieve optimal coordination with such other programs. In carrying out the provisions of this section, the Secretary shall promote programs or projects of a similar nature. Each Federal agency shall cooperate with the Secretary in disseminating information about the availability of assistance under this title and in promoting the identification and interests of individuals eligible for employment in projects assisted under this title.

"EQUITABLE DISTRIBUTION OF ASSISTANCE

"SEC. 906 (a) (1) From sums appropriated under this title for each fiscal year, the Secretary shall first reserve such sums as may be necessary for contracts with national organizations currently funded under this title to maintain their level of activities at least

at the level of such activities supported under this title and under other federal authorities in fiscal year 1975. Each such contract shall contain provisions to assure that, to the extent practicable, funds received under that contract will be allotted in the same manner as is provided under paragraph (2) of this subsection.

"(2) The Secretary shall allot the remainder of the sums appropriated for any fiscal year under section 908 so that equal proportions are distributed on the basis of (A) the relative numbers of persons aged fifty-five or over in each State as compared to all States, (B) the number of persons aged fifty-five and over who are unemployed in each State as compared to all States, and (C) the number of persons aged fifty-five and over who are in families with income below the poverty level in each State as compared to all States, except that (i) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made, or $100,000, whichever is greater; and (ii) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made, or $50,000, whichever is greater. For the purpose of the exception contained in this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(3) (A) The number of persons aged fifty-five or over, the number of persons aged fifty-five and older who are unemployed, and the number of persons aged fifty-five and older who are in families with income below the poverty level, in any State and for all States, shall be determined by the Secretary on the basis of the most satisfactory data available to him.

"(B) The poverty level shall be determined for each fiscal year by the Secretary, after consultation with the Director of the Office of Management and Budget.

"(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for that year.

"(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible persons in each such area bears to such total number of such persons, respectively, in that State and (2) the relative distribution of such persons residing in rural and urban areas within the State.

"DEFINITIONS

"SEC. 907. As used in this title—

"(1) 'State' means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

"(2) 'eligible individual' means an individual who is fifty-five years old or older, who has a low income, and who has or would have difficulty in securing employment except that pursuant to regulations prescribed by the Secretary any such individual who is sixty years old or older shall have priority for the work opportunities provided for under this Act;

"(3) 'community service' means social, health, welfare, educational, library, recreational, and other similar services; conservation, maintenance or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe;

"(4) 'program' means the Older American Community Service Employment Program established under this title; and

"(5) 'Secretary' means the Secretary of Labor.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 908. There are authorized to be appropriated $100,000,000 for the fiscal year 1976, $150,000,000 for the fiscal year 1977, and $200,000,000 for the fiscal year 1978, to carry out the provisions of this title."

TESTIMONY OF JOHN B. MARTIN OF THE NATIONAL RETIRED TEACHERS ASSOCIATION AND THE AMERICAN ASSOCIATION OF RETIRED PERSONS

Another area of concern relates to employment of older workers during this present period of high inflation. As a part of Operation Mainstream, the NRTA–AARP Senior Community Service Aids Project, which was begun in 1969 as a demonstration program, has expanded since that time and now includes 32 project sites in 18 states with an authorized enrollment of 1775 persons. The average age of enrollees is 66+; 66 percent are white, 33 percent black with a 10 percent Spanish-speaking enrollment since 1972. The numbers also include Indians and Orientals. Fifteen percent of the monthly enrollment are physically handicapped and we have retrained also a large number of ex-offenders. Since the program began in 1969, well over 5,000 people have been enrolled.

Our placement rate of enrollees into unsubsidized employment is at present 49 percent. During the past twelve-month period we have placed 881 enrollees in permanent jobs. These enrollees are dependable, conscientious and completely dedicated to their work for the host agency. There is no question that it is better to have these men and women working and earning small wages than to have them on relief. They are employed only if they are in the poverty category and have poor employment prospects. Operation Mainstream and Title IX, referred to below, are the only programs which will make sure that they have an opportunity to earn a modest living. The Labor Department advises that Operation Mainstream is to go out of existence on June 30, 1975.

Under the 1973 Amendments to the Older Americans Act, Title IX was established to give statutory form to the older workers program. The NRTA–AARP Senior Community Service Employment Program was funded in July of 1974 and is now operating in eleven states where we have some 300 enrollees which represents nearly 50 percent of our total authorized enrollment. Within the next few weeks we will have reached a full enrollment of 636 and will have a waiting list of more than this authorized number.

In the meantime, the Comprehensive Employment and Training Act has been passed and the administrators of the Act have taken the position that it contains sufficient incentives for prime sponsors so that an older worker program can be worked out on a state and local basis without the categorical approach which uses national organizations to develop older worker programs under Operation Mainstream and Title IX.

Thus far, out of 132 projects submitted by CETA prime sponsors, not more than six have indicated possible funding for the current older worker enrollment. From the data available from CETA project plans, approximately four percent of CETA enrollment positions are supposed to be available to assist older workers. Past manpower programs have shown a consistent lack of interest in the older worker and, based on general revenue sharing's practically total disregard of the need of the elderly, it would appear that there is little hope of having older workers share in CETA programs in any real relation to their need.

Based upon past experience, therefore, we are of the very strong opinion that it is necessary and desirable to renew the Title IX authorization and to maintain in the Labor Department a categorical older worker program which can be relied upon to find jobs for older workers. If subsequent experience with the operations of CETA should show that prime sponsors can be educated or pressured to develop adequate older worker programs, it is possible that we will be able to do without the provisions of Title IX. Until that time arrives, however, it seems essential that such a program be continued.

We urge, therefore, that the Title X authorizations be renewed at $100 million, $150 million and $200 million for Fiscal Years 1976, 1977 and 1978 respectively, with $35 million, $45 million and $60 million allocated to present national contractors.

We further urge that this program remain in the Labor Department. We have studied the possibility of transferring the program to the Administration on Aging, but it is our opinion that there are several reasons for keeping the program in the Labor Department where it now is operating. Among these reasons are the following:

1. The Department of Labor working-level staff are trained and on-board. They are currently knowledgeable and generally sympathetic to older workers.

2. Working with two agencies would be difficult for national contractors who would be operating a program under the Administration on Aging and also involved in the development of programs with prime sponsors under CEAT.

3. It is our impression that the larger appropriations for employment assistance are most likely to go to the Department of Labor since this is the official agency dealing with employment. A transfer of Title IX responsibilities to the Administration on Aging might lead to neglect of the program by Congress in subsequent appropriations.

4. Finally we feel that it would be an additional burden on the Administration on Aging to have to develop from scratch a national employment program and it would be better to continue the present operation through the Labor Department by the national contractors as at present.

We are aware that the Labor Department is not happy with a categorical program such as Title IX presents. On the other hand, we are also aware that neither the Labor Department nor state and local employment agencies have ever shown great interest in older worker programs. For this reason, we feel strongly that Title IX ought to be continued with an authorization until it is clear that the Labor Department under CETA can and will encourage the development of an older worker program throughout the country. The attitude at the present time seems to be that if the local communities want it, they will do something about it. Unfortunately, however, local communities have other pressures and their failure to do anything about an older worker program will simply mean that the older worker, as in the past, will be the most discriminated against—last hired and first fired—and those older workers who lose their jobs will soon find themselves on the ash heap as far as further work is concerned.

We think, finally, that it should be recognized that these older workers in the Title

IX program and Operation Mainstream will be candidates for SSI assistance or welfare assistance if they are not given an opportunity to work in a constructive program. Generally speaking, it appears to us far more desirable to have them working and caring for their own welfare rather than having them drawing welfare checks. Additional welfare costs, of course, would include food stamps, medicaid and housing assistance so that the costs of not maintaining this program are substantially greater, we believe, than the cost of maintaining it.

STATEMENT OF WELDON V. BARTON, DIRECTOR OF GOVERNMENTAL SERVICES, NATIONAL FARMERS UNION

Mr. Chairman and Members of the Subcommittee, I am Weldon V. Barton, Director of Governmental Services, National Farmers Union. Our Washington office is 1012 14th St., N.W., Washington, D.C. 20005, Ph. 202-628-9774.

While Farmers Union would encourage you to extend all Titles of the 1973 Older Americans Comprehensive Services Amendment in a form that will be more serviceable to the elderly, my testimony will focus on Title IX because of Farmers Union's particular interest and responsibilities under that Title.

Farmers Union, during Fiscal 1974-75, contracted with the Department of Labor to carry out an elderly workers employment program under the Community Services Employment for Older Americans Act (Title IX of the 1973 Act). We are currently employing some 1,331 elderly people under that program.

Farmers Union carries out the Title IX program in close cooperation with a similar older workers employment program that we have administered under Department of Labor contract since 1965. Called Farmers Union Green Thumb, this Operation Mainstream program which is funded under Title III of the Comprehensive Employment and Training Act of 1973, employs some 3,739 elderly people during the current Fiscal Year.

Green Thumb employs older low-income rural persons, 55 years or older, to carry out community betterment and conservation projects, strengthen existing community services, and provide special outreach services to help the aged, shut-ins and handicapped.

Green Thumbers carry out a variety of projects and work assignments. Park and recreation facilities are built and improved. Courthouses and community centers are renovated. Green Thumb workers serve as librarian assistants and teachers aides. They work in senior citizen centers and provide many other outreach services.

Despite the fact that these programs have proven effective for the meaningful employment of persons 55 years or older who otherwise would not have jobs, the Department of Labor on March 5, 1974, sent official notice to Farmers Union and other national contractors of Operation Mainstream older workers programs that the programs would be terminated on June 30, 1975.

If that decision was allowed to stand, it would mean that over 5,000 older poor people who are now working for their living on Green Thumb projects would lose their jobs and would be forced to find some other way to supplement their meager incomes. When the other Operation Mainstream contractors are also included, over 9,000 older poor people would have their jobs terminated.

We are appealing to you on this Committee, and to the Congress, to prevail upon the Labor Department to continue these employment programs for our elderly people beyond mid-1975, and to prevent the dignity of the presently-employed older workers from being trampled upon.

Specifically, we respectfully request that you: 1) prevail upon the Department of Labor to make available to Green Thumb and the other Operation Mainstream national contractors the $12 million for Title IX that was contained in the FY 1975 Labor-HEW Appropriations Act and that was explicitly designated by the Appropriations Committees of both the House and Senate to be allocated primarily to the Operation Mainstream national contractors; 2) extend the Community Services Employment for Older Americans Act of 1973 (Title IX) as a part of an Older Americans Act of 1975, with the necessary changes and money authorizations to make sure that the nationally-contracted Green Thumb and other older workers programs will be continued at their full strength in 1976 and beyond.

Allow me briefly to review several reasons why the Operation Mainstream programs should be enabled to continue to serve elderly people who are poor and who want meaningful jobs in order to maintain their dignity and to serve their communities.

1. The programs have proven successful. The Kirschner report—prepared by an evaluation group contracted by the Department—compared the Operation Mainstream program administered through regional Department of Labor offices and the national contractors and came to the following conclusion three years ago:

"It has been demonstrated consistently in Operation Mainstream that by any standard the overall administration and operation of the program has been most effective when the national contractors are involved. It is also apparent that the particular national contractors involved are appropriate for the program and have demonstrated a capability to minister effectively to the needs of both older enrollees and communities served. Thus, it is recommended that: The proposed older worker program be continued to operate under the direction of NCSC, NCOA, NRTA, and the National Farmers Union."

2. A categorical program is required, if older persons who want to work are not to be ignored.

Administrators of the Comprehensive Employment and Training Act of 1973 are manpower people, who tend to think in terms of younger workers, full-time jobs and career planning—the same type administrators who ran manpower programs in 1973 when enrollees over 55 years represented only 1.7 percent of the total enrollees.

Another major consideration for retaining a separate program for older people administered outside the CETA prime sponsor mechanism is the CETA provision which allows governments to limit enrollment to those people who fit within their particular personnel policies, including their mandatory retirement age policy. This could result in age discrimination and could, in effect, cut out the neediest of the Operation Mainstream older workers—those who are over 65 years of age and therefore are offered no protection under the Age Discrimination Act.

From the data available from CETA project plans, approximately 4 percent of CETA enrollment positions are supposed to be going to assist older workers. However, this figure is not only much too low in relation to the need, but also may include anyone 45 years or over since the Department of Labor did not define its term "older worker."

At the request of Mr. William Kolberg, the Labor Assistant Secretary for Manpower, Farmers Union has made every effort to work through the state CETA prime sponsors to secure funding for Green Thumb-type projects, and has attempted to monitor the situation regarding involvement of elderly people in CETA-funded employment programs within states with Green Thumb programs.

In a state-by-state report to Assistant Secretary Kolberg dated August 6, 1974, Farmers Union Green Thumb reported that, to our knowledge, there had been very little enrollment to that date of elderly people in the CETA-funded employment programs administered through the prime sponsors.

We have updated that August 6 report with telephone calls last week to each of our states, and we find little change in that situation. Among the 25 states and Puerto Rico in which there are Green Thumb programs, only in Michigan has a CETA prime sponsor made any funds available under workable and acceptable conditions for the operation of a state Green Thumb-type program. In Michigan, $60,000 was made available.

Also, insofar as the Green Thumb personnel are aware, CETA prime sponsors have ignored older workers in their employment programs generally to date, and have restricted enrollments almost entirely to younger workers and the recently unemployed. Furthermore, the Governors' state and area councils under CETA, apparently have seldom included persons sensitive to the need to employ elderly people.

Consequently, CETA has not proven to be a workable alternative to the categorical, nationally-contracted approach, in making sure that elderly persons who are poor and need to work are able to participate in employment programs.

3. Welfare or other alternatives to meaningful work opportunities for the elderly are more costly.

The average Operation Mainstream enrollee's pay for one month is $191.00 less an approximate $11.00 deduction for Social Security. Certainly the services that these older workers provide, if put in dollar and cents values, would be more than equal such a cost differential.

Welfare is not a real alternative, in any case, for many of the elderly who are employed with Green Thumb. These elderly, rural people have a fierce pride, and they need to work to maintain dignity. It is only right in a moral sense that they be afforded work opportunities.

4. There is plenty of meaningful work to be done. Repair, renovation, construction, conservation, development, and beautification tasks of the kind that Green Thumb older workers—men and women—are performing abound in rural areas.

For these reasons, we urge you to amend and extend Title IX so as to assure the continuation of Green Thumb and other Operation Mainstream programs at their full strength.

TESTIMONY OF JACK OSSOFSKY, EXECUTIVE DIRECTOR, THE NATIONAL COUNCIL ON THE AGING

WHAT SHOULD BE THE ROLE OF TITLE IX—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS?

Mr. Chairman, NCOA strongly supports continuation and expansion of Title IX. Since 1968, NCOA has had in-depth experience with the Senior Aide Program through its Senior Community Service Project (SCSP). Currently NCOA administers Title IX and Operation Mainstream funded projects in 26 areas of the country with a total enrollment of 1400 older workers. We continue to receive about eight applicants for each available job. Increasingly, we have had success in placing participants in permanent employment in the competitive labor force. SCSP is designed to promote self-help, not dependency.

The need for employment among older workers is great and continues to grow with little or no governmental response. Our experiences make it clear that a significant number of the men and women over 55 who are not in the labor force desire part-time employment as provided under Title IX. In November, 1974, persons 45 and over represented more than 18 percent of the total unemployed, 28 percent of those unemployed for 15 weeks or longer, and 37 percent of the

individuals looking for jobs 27 weeks or longer. Nevertheless, as of December 1974, persons aged 45 and above totaled approximately 4 percent of all enrollees benefitting from the Comprehensive Employment and Training Act of 1973 (CETA). The CETA program is characteristic of previous Federal manpower programs which have "track records" of not responding to the needs of older workers. Since Title IX is the only Federal manpower program to have successfully addressed the employment needs of our older population while also permitting communities to improve their delivery of services, it is imperative that it be extended and expanded.

Title IX and Operation Mainstream components of the Manpower Administration have been highly successful. NCOA recommends that these programs continue to be administered by the U.S. Department of Labor and consolidated into a single categorical manpower program for older persons aged 55 and above. We believe that the national contractors with experience in the administration of the older worker programs should have a continued, but increasingly diminished role in the implementation of Title IX. There is a need for an expanded technical assistance effort by the national contractors with the eventual goal of local administration of the program. Lastly, we feel a three-year extension with the following authorized levels of funding would result in more effective program planning: $100 million for FY 1976; $150 million for FY 1977; and $200 million for FY 1978.

These changes will enable many older persons to continue using their accumulated skills and experiences in meaningful community services. We urge this Committee to counter the Department of Labor's decision to terminate the Operation Mainstream Older Worker Program on June 30, 1975.

At a time when the nation is confronted with the highest unemployment rate in a quarter of a century, when many older people are reducing their intake of daily meals to one meal a day, and when social service agencies will be strained to their utmost, America surely needs the help of these older people experienced in providing sound social services in their own communities. What this country doesn't need is greater unemployment among older persons who would eventually become a burden on the Federal treasury.

STATEMENT BY WILLIAM R. HUTTON, EXECUTIVE DIRECTOR, NATIONAL COUNCIL OF SENIOR CITIZENS

Mr. Chairman, Members of the Select Committee on Education. I am William R. Hutton, Executive Director of the National Council of Senior Citizens. Our national headquarters office is at 1511 K Street, N.W., Washington, D.C.

The National Council is a non-profit, nonpartisan organization of over 3,000 older people's clubs in all states. We are the country's largest organization of senior citizens' clubs.

The National Council is proud of its history—an organization initially built to gain passage of Medicare—and we are equally proud of our sustained efforts to build a better life for the old and the young of America. Our members are primarily those people who have worked hard all their lives to support themselves and their descendants and have a continuing sense of community and national pride.

Many older Americans find that their meager Social Security or SSI benefits do not afford them decent food and shelter. These people however, do not really wish to collect welfare if they can possibly avoid it. They would rather work several hours a day to provide for themselves like they have in times past before their age became an artificial barrier to their obtaining work. These elderly Americans—particularly those who have read reports of senior citizen community service programs under Title IX or Operation Mainstream—would like to have such a program to provide opportunities for working in their own home town. The National Council has over 1,200 formal requests from communities in all 50 states for a Senior Aides program. Requests from individuals fill several feet of filing space. Many older people who write for jobs do not belong to the National Council and are consequently not aware that only a few communities in our country are able to provide some work opportunities to older people.

The National Council of Senior Citizens is, therefore, extremely concerned with Title IX of the Older Americans Comprehensive Services Amendments of 1973.

Two years ago when this Title, the Older American Community Service Employment Act, became law, the National Council had high hopes that, at last, many older poor Americans would have a choice—a choice between welfare and a job, a choice between loneliness and involvement, a choice between worthlessness and usefulness, a choice between desperate poverty and making ends meet, a choice between hopelessness and hopefulness.

Title IX, modeled after the very successful Operation Mainstream Older Workers Program, was viewed by us as the Title that could have an impact on many problems in the aging field.

Title IX would offer an opportunity for able bodied older people to help themselves. It would give them a chance to keep their dignity because they were working for a living, as most good Americans must do to keep their place in society. Art Buchwald's recent comment on our country's work ethic rings true. "We've been told for such a long time that the only people in this country who are unemployed are those who are lazy, shiftless and don't give a damn. In America, not having a job makes you an outcast . . ."

Title IX would be a useful tool in breaking down the barriers and myths that keep senior citizens from being treated as part of our soceity. The vast array of jobs that could be initiated under Title IX would put seniors in contact with all ages of people in their communities. The older person would be portrayed in an active role. The stereotype older person rocking away the last years, or dozing off in the park, or lying incoherent in a nursing home, would be replaced by a truer picture of a senior citizen—a person who can think, talk, walk, dream, learn, teach, love, hate. A person rather than an old thing.

And that is not all that Title IX could do. It could provide your communities with an experienced and talented resource. This resource would help your communities to extend and to better the services they provide to shut-ins, to children in day care centers, to the infirm in nursing homes and hospitals, to the clients at health clinics, legal aid offices, housing projects, nutrition sites, community centers, employment offices, tax offices, the local "Y" or the Red Cross.

Title IX could help an unemployed older person come back to the mainstream of our society. It could help that person regain a sense of usefulness; it could help him keep his health and his mental alertness; it could reverse the downhill slide from being a drain on society to returning to helping us build a better place for us to work and play.

We had visions of how Title IX could really play a huge role in helping America relearn the value of the individual before the number, the statistics, the polls took all of us and put us in neat columns. I am not saying we want to return to the good ol' days, but just possibly, if we could work out a way to recognize people's needs and desires, individually as well as collectively, we might end up with a nation of people more dedicated to building a country than to taking advantage of it.

Unfortunately, almost 2 years after Title IX was signed into law, only $10 million has been allocated to operate this good program. That amount of funding limits the program to only providing approximately 3,300 older unemployed people, 55 years and over, with the opportunity to work part-time for one short year.

That number combined with the Operation Mainstream older workers program gives older workers a total of only 12,674 part-time job opportunities for the whole nation including Puerto Rico and the trust territories. As of June 30, there may be *no* job opportunities left for older workers as the U.S. Department of Labor is terminating Operation Mainstream and the Title IX appropriation of $12,000,000 is on the Administration's recision list. These two moves will leave over 12,000 older poor people without a job and, in reality, without any hope of ever earning a living for themselves, again. During good times the regular labor market didn't want them and now with so many unemployed people, they will never stand a chance.

It is disturbing that 2 years after the fact, Title IX is not securely funded at a level that would enable it to pick up the Operation Mainstream enrollees who will be terminated in 5 short months. The delaying tactics used by the Department of Labor to stop the commencement of Title IX and their continued fight to kill this good program is a discredit to our country.

The National Council was ready to begin putting Title IX in operation in 1973 and once the Department of Labor decided to administer part of the Title IX program it took us only a few weeks to have all the local projects operating and hiring older people who would begin to proudly call themselves Senior Aides. However, during the year that elapsed between passage of the Act and finally putting the program in operation, the Department of Labor tried many techniques to stop this program from ever seeing the light of day.

First, of course, the Administration never requested any funds for the program. Congress did appropriate $10,000,000 for Fiscal Year 1974 in December, 1973. In February, 1974, the Administration, in a Fiscal Year 1974 Supplemental Request for the Comprehensive Employment and Training Act, tried to weave Title IX in CETA and Assistant Secretary Kolberg testified during the next month that the $10 million already appropriated was a one time, one shot appropriation and that the money would be given to the State CETA Prime Sponsors even though the Senate Report to the appropriations bill said national contractors of older worker programs were to be primarily used to administer the new Title IX program. In the second supplemental, the House Report of April, 1974, contained the same direction for the Department of Labor to use national contractors. Then in late April, 1974, the Department of Labor finally released draft regulations for Title IX and they gave the states first priority for the funds. In May, the Senate report to the second supplemental appropriations came out with language directing the Secretary to primarily use national contractors as their tried and proven approach of administering these programs was superior. The Department of Labor still didn't amend its regulations. The Conference Report to the second supplemental directed the Department of Labor to use national contractors for the Title IX program.

Finally, the Department of Labor understood Congressional intent and the $10,000,000 was released to national contractors on June 28, 1974, but the New Federal regulations said the use of national contractors was only for Fiscal Year 1974 funds and in future years, the regulations state, priority is to be given to organizations such as State and local agencies responsible for administering grants and programs under CETA.

A full circle—a complete run around.

Not to be daunted, Congressional advocates for older workers picked up the ball and again appropriated $12,000,000 for Title IX for Fiscal Year 1975 with language in the Appropriation Reports again directing the Department of Labor to primarily use national contractors. Once more the Department of Labor came around and stated that the national contractors would be used to operate the Title IX program for Fiscal Year 1975. However, the Department of Labor wants to impound the $12,000,000 appropriated for Fiscal Year 1975 and it has yet to change the Title IX regulations to reflect Congressional intent for administration of the program.

Considering the nation's high unemployment rate and the fact that older workers have a very tough time finding jobs during good times, it is extremely hard to understand why the Department of Labor and this Administration is completely bent on reducing the budget by taking dollars and opportunities away from older poor people. These tactics rather remind me of the dumb bully in the block who picked on kids smaller than he, presumably to show his strength. We all laughed at him because we could see he was greatly afraid of the big kids and we knew he would not pick a fight with the kids equal to his strength. The little kid he knocked down though, didn't laugh.

Most of you sitting on this distinguished panel understand the reasons why Congress has supported national contractors as the administrators of older worker programs. Please allow me, though, to briefly outline why the National Council and other national organizations have been able to administer older worker programs effectively, and why the manpower revenue sharing system should not be used as the primary administrative method for operating older worker programs.

At the very top of all considerations to be weighed, is what types of skills and knowledge are needed so that the older worker receives the very best assistance possible. Most unemployed older people who are able to work part or full-time are unable to obtain jobs in the regular labor market only because of age. Most of the older people that come to us have many skills, though possibly a little rusty, a life-time of experience and good work habits. It is very easy to utilize these people in community service work.

However, since many of the people served by our Operation Mainstream and Title IX programs have been out of work for a considerable length of time, have been subjected to many employers turning them down for jobs and have been living in poverty, the first problem we must solve is to bring despairing older workers out of their depression and show them how extremely useful their skills are in providing other disadvantaged people with social services. Along with this psychological boost of usefulness, an enrollee may need some help in getting some new eyeglasses, dentures and new shoes or clothes since they have been unable to purchase anything for a considerable length of time and everything they have has mostly been worn out.

Then as the person probably has lost all self-confidence along the way, an initial job must be devised that will make the older worker feel that he can produce. This first job is very important, and the director must be able to delicately maneuver the older person into describing the type of work he or she has done during their lives, whether for pay or not, what kind of habits or other interests they have and what kind of jobs they think they would like. The answer to this, at best, is usually—"I'll do anything for a job"—and then they back off because they are also afraid at this point that they can't do anything. After a nice long chat, our older persons are assigned to a mutually agreeable job with a specific social service or other agency that can utilize skills and talents, will provide sensitive supervision and supportive services and is relatively accessible. This first job is gradually upgraded as the older worker regains his self-confidence and his talents and skills begin to come back.

Shortly, an outstanding worker is again producing, and the community now is able to utilize an older person's resources, which vary considerably from good homemaking and mothering to bookkeeping, counseling or carpentry. One resource that we have found to be most common among older people is good judgement, especially as applied to working with and helping other people and their problems. Some professional teachers, social workers, physical and mental therapists have remarked about the older worker's ability to almost sense the needs of their respective clients and hence be able to provide valuable services.

For example, one Senior Aide assigned to work with problem children at a day care center was able to get a 3 year old child to say her first words. Neither the doctor, the therapist nor the parents were able to do this. The Senior Aide, mother of 5, grandmother of many more than that, said she could tell when to work with the child on her problem and when to just give her some love and attention. Another Senior Aide says his decisions are simple to make. This Aide is sent out to do incidental home repairs for people who are supposedly unable to pay for them. It is easy, he says, to tell whether the clients need his free services or if they really don't need them—"If they're living like I am, they need free service."

Another remarkable ability that older people bring to the program is their responsiveness to the "other" needs that their clients may have. Homemaker-home-health Aides, acting as the eyes, ears, or feet of shut-ins trying desperately to stay out of the costly nursing home, also arrange for "Security" telephone calls to checkup on their patients during their absence and set up other visitors for their "patients daily phone calls."

Day Care Center Aides helping to teach the children colors or a new game, also take the time to be the grandma or grandpa who listens to their stories and act as escort for downtown window shopping on Saturdays. Outreach Aides who seek out the isolated elderly and put them in touch with the right resources before it is too late for rehabilitation, follow-up on their clients and act as their advocates if the system starts kicking them about. The Health Clinic Aides do more than take temperatures and pulse or make appointments; they calm the nerves of the patient waiting to see the doctor; they make arrangements for transportation back home; they call them later and see if they understand the doctors orders, if they bought the prescription, or if they are waiting till they have some money saved for it.

If money is the problem, the Aides work hard to find a source of funds for the needy patient's medicine. Repairmen Aides, mending the broken stoop or replacing a broken glass pane for the elderly widow, also will ask about any other worries she may have and make sure the people who can help learn about her need for transportation to the doctor's office or the grocery store once a week, or her fear of not being able to pay the heat bill next month.

The diversity of jobs that Senior Aides competently perform each day really runs the gamut from employment counselors to Physical Therapy Aides, from interpreters to nutrition site managers, from friendly visitors to housing locators, from Mental Health Aides to legal paraprofessionals, from bookkeepers to medicare claim specialists. The lists of jobs Senior Aides perform is practically endless. Let me, though, try to relate to you through one incident how well the Senior Aides are able to alleviate the hardships of other disadvantaged people.

A local Senior Aides program was contacted recently by a small non-profit agency asking if an Aide could serve an elderly lady a meal each day as she was released from the hospital after suffering a broken hip and was unable to do for herself. A neighbor of the enderly lady had called this agency as she felt something had to be done, and she, being a working woman, was unable to provide for this incapacitated lady.

The neighbor also related that the city had been contacted about three weeks prior to this, but so far nothing had been accomplished through them besides an initial visit by a social worker. A Senior Aide was assigned to help the client.

When the Senior Aide arrived at the client's apartment he recognized that there was an emergency situation to be handled—a situation that the social service department had three weeks to either avert or to take care of—neither of which they had done. The toilet was stopped up, the sink was stopped up, the client was limited in mobility as she could not walk a step without using a walker and therefore was unable to shop for groceries or do laundry, unable to take a bath or clean the apartment—in other words the client had hardly been able to keep herself alive. Within three days after the Senior Aide saw the situation, this client was packed up, bodily moved, and placed in a decent home with personal care being provided by a registered nurse who has volunteered her home to the Senior Aides' clients. The client now is served three meals a day, is helped with personal hygiene by a Senior Aide Health Aide, is receiving medical attention for her broken hip obtained through a Senior Aide Advocate Information and Referral Aide, and is being provided with badly needed clothing through another Senior Aide in charge of a senior center thrift shop.

Once the older worker has his self-confidence restored, usually his need for supportive services greatly diminishes. But the directors of the program constantly visit with the supervisors and the Aides to make sure the situation stays good.

To further ensure that the older person will continue to live a better life and to help other people live better, each month the Senior Aides have a staff meeting where local resource people are asked to share their knowledge. In a year's time an Aide will get tips on Social Security, SSI, food stamps, crime prevention, good consumer techniques, good nutrition, health and many other helpful ideas for living better longer. The Aides also share the individual knowledge they have learned in their jobs and some Aides receive training in their various fields of work.

The National Council knows that each community has unique needs and that each older person they enroll in the program has unique skills, experience and desires. What we try to do is instill in the local sponsors a real sense of dedication to meet the general goals of our program, and within the broad guidelines that we have established, to develop their own special program.

We, of course, know the methods of operating programs that work really well and we know of some that don't work at all. We pass on this information and we make decisions daily based on our past. However, our normal role is usually one of careful guidance. One of knowing the pros and cons and steering the local projects toward the better way of administering their program without jeopardizing their creativity or their uniqueness.

This way of operating a program takes long hours and hard work, but we believe it is the best way to serve each older person and the best way to constantly improve an already effective program.

As you can see from the above sketch,

the personnel involved with these programs must be truly dedicated to working for and with the older person and must be skilled in both aging and manpower techniques. Since the National Council of Senior Citizens efforts are centered around working for a better quality of life for the older person in our society, and since we have been administering the Senior AIDES program for over six years at an increasingly successful level, we believe that we have effectively combined aging and manpower concepts and are able to impart this ability and dedication to our current programs and to new programs for the poverty stricken unemployed older worker.

One outside factor that tends to assist the National Council in administering an "outstanding" program (U.S. Department of Labor) is our neutral position in state and local politics. We pick our sponsors based on their past record of working for and with the elderly, and the relationships they have established with other community based social service agencies.

Within every community where there is a Senior AIDES program it enjoys a reputation of providing good workers and good support to those workers. Hence, the waiting list of agencies that wish to utilize these workers and the waiting list of people who wish to join the program, is long. The National Council has had to step in many times to get our sponsors out of hot water because the sponsor is being pressured to assign Aides to agencies for reasons other than those that would tend to help the older worker and expand services to the community's citizens. It is very hard for a local agency to tell the mayor's office, or the county judge's office or some other agencies that have power within a community that they can't have Aides to do their personal cleaning, or be their personal chauffeurs, or that they can't demand certain colors or creeds of people when that agency could make life rough for our sponsoring agency. But the National Council can and does make sure that the goals of this program are upheld: 1) that the most economically disadvantaged older person who has been on the waiting list the longest gets hired onto the program first and 2) given that persons's skills and desires, that the agency in town that can best utilize this person in its services to other disadvantaged people as well as provide the person with sensitive supervision and a good working atmosphere is assigned the Senior Aide.

We do not think we have a monopoly on the skills needed to operate good older worker programs. However, the expertise needed can not be gained overnight and most government manpower programs have a concentration of younger workers as enrollees. Manpower administrators seem to know about skill training, career planning and how to develop good working habits and seem to be at a loss when a 67 year old slightly arthritic person comes into their offices looking for assistance. It may be the person knows how to repair all sorts of mechanical gadgets or has raised eight kids during the Depression, but what the manpower people see is old age and a physical handicap and their first impulse is to ring up our Senior Aides office—the older worker specialists of the town—if they are lucky enough to have a Senior AIDES program nearby.

If the Department of Labor wishes to administer older workers programs, and we feel that this is a proper role for the government, then I believe that they should start by setting up an older workers division within the office of the Secretary.

Back in 1913, when the Department of Labor was made a separate Department in the Executive Branch of the government, its enabling legislation stated, "The purpose of the Department of Labor shall be to foster, promote and develop the welfare of the wage earners of the United States, to improve their working conditions and to advance the opportunities for profitable employment." (37 Stat. 736; 5 U.S.C. 611) Nowhere do we see that the Department was ever mandated since to foster, promote and develop the walfare of only the young wage earners or to advance the opportunities for profitable employment to just those people under a certain age. It seems to us the purpose of the Department of Labor was not limited by any age limits. Yet in reality, our U.S. Department of Labor has limited its manpower services to the younger worker. We do not want to take away any assistance now given to younger workers who need services. We do think the Department should add to its present responsibilities and services those that will benefit older workers who suffer undue discrimination in the labor market and are in need of advancement into opportunities for profitable employment.

The CETA Prime Sponsors are not setting a new trend by not assuming responsibilities at the state and local level for older workers. Rather they are continuing the federal Department of Labor's policy of practically disregarding older workers needs and desires. In 1973, older workers, those 55 years or over, represented only 1.8% of the enrollees in all major manpower programs. This included the 14,885 older workers then served by Operation Mainstream. The regulations governing CETA certainly offer no assistance to any Prime Sponsor that would like to administer to the needs of older workers and will most certainly offer no encouragement to a Prime Sponsor who has other needs he would rather attend to.

We have been working very hard to persuade CETA Prime Sponsors to fund the local Operation Mainstream Senior AIDES program since the U.S. Department of Labor is going to push these older workers off their jobs next June 30, 1975. Some of the comments we have received from the field describe the state of the battle . . . "What a problem! Everybody and their brother is requesting CETA funds! Seniors have always been the *last* and the *least* to be considered and they still are!!!" or "We've got $1.3 million in CETA funds and $4 million in requests, the oldies don't stand a chance."

These remarks are not surprising to us. We saw the same thing happen—the needs of the elderly pushed aside—with general revenue sharing. Revenue sharing, including manpower revenue sharing allows "that local determination . . . will be truly responsive to local needs." (U.S. Department of Labor) What happens is each group shares in accordance with the degree of power it exercises. The bureaucrats of varied fields with their positions in governments already established and a full army of technical knowledge behind them, maintain the control and power. Unfortunately, the aging bureaucracy is not fully established and with reference to manpower programs, older worker professionals are non-existent.

Therefore, the helpless older worker is overlooked when the pie is being divided.

The initial statistics—admittedly only covering approximately 50% of the CETA Prime Sponsor areas for the quarter July–September, 1974—show again that older workers, 55 years and over, are gaining very little manpower assistance in relation to their need. These CETA Title I statistics show that 121,000 people were either given counseling, training or employment under this Title. Three percent of those counted were persons 55 years or over. Title II provided 13,500 people with manpower assistance with emphasis on employment. Only five percent were 55 years or over—and when the results for the entire list of CETA prime sponsors are received, it may work out to be very much less.

These rates of service don't even match the percentage of unemployed older people in relation to the total unemployed of our nation in 1973 and the statistics on the unemployed older worker are so unreliable that they are hardly useable.

Since older workers have such a hard time regaining employment once they become unemployed, they become the hidden unemployed who are not picked up through our current national and local methods of compiling the unemployment statistics. Based on 1973 manpower statistics for people 65 years or over, 2.8 million are employed, 88,000 are unemployed and there are only 7.2 million people of any age not in the labor force because of retirement or old age. That leaves over 10 million people 65 or over unaccounted for. The Senate Special Committee on Aging estimated in 1971 that there were between 4–5 million people 55 years or over who are in need of a Senior Aides type program. And we tend to believe this is a more reliable estimate of the need than the unemployment statistics of the Department of Labor.

It would seem that as our country's budget is under a terrible strain, that every effort should be made to get the most out of each and every dollar. No matter who operates these programs, there will be administrative overhead. But, in 1973, when both the regional offices of the Department of Labor and the national contractors were operating programs under Operation Mainstream, the national contractor's costs were almost $1,000 less per man-year. And the nationally contracted programs were more effective in meeting the goals of the program. The Kirschner Report on Operation Mainstream—an evaluation commissioned by the U.S. Department of Labor—came to the following conclusion after its comparative study of the 2 different types of Operation Mainstream programs. "It has been demonstrated consistently in Operation Mainstream that by any standard the overall administration and operation of the program has been most effective when the national contractors are involved. It is also apparent that the particular national contractors involved are appropriate for the program and have demonstrated a capability to minister effectively to the needs of both older enrollees and communities served. Thus, it is recommended that:

"The proposed older worker program be continued to operate under the direction of NCSC, NCOA, NRTA, and the National Farmers Union."

The National Council of Senior Citizens appeals to Congress to save the over 9,000 Operation Mainstream and over 3,000 Title IX older workers from losing their jobs and to enlarge this proven effective federal effort for older workers so more than 3 ten-thousandths of 1% (.0003) of the population 55 years or over might have an opportunity to serve their communities as tax paying citizens.

Mr. CHURCH. Mr. President, I am very pleased to join the Senator from Massachusetts (Mr. KENNEDY) in sponsoring his proposal to continue and expand the Older American Community Service Employment Act.

It was just 2 years ago that the Congress enacted a senior service corps to build upon the outstanding achievements of the Mainstream pilot projects.

Those programs—such as Green Thumb, Senior Aides, Senior Community Service Aides, and Senior Community Services—demonstrated beyond any doubt the effectiveness of the concept of community service employment.

The primary purpose of the Older American Community Service Employment Act was to convert these successful Mainstream pilot projects into permanent, ongoing national programs.

During its 2 years of existence the title IX senior service corps has proved to be an enormously effective program, not only for the elderly participants but also the communities served.

In practically every case the program has been oversubscribed. For example, the National Council of Senior Citizens' Senior Aides program has anywhere from 7 to 10 applicants for each position available.

The enthusiastic acceptance of this program—as well as those sponsored by National Retired Teachers Association-American Association of Retired Persons, National Farmers Union, and the National Council on the Aging—strongly suggests that there are many low-income older Americans in virtually every community who are ready, willing, and able to serve in their localities.

What is needed is a genuine commitment to expand the wide range of useful job activities under the Older American Community Service Employment Act. And that is precisely what this bill is designed to achieve.

The reasons for extending and expanding this legislation, it seems to me, are especially compelling.

Today there are 600,000 unemployed persons in the 55-plus age category, a 52-percent jump during the past 6 months alone.

But this describes only a small part of a very bleak situation because there is a substantial amount of hidden unemployment among older workers.

If the hidden unemployed were also counted, the real unemployment for persons 55 and above could conceivably reach 1.5 million to 2 million.

Many older workers are also dropping out of the labor force. During the past 3 years the number of persons 55 or older in the civilian labor force has declined by more than 500,000. In sharp contrast, nearly 6.9 million jobs were created for persons under 55 during this same period.

Yet, by whatever indicator one would employ, older Americans have been largely overlooked by our job and training programs. Typically, they account for less than 2 percent of all enrollees. But they now represent 8 percent of the total unemployment and 17 percent of the long-term joblessness, 27 weeks or longer.

For these reasons, I believe it is absolutely essential to continue a special emphasis jobs program for the aged.

Employment not only provides vitally needed income for older workers and their families, especially during this period of double-digit inflation; it means much more. A job is also something to do; a means to engage in fulfilling activity; and an opportunity for association.

Time and time again, we at the Committee on Aging have been told that employment and productive activity can provide an important psychological lift for persons who want to remain active.

Unfortunately, today, large numbers of older Americans are destined to lead empty and frustrating lives. However, the later years can offer a second career, such as useful community services.

This type of activity can also lead to the development of new interests. In economic terms such employment can help many of these low-income persons to escape from poverty and in a dignified manner. In noneconomic terms there is really no way to measure the worth of a job in replacing frustration and despair with hope and fulfillment.

For these reasons, I urge early and favorable action on this bill.

By Mr. KENNEDY (for himself and Mr. SCHWEIKER):

S. 963. A bill to amend the Federal Food, Drug, and Cosmetic Act to prohibit the administration of the drug diethylstilbestrol (DES) to any animal intended for use as food, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. KENNEDY. Mr. President, I am pleased to introduce on behalf of myself and Senator SCHWEIKER, a bill to protect the American people from the potentially tragic consequences of the continued misuse of the drug DES in both animal feed and as a morning after contraceptive.

DES is a synthetic estrogen. It is also a proven cancer causing agent in human beings. Already 220 cases of vaginal and cervical cancer have been reported in daughters of women who took DES during the first trimester of their pregnancy.

In the 1950's DES was widely used to prevent impending miscarriages in pregnant women. At the time, this was considered to be an appropriate use of the drug. In 1971, Dr. Arthur Herbst, of Massachusetts General Hospital, began to see the occurrence of the rarest form of vaginal cancer—a form of cancer virtually unknown prior to that time in the United States. Through his magnificient epidemiological research work and that of Dr. Peter Greenwald, the director of the Cancer Control Bureau of New York State, a definite cause-and-effect relationship was established between DES and cancer in the offspring of women who had taken it to prevent miscarriage. The FDA at that time moved to alert all physicians that DES was now contraindicated for use during pregnancy. The fact is that today no one knows whether doctors have stopped using it for that new discredited indication. There is some evidence, as presented in testimony before the committee, that it is still in use in this country in the first trimester of pregnancy.

Recently the Food and Drug Administration announced the decision to approve the use of DES as a morning after birth control pill in certain very limited emergency situations. The Commissioner of the Food and Drug Administration and the Director of the National Cancer Institute have made it very clear that the drug must not be used outside of these limited indications. Nonetheless, testimony before the Health Subcommittee has shown that the drug is today in widespread misuse in the United States as a morning after contraceptive. The Commissioner of the Food and Drug Administration and the Director of the National Cancer Institute concede that this is the fact. Dr. Raucher, the Director of NCI, considers this a serious public health problem. He stated that unless the use of the drug can be limited to emergency situations, the drug must be banned entirely from the market.

I believe that the evidence now available indicates that in the real world the misuse of the drug DES will continue and that its continued availability under the inadequate conditions outlined by the Food and Drug Administration presents an unacceptable risk to possible unborn female offspring of women who take DES. No method of contraception is foolproof. Convincing evidence was presented that many women do not take the full treatment required for DES to work. In these cases of DES failure, potential female offspring are placed at a risk of developing vaginal cancer which is 44 times higher than the annual incidence of leukemia in the United States according to Dr. Peter Greenwald.

In May 1973, the Food and Drug Administration through an inexcusable error informed all physicians that DES had been approved as a morning-after contraceptive for certain emergency conditions. In fact it had not been approved and will not be approved until March 7 of this year. Nonetheless, the error was never corrected. All physicians in the United States have thus been operating for the past 2 years under the assumption that DES has been approved as a morning-after pill. The subcommittee received testimony that in those 2 years the use of the drug increased and the use of the drug went far beyond the emergency indications described in the May 1973 bulletin.

The only difference between the situation in 1973 and that in 1975 is that FDA will require a patient package insert to acompany the administration of the drug. The University of Michigan Health Service, however, has given its coeds a type of patient package insert ever since the FDA mistakenly sent out its 1973 bulletin. Convincing testimony was presented that in spite of that insert the use of DES was careless and inappropriate.

It is equally disturbing that the Food and Drug Administration saw fit to use an abbreviated new drug application instead of a regular NDA for the handling of DES in this matter. This in effect waived the requirement that the producing drug company prove safety and effectiveness on the basis of its own research. The Eli Lilly Co. which has been a major manufacturer of DES decided not to submit an abbreviated new drug application for use of the product as a morning-after pill. They felt that it did not meet their company's standards for safety. They made that judgment after reviewing the published literature—the same literature which led FDA to grant approval. To its credit, Eli Lilly will not market a product that it has not tested itself for safety. Unfortunately the FDA's standards are not as high.

I do not believe we need to wait another year and place additional women at risk in order to find out that it does not work. I believe that when the threat of cancer is involved every effort must be made to protect the American public. I do not believe FDA's position is consistent

with walking the last mile to protect American women from potential disastrous tragedy.

The legislation I am introducing today would place a 1-year moratorium on the use of DES, the morning-after pill. During that time additional data on the safety and effectiveness of DES for this use could be obtained. Also the Health Subcommittee, hopefully in conjunction with the Food and Drug Administration, would develop an appropriate mechanism to effectively insure that if DES is to be used as a morning-after pill, it is in fact limited to bona fide emergency situations.

I do not believe it is asking too much to ask the Food and Drug Administration to suspend its approval order for 1 year. I believe it is our responsibility to provide the necessary safeguards to assure that the risks of developing a tragic cancer are minimized.

This is an urgent situation. The drug is in widespread misuse today. It alarms the Director of the National Cancer Institute. It alarms the director of the Cancer Control Bureau of New York State. I am sure it alarms each and every one of my colleagues. There is no justification for delay. We must move immediately.

Three years ago, the Senate passed legislation to prohibit the administration of DES to animals intended for use as food. The legislation was strongly supported by the Director of the National Cancer Institute. The House of Representatives unfortunately did not have time to complete action on the measure. However, the Food and Drug Administration moved administratively to remove DES from the market. In January 1974, that administrative ban was overturned in the courts because of procedural abnormalities. The Food and Drug Administration had not granted the required public hearing on the issue. As a result DES was put back in use. The Department of Agriculture now reports that residues are appearing in beef liver at levels as high as four parts per billion. Dr. Rauscher in testimony before the subcommittee last week urged once again that DES be removed from the American dinner table. He advised that pregnant women should not eat beef liver during the first trimester of pregnancy. He explained that there was potential risk for other Americans as well.

Over 20 countries have banned the use of DES in cattle feed. Other countries banned the importation of American meat that has been derived from cattle fed with DES. What do these countries know that the Government of the United States does not know? Why have these countries taken the added precaution of protecting their populations from exposure to potentially dangerous carcinogens and our Government has not.

It is disheartening that now, 3 years after the Senate passed this measure, we are forced to pass it once again. It is seldom that we can fully eliminate carcinogens from our environment. It is possible to eliminate DES from beef liver. I believe we must act immediately on this piece of legislation.

Mr. President, I ask unanimous consent that the full text of this legislation be printed in the RECORD and that appropriate excerpts of the Labor Committee report on DES of 1972 be printed in the RECORD.

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

S. 963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new subsections:

"(q) The administering of the drug diethylstilbestrol (DES) to any animal intended for use as a food or any animal the product of which is intended for use as food.

"(r) The introduction or delivery for introduction into interstate commerce the drug diethylstilbestrol (DES) for use as a post-coital contraceptive for a one-year period beginning on the date of the enactment of this subsection".

REGULATION OF DES

I. HISTORY OF THE REGULATION OF DES

In 1941, the Food and Drug Administration of the Department of Health, Education, and Welfare permitted 11 pharmaceutical firms to begin to market DES for clinical use.

In May, 1945, the Food and Drug Administration received the first application for the use of DES pellets in poultry (pellets were to be implanted under the skin at the base of the skull of poultry). In January 1947, that application was permitted to become effective. It was known at the time that DES had been shown to produce cancer in test animals, but it was believed that no significant residues of the drug would remain in the edible tissues of the treated birds.

In 1954, an application was permitted to become effective for marketing of DES through addition to the feed of beef cattle. Since that time, many similar applications have been made effective—all of them were based on the absence of detectable residues in meat from the treated animals.

In 1955, an application was made effective for the implantation of DES pellets in the ears of beef cattle. This was also based on the absence of detectable residues in the edible tissues. Subsequently, a similar use was permitted for lambs.

In 1957, a reliable method of assay for DES in animal tissues had been developed. Tests showed no residues in beef, but confirmed the presence of 20–30 parts per billion of residues in the liver, and 30–100 parts per billion in the skin fat of treated poultry. The Commissioner of FDA concluded that any drug applications involving DES could not be suspended at that time.

In 1957, FDA permitted the marketing of DES for addition to the feed of sheep.

In September 1958, Congress enacted the Food Additives Amendment, including the Delaney provision. (The Delaney amendment prohibits the appearance of any known carcinogen in food). In May 1959, FDA published a statement of policy in the Federal Register in which it interpreted the Delaney provision as prohibiting FDA from making effective any further applications for the addition to animal feed or any use which leaves residues in human food of any drugs which produce cancer in man or animal when ingested. On December 10, 1959, the Secretary of HEW took the following steps:

1. He requested all authorized manufacturers of DES for use in poultry immediately to suspend the sale of the product.

2. He requested representatives of the poultry industry and the retail food industry to arrange for the immediate discontinuance of the sale of treated birds to consumers.

3. He requested FDA to initiate actions suspending all effective new drug applications for the use of DES in poultry.

The 1962 Drug Amendments sponsored by Senators Kefauver and Harris added to the original Delaney amendment (the original Delaney clause read as follows: "No additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal, or if it is found after tests which are appropriate for the evaluation of the safety of food additives to induce cancer in man or animal.") the following language: "except that this proviso shall not apply with respect to the use of a substance as an ingredient to feed for animals which are raised for food production. If the Secretary of HEW finds that under the conditions of the use in feeding specified in proposed labeling and reasonably certain to be followed in practice, such additive shall not adversely affect the animals for which such feed is intended, and (2) that no residue of the additive will be found by methods of examination prescribed or approved by the Secretary by regulations in any edible portion of such animal after slaughter or in any food yielded by or derived from the living animal."

On July 13, 1968, Congress enacted the animal drug amendments which created the section of the law dealing exclusively with animal drugs and medicated feeds containing such drugs. Prior to the effective date of the Animal Drug Amendments in 1969, such drugs and feed were handled under law and regulations as both new drug and food additives. The animal drug amendments retained the Delaney clause and the other requirements to apply to such drugs and feeds under the food additive law, but permitted the Secretary of HEW to allow the use of a known carcinogen if he were "reasonably certain" that no residues of the carcinogen would appear in food.

In December 1971, the Commissioner of the FDA conceded that administrative procedures for the control of DES residues in food were not working, and he changed them. The change required a 7-day withdrawal for all cattle fed with DES as opposed to the earlier regulation requiring 48-hour withdrawal. (Withdrawal means that the drug administration is stopped early enough so as to assure no residue of the drug in the tissue of the slaughtered animal). In the 6 months followng the institution of the new regulations, the incidence of DES residues, as detected by the Department of Agriculture, quadrupled. In July 1972, the Commissioner of the FDA testified that the rising incidence fast due to faulty compliance with the administrative procedures. Two weeks later, the Commissioners of FDA cited new scientific evidence explaining that DES residues appear in cattle even after the 7-day withdrawal period had been carefully observed. Because of that, he announced an immediate ban on the production of DES, and a phased withdrawal—over a 5-month period—of existing DES supplies from the market.

The FDA press release read:

The Food and Drug Administration today ordered an end to the use of diethylstilbestrol (DES) as a growth stimulant in animal feeds.

Charles C. Edwards, M.D., Commissioner of Food and Drugs, said: "New scientific data developed by the U.S. Department of Agriculture and received by my office on July 28, 1972, casts serious doubt on our ability to set rules for the use of DES in animal feed that will insure against residues remaining in animal livers at time of slaughter. The Delaney amendment of the Food, Drug, and Cosmetic Act explicitly forbids any such residues. Since regulatory requirements of

the law cannot be met we have no choice but to discontinue approval for use of the chemical in animal feed."

Effective immediately, all production of DES for use in feeds must be stopped.

Dr. Edwards emphasized that the withdrawal order is an administrative action dictated by strict provisions of law which govern the use of products, such as DES, which have been shown to induce cancer in test animals. Dr. Edwards pointed out that levels found in livers of animals were far lower than those used in tests, and that today's action was not based on any known hazard to human health. DES has been used in the feed of cattle and sheep for nearly two decades, without a single known instance of human harm.

"Therefore," said the Commissioner, "in order to avoid an abrupt disruption in the production of the Nation's meat supply, the FDA will permit existing stocks of DES for feed to be used until January 1, 1973.

"This will permit an orderly phaseout and will provide the animal feeding industry an opportunity to switch to implants or to other methods of meat production," said Dr. Edwards.

Today's order makes final a preliminary proposal published for public comment on June 21. Under the law this proposal gave manufacturers 30 days to submit legal objections and to request a formal hearing.

Such objections and requests were received from 15 of the 25 holders of new animal drug approvals for the products.

In denying those requests, Dr. Edwards reiterated that the final withdrawal decision is predicated on new scientific evidence developed by the USDA's Agricultural Research Service and reported to him on Friday, July 28. This new study used an extremely sensitive radioactive tracer technique and showed that detectable residues could occur in cattle livers, even after withdrawal for 7 days in conformance with current regulations. Prior to this experiment, all available tests had shown no measurable traces of DES in animal livers 48 hours after withdrawal.

On this basis, Dr. Edwards said: "We can only conclude that the animal feeding and pharmaceutical industries are unable at this time to suggest restrictions that are reasonably certain to be followed in practice and will at the same time eliminate all possibility of detectable residues. A hearing, therefore, would serve no useful purpose."

Use of DES as implants will continue to be allowed, pending results of tests now underway by the USDA and scheduled to be completed in the next several weeks. To this point USDA has never detected a residue when implants were used as the sole source of DES. Implants have been shown to be approximately as effective as DES in feed, even though used at a dosage level at least 30 times lower than that used in feed.

Further decisions on DES implants, including the possible need for a hearing, will await the results of these tests.

II. NEED FOR THE LEGISLATION

This Nation has recently undertaken an all-out effort to conquer cancer. The Director of the National Cancer Institute of the National Institutes of Health has stated that an important component of the effort will be the reduction of man's carcinogenic burden: "My view is exactly that anything that increases the carcinogenic burden to man ought to be eliminated from the environment if at all possible—and in this case it is possible."

The Delaney clause of the Food, Drug, and Cosmetic Act, as it applies to new animal drugs, section 512(d)(1)(h) is directed at reducing man's carcinogenic burden. It states that no residue of a carcinogenic drug may be found in any edible portion of animals after slaughter or in any food yielded or derived from living animal.

Diethylstilbestrol (DES) is universally recognized as a carcinogen for animals. Most expert witnesses, including the Director of the National Cancer Institute, also feel that DES is a carcinogen for human beings. DES has also widely been used over the past years to fatten cattle either by the addition of DES to feed or by the implantation of DES in the ears of cattle.

The Food and Drug Administration has recently instituted a ban on the production of DES for use as a feed additive. The ban was necessary because the Food and Drug Administration, after careful study, felt that no regulatory action could assure that DES residues would be absent from edible tissue after slaughter. The ban, however, permitted the continuing use of existing DES supplies until January 1, 1973. The ban did not apply at all to DES used via the implantation method.

Since the FDA announced the ban, the incidence of DES residues has risen from 2.2 to 2.3 percent. Under the current FDA plan, cattle will continue to be fed with this carcinogen until January 1; and hence, DES will continue to appear on the American dinner table until well past January 1.

Though there has been no reported incidence of residues of DES in edible tissue following its use via the implantation method, it is also true that a proper assay method for detection of DES residues after implantation has not yet been developed. The FDA proposes to permit the continued use of implants pending the results of study to determine whether or not residues will, in fact, be found. Under these circumstances, it is not possible to say whether or not a known carcinogen is reaching the meat supply via the implantation method; and under the current ruling, the burden of proof is on those who say it may be, instead of on those who say it is not.

For these reasons, the committee has developed legislation to ban DES in feed additives effective immediately and to ban DES implants effective January 1 unless the Secretary of HEW determines prior to that time that no residues of DES remain after the implantation method is used. The committee's view is supported in the following letter from Congressman L. H. Fountain, chairman of the House Intergovernmental Relations Subcommittee:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., August 15, 1972.

Senator EDWARD M. KENNEDY,
Senate Office Building.

DEAR SENATOR: I was very pleased to have you appear at the subcommittee hearing this morning. Your testimony was very helpful and most effective.

The recent performance of the Food and Drug Administration has been disappointing. DES is only one of a number of products which the subcommittee's investigations have shown to be inadequately or improperly regulated.

I hope you would agree with me that when Congress gave FDA the responsibility by law for preventing residues of carcinogens in edible animal tissue, Congress intended FDA to administer that law promptly and effectively. It should not be necessary now for Congress to spend valuable time enacting special legislation to force the agency to implement the law. However, I certainly applaud your taking the legislative initiative in connection with the DES situation since you have helped stimulate the agency into doing what the law requires of it.

I greatly appreciate your kind complimentary words about the work of this subcommittee which I chair.

With kindest regards and best wishes,

Sincerely,

L. H. FOUNTAIN.

The committee's intent is to require the Secretary to make an affirmative determination on the basis of scientific studies specifically designed for the purpose of detecting DES residues following the implantation of DES in beef cattle.

III. HEARINGS

The committee conducted hearings on July 20, 1972, on S. 2818, a bill to prohibit the administration of the drug diethylstilbestrol (DES) to any animal intended for use as food. Witnesses included Senator William Proxmire, of Wisconsin; Dr. Charles C. Edwards, Commissioner of the Food and Drug Administration; Dr. Frank L. Rauscher, Jr., Director of the National Cancer Institute; Dr. Peter Greenwald, director, Cancer Control Bureau of New York State; Dr. Arthur Herbst, gynecologist at Massachusetts General Hospital in Boston; and Mr. Duane Flack, president, Monfort Feed Lots in Greeley, Colo., and chairman of the task force on DES for the American National Cattlemen's Association. The Pharmaceutical Manufacturers Association and the Animal Health Institute were invited to testify, but declined.

Both Drs. Greenwald and Herbst presented studies they have completed which indicated that children of women who had taken therapeutic doses of DES during pregnancy ran a significant risk of developing vaginal cancer in their early 20's. Both pointed out that there was an absence of vaginal cancer in girls of this age group born before the time of common use of DES. Both witnesses agreed that although there are many causes for any given cancer, DES was probably a significant factor in the appearance of all the cases of vaginal cancers that their two studies had uncovered.

Greenwald pointed out that there was more evidence on the linkage between the therapeutic use of DES and vaginal cancer than there had been between cyclamates or pesticides and any known human cancer. Said Dr. Greenwald, "It is clear that with DES, we have direct evidence of a cancer-producing effect in humans, while with the other compounds, we do not." He felt that the prudent course would be to ban the use of DES.

Dr. Frank L. Rauscher, Jr., Director of the National Cancer Institute, agreed that there was evidence linking DES to cancer in humans. He agreed that the prudent course would be to try to remove all possible carcinogenic stimuli from the environment and to limit man's carcinogenic burden as much as is possible. Dr. Rauscher also raised the question of a possible occupational health hazard to workers involved in the production and administration of DES. He recommended that a survey of occupational sources of exposures be conducted as well as an epidemiologic study of the exposed populations. He pointed out that it is currently impossible to determine whether very low doses of a known carcinogen will have a carcinogenic effect in man if he is exposed to it over a long period of time. In the absence of such knowledge, he felt that the prudent course would be to reduce the carcinogenic burden to man.

Commissioner Charles C. Edwards of the Food and Drug Administration testified that FDA had commenced appropriate proceedings to withdraw the approval for the use of DES because of persistent and increased violations of FDA restrictions on the use of the drug.

Edwards stated that an immediate ban would require the declaration that DES was an imminent hazard to health. He was not prepared to make that recommendation. He testified that the doses of DES appearing in meat residues were of such a small magnitude that its carcinogenicity to man in that dose was unproven and unlikely. The Commissioner admitted, however, that he could not define a known maximum safe dose of DES for humans.

Commissioner Edwards further testified

that in the past, administrative procedures designed to remove a product from the market had taken up to 15 months to complete. He gave assurances to the committee that action on DES would be prompt and that if there were no protests against his notice to withdraw approval for DES, he would ban it. Commissioner Edwards also testified that manpower shortages prevented him from administering the regulations in the most desirable fashion. The administration opposed the enactment of S. 2818 on the grounds that DES would not be the only substance to generate these issues. The administration stated that piecemeal legislation directed at any given substance would not be appropriate.

Mr. Duane Flack testified on behalf of the American National Cattleman's Association that the appearance of DES in animal tissues could be prevented because the fault lay in the implementation of FDA regulations and not in the regulations themselves. He also testified that the carcinogenicity of DES had been legitimately challenged, and felt that the use of DES was of significant economic importance.

IV. COMMITTEE VIEWS

The committee is committed to an all-out attack on cancer as contained in the National Cancer Act of 1971—Public Law 92-218. It recognizes that such an effort is extremely complex and must be carried forth in many ways: by basic biomedical research; by clinical research; by support of the training of needed professional manpower, by epidemiological investigations; by control of environmental hazards; and by assuring prompt treatment for those who need it.

The committee agrees with the Director of the National Cancer Institute that man's carcinogenic burden should be reduced whenever possible. When there is contradictory evidence, the burden of proof should rest with those who declare that continued use of the substance is without risk to man. The committee does not believe in tackling the problems presented by environmental carcinogens on a piecemeal basis. It regrets that an exception has to be made in this case and that specific legislation on DES has had to be developed; but the committee feels that the Food and Drug Administration's regulatory actions with regard to DES have been incomplete and insufficient.

The committee is guided in its deliberations by the provisions of the Delaney clause of the Food, Drug, and Cosmetic Act as it applies to new animal drugs, section 512 (d) (1) (h), which states that no residue of a carcinogenic drug may be found in any edible portion of animals after slaughter or in any food yielded or derived from the living animal. The committee supports the general intent of the Delaney clause, which is to protect the American public from exposure to known cancer-causing substances. Several Senators expressed concern about the implications of the Delaney amendment in this era of continuing technological advances which makes possible the detection of smaller and smaller quantities of carcinogens in the tested substances. Other members felt that the Delaney clause was not providing the kind of complete protection needed for the American people. The committee therefore agreed to hold hearings on the Delaney amendment in the future.

The committee notes unanimous scientific agreement that DES is a carcinogen in animals. In the committee's view there is also a preponderance of scientific evidence indicating that DES is a carcinogen in man.

The committee has reviewed FDA's successive and unsuccessful attempts to eliminate DES from the Nation's meat supply. It has noted that in the 6 months following the imposition of a requirement that cattle be withdrawn from DES 7 days prior to slaughter instead of the previous requirement of 2 days, the Department of Agriculture has reported that the incidence of DES residues has quadrupled from 0.5 percent to 2.25 percent of samples tested. The committee notes that FDA recently announced the acquisition of new information indicating that DES residues could not be eliminated from the meat supply by administrative action. Therefore, the FDA banned the production of DES for use in feed additives. That same order permitted existing supplies of DES feed additives to be used until January 1, 1973. Implants were not affected at all by the order, although the FDA indicated that tests were underway which would determine whether or not residues appeared after use of the implantation method. If the tests showed residues, the FDA promised to evaluate the situation and take appropriate action.

The committee agrees with the Food and Drug Administration when it says that DES residues cannot be eliminated from food by administrative measures; the committee does not agree that FDA's action goes far enough. The committee feels that if the substance is hazardous enough to be banned, then it is hazardous enough to be banned immediately. Thus, the committee feels that the FDA ban on all existing supplies of DES feed additives should become effective immediately and the committee's bill is designed to assure that effect.

The committee is also concerned about the use of DES implants in beef cattle. It notes that implants were originally allowed in poultry because of the absence of an assay method to detect DES residues following implantation in poultry; when such a method was developed, DES residues following implantation in poultry were found and the process of implantation was banned. The committee notes that the Department of Agriculture is currently conducting tests designed to determine if DES residues remain in edible tissues after the implantation method is used. But the committee feels that the burden of proof rests with those who say that a known cancer-causing substance is not a health hazard to man and would thus require a positive affirmative that DES implants do not leave residues as opposed to an assumption that in the absence of a reliable test method the DES implant method is safe. Therefore, the committee's bill bans the use of DES implants effective January 1, 1973, unless, prior to that time, the Secretary of HEW conducts and reports the results of tests which indicate that no residues of DES are found in edible tissues following the implantation of DES in beef cattle. If the Secretary of HEW should discover that DES residues appear in edible tissue, and if that determination is made prior to January 1, 1973, the committee's bill requires that the Secretary take immediate steps to halt the implantation of DES.

The committee is also concerned about the potential occupational health hazard to workers involved in the production of DES and agrees with the Director of the National Cancer Institute that more evidence must be produced in order to define the magnitude of this particular potential health problem.

The committee has been guided in its judgments on these matters by the findings of the expert scientific and medical witnesses who testified before it. Two such witnesses testified that vaginal cancer developed in the children of mothers who had taken therapeutic doses of DES during pregnancy. The committee was impressed by the testimony which pointed out that the evidence linking human cancer to DES is far more significant than that which linked either cyclamates or pesticides to cancer in humans. The committee recognizes the fact that doses of DES appearing in meat are significantly smaller than that used to therapeutically treat human beings, but the committee also accepts the expert testimony of all its scientific witnesses to the effect that there is no known safe level for a proven carcinogen. It agrees with the Director of the National Cancer Institute that it will require a 30-40 year followup to be sure that minute levels of DES did not harm humans. The committee is particularly concerned with the possible cumulative effect of chronic long-term, low-dosage administration of DES to humans. The committee does not wish the Nation to continue to be, as the Director of the National Cancer Institute put it, "a research laboratory on this kind of issue."

Because the committee received no testimony regarding the complex and controversial issue of compensation for losses incurred pursuant to an immediate ban of existing supplies of DES, the committee decided, pending Senate hearings on the matter, to reserve judgment on the compensation issue.

In summary, the committee felt that there was sufficient evidence of DES' carcinogenicity in man, such that the administrative banning proposed by the Food and Drug Administration was considered to be insufficient. Rather, the committee's bill was designed to fully protect the public in respect to the use of DES. It will ban DES as a feed additive immediately and will ban DES implants effective January 1, 1973, unless the Secretary determines prior to that time that no DES residues appear in meat after implantation.

V. TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes in committee:

Motion to report the bill to the Senate carried unanimously.

There were no rollcall votes in committee.

VI. COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

The committee's bill does not authorize any additional appropriations.

VII. SECTION-BY-SECTION ANALYSIS

(Section 1) amend section 301 of the Federal Food, Drug, and Cosmetic Act by adding new subsections: new subsection (q) (1) prohibits the administering of the drug diethylstilbestrol (DES) to the feed of any animal intended for use as food or to the feed of any animal, the product of which is intended for use as food; new subsection (q) (2) prohibits the administration of the drug DES after December 31, 1972, in any form, to any animal intended for use as food or to any animal the product of which is intended for use as food, unless the Secretary of HEW determines, by a scientific study, prior to that date, that the product may be used in accord with the provisions of section 512 (d) (1) (H) of the Federal Food, Drug, and Cosmetic Act. If, however, the Secretary determines prior to December 31, 1972, that DES cannot be used according to the provisions of section 512(d) (1) (H), he shall take immediate steps to prohibit the administering of the drug.

VIII. CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL FOOD, DRUG, AND COSMETIC ACT, AS AMENDED

* * * * *

CHAPTER III—PROHIBITED ACTS AND PENALTIES

Prohibited Acts

SEC. 301. [331]. The following acts and the causing thereof are hereby prohibited:

(a) The introduction or delivery for intro-

duction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce.

(c) The receipt in interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The introduction or delivery for introduction into interstate commerce of any article in violation of section 404 or 505.

(e) The refusal to permit access to or copying of any record as required by section 703; or the failure to establish or maintain any record, or make any report, required under section 505 (i) or (j), 507 (d) or (g) or 512 (j), (l) or (m) or the refusal to permit access to or verification or copying of any such required record.

(f) The refusal to permit entry or inspection as authorized by section 704.

(g) The manufacture within any Territory of any food, drug, device, or cosmetic that is adulterated or misbranded.

(h) The giving of a guaranty or undertaking referred to in section 303(c)(2), which guaranty or undertaking is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in section 303(c)(3), which guaranty or undertaking is false.

(i)(1) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of section 404, 506, 507, or 706.

(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drugs a counterfeit drug.

(3) The doing of any act which causes a drug to be a counterfeit drug, or the sale of dispensing, or the holding for sale or dispensing, of a counterfeit drug.

(j) The using by any person to his own advantage, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this Act, any information acquired under authority of section 404, 409, 505, 506. 507, 512, 704, or 706 concerning any method or process which as a trade secret is entitled to protection.

(k) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale (whether or not the first sale) after shipment in interstate commerce and results in such article being adultered or misbranded.

(l) The using, on the labeling of any drug or in any advertising relating to such drug, of any representation or suggestion that approval of an application with respect to such drug is in effect under section 505, or that such drug complies with the provisions of such section.

(m) The sale or offering for sale of colored oleomargarine or colored margarine, or the possession or servicing of colored oleomargarine or colored margarine in violation of section 407(b) or 407(c).

(n) The using, in labeling, advertising or other sales promotion of any reference to any report or analysis furnished in compliance with section 704.

(o) In the case of a prescription drug distributed or offered for sale in interstate commerce, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable State law to administer such drug who makes written request for information as to such drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved by the Secretary. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this Act.

(p) The failure to register as required by section 510.

(q)(1) The administering of the drug diethylstilbestrol (DES) to the feed of any animal intended for use as food or to the feed of any animal the product of which is intended for use as food.

(2) After December 31, 1972, the administering of the drug diethylstilbestrol (DES) to any animal intended for use as food or to any animal the product of which is intended for use as food unless, prior to such date, the Secretary affirmatively determines (pursuant to tests specifically designed to detect residues of such drug) that the provisions of section 512(d)(1)(H) of this Act are not applicable. If prior to December 31, 1972, the Secretary affirmatively determines (pursuant to tests specifically designed to detect residues of such drug) that the provisions of section 512(d)(1)(H) of this Act are applicable, he shall take immediate steps to prohibit the administering of such drug.

Mr. SCHWEIKER. Mr. President, we have a problem in this country with the use of diethylstilbestrol—DES. The drug is being used as a cattle feed additive and as a morning after contraceptive. DES is a known carcinogenic; that is, it is known to cause cancer. Nevertheless, it continues to be used as a cattle feed additive and even more frightening, it is being misused as a morning after pill.

Several years ago the Senate went on record banning the use of DES as an animal feed additive. Unfortunately, the legislation never became law. However, the FDA has been trying to remove the drug from the market. Due to a procedural defect in the FDA's effort the District of Columbia Court of Appeals overturned the agency's ban on DES and it is again available as an additive. It is significant to note that a number of foreign countries ban the use of DES and, in fact, prohibit the importation of meat which was grown with the use of DES.

The National Cancer Institute has recommended very strongly that DES not be used in animal feed. Therefore, the bill that the distinguished Senator from Massachusetts (Mr. KENNEDY) and I introduce today will attempt again to ban the use of this dangerous drug as a cattle feed additive. Specifically, the bill prohibits the administering of the drug DES to any animal intended for use as food or to any animal the product of which is intended for use as food.

Mr. President, in my judgment the most insidious and dangerous use of DES is as a postcoital contraceptive. Effective March 7, 1975, the FDA has approved the use of this drug as a morning after contraceptive in emergency cases only; that is, for use in the prevention of a pregnancy following rape, incest, or other dire emergency. If the drug fails and the women's pregnancy is carried to term and she delivers a female offspring, chances are 4 in 1,000 that her child will develop cancer. The incidence or risk under those circumstances are extremely high. However, it is an alternative to an abortion. A woman may accept that particular therapy. I question whether a woman in that circumstance, following a rape, for example, will be in the frame of mind to make an informed judgment and assess the cancer risk to her offspring—should the drug fail—which is inherent in the use of DES as an alternative to abortion. Nevertheless, a physician and a fully informed patient may choose that option.

Unfortunately, the problem with DES is not with its use in emergency situations but rather its indiscriminate use, particularly on college campuses, as a morning after contraceptive. Last week the Senate Health Subcommittee held a hearing on the use of DES. Three of the witnesses for the committee were women who had either used DES approximately 20 years ago when it was regularly prescribed as a means to prevent miscarriages or, in the case of one woman, was the offspring of a woman who used DES. Two women lost their daughters as a result of the cancer produced by DES and the third woman herself is suffering from cancer. The drug is no longer used for treatment of miscarriages. However, the risk remains and we find that the drug is being indiscriminately prescribed. It is being misused. Young women are taking the pill unaware of the risks inherent in its use.

During the hearing the Director of the National Cancer Institute recommended "that DES not be used routinely as postcoital drug, that its use be confined to victims of rape, incest, other illnesses which could be life threatening following pregnancy and that its use for this purpose be withdrawn if it continues to be used for nonemergency purposes." It is clear from the evidence that the drug continues to be used for nonemergency purposes.

Mr. President, approximately 2 years ago the Food and Drug Administration published a physicians' bulletin which erroneously stated that DES was approved for use as a postcoital contraceptive under limited emergency circumstances. That physicians' bulletin has never been withdrawn nor has any subsequent notification been published by the Food and Drug Administration indicating that it has not approved DES for such use. However, the FDA has published within the last few weeks notification that effective March 7 DES will be approved as a morning after contraceptive in emergency situations only. The circumstances surrounding this approval are somewhat questionable since during the Health Subcommittee's hearing it was determined that several abnormal procedures were used by the Agency in arriving at its present position. The customary procedures were not used and there is some question as to whether the process which led to the approval is appropriate under the circumstances.

Mr. President, the bill being introduced today, which also prohibits the approval by FDA of the use of the drug DES as a postcoital contraceptive for a 1-year period beginning on the date of enactment, is designed to provide the Congress and the Food and Drug Administration the time necessary to come to grips, with the problem of drug misuse and to hopefully establish new procedures for the control of the use of DES under emergency conditions.

Mr. President, the issue is the misuse or abuse of diethylstilbestrol, DES. I believe that in part the publication of the erroneous bulletin by FDA has left the impression that since the drug is approved the Agency has assessed the risks and has given it a seal of approval. The approval implies safety and freedom from risk. For example, at the University of Michigan, where the evidence suggests DES is being provided indiscriminately to coeds, patients are provided a form, in part designed as a procedure of informed consent as well as a legal protection for the university, which states the drug is approved by the Food and Drug Administration. I suspect that the document allays any fears a young coed might have with respect to the use of DES as a morning after pill. I am concerned about the lack of awareness of the risks involved on the part of those who choose to use DES or have it prescribed for them under emergency circumstances.

With the approved use of DES becoming official as of March 7, I, for one, am concerned that the situation could get worse. FDA, aware of the abuse regarding DES, will require an elaborate and explicit notice to the patient as a package insert to alert the patients to the risks and to warn them that the drug should be used only in emergency situations. In addition, FDA intends to carefully monitor its use. This procedure is a departure from customary practice for the FDA and the Agency feels that it will be sufficient to preclude the current misuse of the drug. Frankly, I have my doubts. What disturbs me is that during the 2-year period the FDA was aware its erroneous bulletin was in the hands of physicians, while at the same time misuse was occurring throughout the country, the Agency did nothing. As a result, one can have little confidence that the FDA's anticipated procedure to monitor the use of DES will have any different impact.

Mr. President, what concerns me even more is the apparent lack of any assessment by the FDA as to the probable or possible misuse of a drug when it determines what the risk/benefit circumstances are for a drug. During the testimony of the Commissioner of FDA there was no indication that in determining the benefit versus the risk of a drug, he takes into account the evidence he has of its current misuse or makes an assessment of its probable misuse.

It is significant that the manufacturer of the drug, Eli Lilly, Inc., has removed DES from the marketplace since it does not feel it meets the company's safety standards. According to its spokesman, on the basis of information that was available to the company, it did not feel that it could go ahead and market DES. Whether the company had all the information available to FDA or vice versa, is unknown. Nevertheless, since the company which manufactures DES has chosen not to market its product, I find it hard to understand why FDA persists in approving the use of DES. In my judgment, a moratorium of 1 year on the use of DES should not create any problems. After all, it is not at the present moment approved for use. During the year we, in consultation with the Food and Drug Administration, can develop a method by which we can control the use of the drug and still make it available for emergency circumstances.

By Mr. DOMENICI:

S. 964. A bill to amend part A to title XVIII of the Social Security Act to cover certain additional inpatient hospital services furnished outside the United States to individuals insured for benefits provided under such part A. Referred to the Committee on Finance.

S. 965. A bill for the relief of Edward J. Becvar. Referred to the Committe on Finance.

Mr. DOMENICI. Mr. President, late last year I introduced a bill which will fill a small, but important gap in the health insurance protection that is afforded to aged and to disabled social security beneficiaries under the medicare program. As action was not taken before the 93d Congress adjourned, I am reintroducing the measure in the hopes this necessary change to the Social Security Act will be enacted soon.

The bill I am introducing would amend the medicare program so that a beneficiary who is temporarily visiting another country could receive hospital benefits and payment for related physicians' and ambulance services if a medical emergency makes it necessary for him to be hospitalized before he can return to the United States.

Under the present medicare law, hospital and related services furnished abroad are covered only when provided in Canada or Mexico and even then only where the beneficiary is hospitalized in Mexico or Canada as the result of an emergency that arose in the United States. This coverage applies only where the foreign hospital is either nearer to, or more accessible than, the nearest suitable U.S. hospital.

Social security legislation enacted in 1972 added two more exceptions to the general exclusion of services rendered abroad. One permits payment to be made for a U.S. resident in a border State who lives nearer to a suitable foreign hospital than to the nearest U.S. hospital that is adequately equipped to meet his needs. For these beneficiaries, benefits can be paid without regard to whether an emergency existed or where the illness or injury took place. The 1972 social security legislation also provided benefits for U.S. residents who are forced by a medical emergency to be hospitalized in Canada while traveling from Alaska to another State.

These various provisions for paying medicare benefits for people who are hospitalized in a foreign country meet very real and very serious problems for the individuals involved. However, they do not go far enough. Many American residents, especially people living in the border States, have friends and relatives in the neighboring country whom they visit. Others travel abroad on vacations or in the course of their business. Under present law, these people leave their medicare protection behind them when they leave the United States. If they have a medical emergency during their temporary absence from the country, they run the risk of incurring very substantial expenses that will have to be paid out of the pocket—if possible on limited incomes.

I can offer an excellent example illustrating the need for this legislation. An elderly couple, residents of New Mexico, were recently visiting their son in Buffalo, N.Y. While in that part of the country, they decided to extend their visit to see the Shrine of St. Anne de Beaupre in Quebec, Canada. Shortly after arriving in Quebec, the husband began suffering acute abdominal pains. Immediately, this couple canceled their original plans and made a run for the border. Soon the pains became too severe to ignore, and it was necessary to stop for a physician's assistance. The doctor immediately placed the patient in the hospital for surgery. The operation was a success, but the bills have been mounting ever since. Medicare obviously will not cover these expenses as they were incurred out of the country.

This couple only receives a $360 social security check each month. They saved a long time for this trip, not foreseeing the medical emergency. It is likely they will not lose their home and any other assets to pay their medical bills.

Private health insurance plans generally are sensitive to this problem and cover their own policyholders during temporary absences from the country. I am proposing that similar protection be extended to the aged and disabled under social security who are permanent residents of this country and who have been physically present in the United States within the preceding 6-month period. As in the case of the benefits now provided for services furnished outside the United States, this bill would cover the related ambulance and physicians' services as well as the hospital services themselves.

Mr. President, the bill I am introducing today would affect relatively few medicare beneficiaries. But those who would benefit would be relieved of a potentially large financial burden that could, through no fault of their own, spell financial disaster. I urge that the proposed legislation be enacted. I ask unanimous consent that the text of S. 964 be printed at the end of my remarks.

In addition, Mr. President, I am introducing a private bill for the relief of Mr. Edward J. Becvar. The payment extended to Mr. Becvar, the subject of my previous remarks today, will only equal the amount he would have received had the current law contained a provision such as the one I am introducing today, for emergency hospital services outside the United States. I also ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bills were

ordered to be printed in the RECORD, as follows:

S. 964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1814(f)(2) of the Social Security Act is amended—

(1) by striking out clause (ii) of subparagraph (A) and inserting in lieu thereof the following:

"(ii) at a place outside the United States;",

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu of such period "; and", and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) in the case of an individual described in subparagraph (A)(ii), such individual (i) had, as of the date he first began to receive such emergency inpatient hospital services, been physically present in the United States within the preceding 6-month period, and (ii) such individual maintains a residence in the United States.".

(b) The amendments made by subsection (a) shall apply only with respect to services furnished in the case of admissions to hospitals occuring after the date of enactment of this Act.

S. 965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the hospital insurance program under part A of title XVIII of the Social Security Act, the inpatient hospital services furnished to Edward J. Becvar (Social Security Number 120-07-7923A), of Roswell, New Mexico, at the Cornwall General Hospital, Cornwall, Ontario, Canada, in June, 1974, shall be considered to be emergency inpatient hospital services of the type for which payment is authorized under section 1814(f) of the Social Security Act (42 U.S.C. 1395f).

By Mr. HARTKE (by request):

S. 966. A bill to amend the Emergency Jobs and Unemployment Assistance Act of 1974 to establish an emergency health insurance extension program to assure continued health care for unemployed persons and their families, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. HARTKE. Mr. President, I ask unanimous consent that the text of this bill I am introducing by request regarding health insurance for unemployed persons be printed in the RECORD at this point.

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

S. 966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Emergency Health Insurance Extension Act of 1975".

SEC. 2. The Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE IV—EMERGENCY HEALTH INSURANCE EXTENSION PROGRAM

"SEC. 1. (a) Every individual who is receiving benefits under any Federal or State unemployment compensation law and who, at the time of termination of his employment, was covered under an employer health insurance plan for employees, and the members of his family if included in such coverage, shall be entitled to a continuation of such insurance, with premiums paid therefore by the Secretary of Labor as set out below, under the following terms and conditions:

"(1) Insurance of an individual and his family under this title shall become effective at such time as the obligation of the employer to furnish insurance coverage under the employer's health insurance program for employees otherwise expires.

"(2) This title shall not apply in the case of an individual who, together with members of his family previously covered through his employment, is covered or is eligible for coverage under an employer's health insurance program by which such coverage is available through another member of his family.

"(3) To be entitled to benefits under this title an individual shall make application therefore to the state unemployment compensation agency or other appropriate state agency, and such agency shall promptly determine eligibility and give notice of certification of eligibility or rejection of the application to the individual's last employer and the carrier for such employer's health insurance program.

"(4) Application for benefits under this title shall be made within 30 days following termination of the employment, and the initial certification shall be effective to provide for coverage commencing on the date of termination of the employment, or, if later, the date of expiration of coverage of the employee and his family by insurance under the employer's health insurance program. Any certification of eligibility shall be effective for a period of four weeks, and the agency shall from time to time review and recertify any individual's eligibility in order to provide for continuation of coverage for the period during which he is unemployed and eligible for compensation benefits.

"(5) Insurance coverage provided under this title shall not apply with respect to elective services.

"SEC. 2. For the purposes of this title a person shall be deemed eligible for insurance benefits even though he may be disqualified for compensation benefits by reason of inability to work because of illness or disease.

"SEC. 3. Payment of premium, actuarily determined for coverage under this title, shall be made by the Secretary of Labor directly to the carrier or as reimbursement to the employer.

"SEC. 4. There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary to carry out the provisions of this title. No payments may be made by the Secretary of Labor for any benefits under this title for any period subsequent to June 30, 1976."

By Mr. BUCKLEY:

S. 967. A bill to provide employment opportunities for unemployed and underemployed persons, to establish a program of loans to provide employment opportunities, to promote safe and efficient service by rail, and for other purposes. Referred by unanimous consent to the Committee on Commerce.

RAIL MAINTENANCE IMPROVEMENT AND EMPLOYMENT ACT OF 1975

Mr. BUCKLEY. Mr. President, in the last days of the 93d Congress, a bill to provide $2.5 billion for public service jobs was brought to the floor of the Senate. No hearings had been held to carefully sort out the kinds of programs that could most effectively utilize this major infusion of money. No thought or investigation was given to selecting kinds of work that would contribute to permanent improvements while stimulating productive work in the private sector. Instead it was proposed that $2 billion be pumped into outdated public service programs that contribute little beyond the direct employment of those invclved; and encourage still greater growth of Government payrolls when our objective ought to be to encourage the growth of economically productive private payrolls.

This poorly conceived proposal was rushed through the Congress last December with no time to consider how the funds could best be used to create jobs. We now have proposals to spend still larger sums on the public service approach. Very little is heard, however, about the type of employment that would serve the Nation and the individual most advantageously.

A recent Wall Street Journal editorial gives a vivid description of the confusion this law has brought to State and local governments. The editor likens the city hiring halls to theaters of the absurd. New York City is reported to be firing 260 policemen and 150 firemen while hiring 400 other people as ward assistants in the department of mental hygiene in an attempt to comply with the new law. Buffalo is reported to be dropping city-funded services not essential to survival while the U.S. Department of Labor pressures the city for "totally new labor intensive programs."

Mr. President, I am introducing legislation today that provides a constructive alternative to the sterile approach of the Emergency Jobs and Unemployment Assistance Act of 1974. It will redeploy half a billion dollars in a manner that will not only produce badly needed employment, but help us meet other urgent priorities as well. This expenditure will encourage expansion of the wealth-creating private sector, while at the same time helping us meet our twin goals of improved rail service and the expansion of our domestic output of energy.

Mr. President, I am introducing today an amendment to the Emergency Jobs and Unemployment Assistance Act of 1974 that addresses itself to the major issues of the day. This amendment provides $500 million to employ more than 50,000 maintenance-of-way workers to rehabilitate track and roadbeds for railroads throughout the Nation for 1 year. I have been advised that the Federal Rail Administration estimates that $686 million is the maximum amount that could be used for this employment in 1 year. I have chosen $500 million, as a figure which is more likely to be efficiently used. I have also been advised that railroads have deferred hiring maintenance workers just as they have deferred maintenance. There is every indication that once a major rehabilitation program is launched, the employment provided by my bill will prove permanent.

There is a strong parallel between the degree of deterioration of the railroads and rail service and the degree of unemployment in an area. A healthy rail system is an asset to a community attempting to hold existing industry or attract new firms. Conversely, the poor service offered today by many carriers places

communities along these lines at a disadvantage in competing for new industries and new jobs.

In the city of Buffalo, N.Y., a major eastern rail terminal, Mayor Makowski estimates that unemployment now exceeds 15 percent. Obviously this legislation would provide relief for the unemployed in Buffalo, but it is also true that revitalization of the rail lines in Buffalo would hasten a recovery of the depressed economy that has beset the city for 20 years. Efficient delivery of coal would encourage increased production in the steel mills located in the area. Revitalization of the railroads would encourage industries and business on the threshold of relocation decisions to remain in Buffalo.

Once assured of dependable and economical rail transportation, new industries would be attracted to this and other economically depressed regions. Just last week, when it was affirmed that the Wallkill line in Orange County, N.Y. would be a part of the ConRail system, an industry which promises to employ 250 people finalized plans to locate in that community, and at least 3 other shippers will expand present facilities. Rejuvenated rail transportation will produce more jobs. Therefore, the employment that will result from the bill I am introducing will have a significant multiplier effect on job markets.

Mr. President, let me cite another important benefit that would flow from my bill. The administration has emphasized the need to increase the use of coal as a source of energy. Indeed, it is estimated that the United States has more than a 1,000-year supply of coal, and the United States also has the technology and research capacity to minimize the pollution commonly associated with coal. But encouraging or mandating the use of coal is an exercise in futility if the railroads that deliver 70 percent of the coal we produce are incapable of handling increased tonnage.

At the present time, most railroads are restricted to reduced rates of speed, many as low as 10 miles per hour, because of hazardous track conditions, and capital is so scarce that railroads are unable to purchase an adequate number of boxcars. Thus, the workers employed to restore the track would expedite the delivery of coal, and encourage the expansion of our coal producing capacity. This in turn will add significantly to employment, as coal mining is a labor intensive industry that can bring new employment opportunities to some of our most depressed areas.

Not only would the workers who reconstruct the rail lines ease unemployment and the energy crisis, but they would help protect the life and property of Americans from the sharply increasing accident rate on the Nation's railroads. In a Wall Street Journal article dated October 10, 1974, the head of the Federal Rail Administration Safety Department was quoted as saying:

> Deferred maintenance is the virus that is plaguing the industry. There's no question that badly maintained track is the main cause for the upsurge in accidents we have been experiencing.

According to the National Transportation Safety Board, broken rails were responsible for 5,756 train accidents for the 10-year period, 1963 to 1972. During 1973 alone, the FRA reports 3,800 train accidents attributable to track defects.

I believe it is clear from the foregoing that the employment provided for in my bill is anything but "make-work." It will provide work that has dignity and purpose; work that is urgently required. Railroad maintenance has been deferred for too long because the capital reserves of much of our railroad industry are almost nonexistent. Railroads inside and outside of reorganization have deferred capital financing because profits are so marginal that carrying loans at the going interest rates cannot be justified.

Reports filed by the railroads with the ICC for last year revealed that 43 railroads had deferred maintenance in the amount of $2.6 billion. Recently completed studies of the industry suggest the total may be higher than $5 billion.

Mr. A. L. Sams, an Illinois Central and Gulf vice president, explained in a 1973 article in Railway Age why the rail lines have reached this sorry state. He wrote:

> When you're faced with making a budget and there is not enough money for everything, you look for things that can be omitted in order to meet the budget. Of course, you can't cut out trains because this will immediately affect revenues. The same thing applies to cars and locomotives to a certain extent. But, one thing you can do over a fairly long period of time is reduce maintenance. This means you operate slower. You may have derailments, but it is still something you can do, and that's what we have done.

Mr. President, the recent ICC 10 percent rate increase designed to generate capital for maintenance was too little, too late. In the past 12 months, inflation in railroad purchasing has accelerated far beyond 10 percent. The cost of a ton of rail is up 36 percent; a tie is up 40 percent; tie plates are up 42 percent; and spikes are up 31 percent. Today it costs the railroads 40 percent more on equipment debt than it did 1 year ago. The simple answer is these rate increases have not been enough to meet inflationary costs, and, without substantial Federal help to offset the deterioration caused by excessive regulation, the situation will grow still worse.

It is clear from the evidence that the Federal Government will have to do more than provide $500 million required to have the more than 50,000 employees needed to repair track and roadbeds. This alone will not enable the railroads to assume the capital cost of $2 billion that the FRA estimates will be required to purchase equipment—about $200 million—and materials—about $1.8 billion—required for this project. My proposal, therefore, also provides that Federal loans in the amount of $2 billion at 3 percent interest, to be amortized over a 30-year period, be made available to railroads participating in this program. Since rail has a life expectancy of 60 years, the 30-year amortization period is not unreasonable. The distribution of funds for employment and the loan program would be administered by the Secretary of Transportation.

It is my understanding that this amount can be allocated from funds currently being earmarked for transportation purposes. Therefore, my proposal could be adopted without adding to the huge deficits already estimated for the next fiscal year. The investment provided by the bill is economically sound; but equally important, it will accomplish two essential objectives: The rejuvenation of our right of ways, and the reduction of unemployment.

I wish to emphasize that what I propose is a loan program and not a grant program, although there are strong arguments to justify direct grants. A recent study published by the Association of American Railroads shows that the Federal Government is spending more than $7 billion in direct grants per year for the continuing development of the highway system. The Federal Government has been spending billions of dollars in fostering competition for the railroads by subsidizing the national highway system, the airway system, and the inland waterways.

There are numerous precedents for the type of low-interest loan funding that I recommend. Rural electrification, small business, national defense education, and natural disaster loans are examples. In each of these instances, the loan fund was created by the Congress to meet the financing needs of socially desirable programs. In the case of the railroads, Government regulation has created such mammoth problems to be overcome that private capital is not available except at costs so high as to threaten their ability to once again become self-supporting.

I am normally extremely reluctant to see the Federal Government run a rescue operation to save private companies that are usually the victims of their own mismanagement. In this situation, however, we have unique factors. The first is that it is the Government itself that bears the major responsibility for the problems faced by our railroads. The second is that the fate of rail transportation cannot be left to the hazards of bankruptcy sales in which only the most productive assets might be purchased. We need to keep most of the existing system intact. We must keep in mind that railroads are essential to the health of the economy. They are the major movers of raw materials to supply industry, and they also handle 60 percent of the shipments by manufacturers. Without rail service, exports could not be moved to the ports, and our balance of payments would be seriously damaged. They carry 41 percent of all intercity traffic, more than trucks, barges, and air carriers combined. According to Stephen Ailes, president of the Association of American Railroads—

> Projections of increased rail traffic are being made because compared to highway competition, railroads can move most goods in volume between the same points with less than one-third the fuel, one-third the air pollution, one-sixth the casualties and one-tenth the land.

Mr. President, there is irony in the fact that just when it has become clear that rail transportation is the most efficient and economical in terms of cost and energy and, therefore, crucial to the survival of this Nation, more and more sections of the country are threatened with loss of rail service through bankruptcies. At the time the Rail Reorganization Act of 1973 was passed there were eight bankruptcies. Today there are 13, and others are on the brink of collapse but reluctant to publicize their precarious situation for fear of losing the few sources of capital still available to them. This crisis, like so many others, is not due to Government neglect, because the railroads could have survived neglect, but due to incentive-stifling Government interference over a period of years.

This bill I am introducing today will not solve these other problems, but it will create enormously productive jobs while accomplishing work that cannot any longer be deferred. This legislation is not intended to be a panacea for the railroads or the economy. It is a 1-year interim program limited to those things that can be accomplished in 1 year. It is a shot of adrenalin that can help us toward recovery.

Much more obviously needs to be done to restore viable, competitive systems of transportation. I am delighted that the Senate Commerce Committee will soon be considering the establishment of a national transportation policy with more equitable treatment for railroads. I am also delighted that the President's commission is studying regulatory reform. But right now—today—there is an urgent need for relieving unemployment and for repairing the railroad rights of way. I hope that my proposal will be the subject of early hearings, and that we can have prompt consideration of a bill with the potential of alleviating so many of our most serious problems.

I ask unanimous consent that my bill be printed in the RECORD at the conclusion of my remarks.

Mr. President, because this bill deals with railroad problems and subject matter which has been given considerable study by the Senate Commerce Committee, I ask unanimous consent that the Rail Maintenance Improvement and Employment Act of 1975 be referred to the Commerce Committee.

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

S. 967

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 "Rail Maintenance Improvement and Employment Act of 1975".

SEC. 2. Section 601 of the Comprehensive Employment and Training Act of 1974 is amended by striking out "2,500,000,000" and inserting in lieu thereof "2,000,000,000".

SEC. 3. The Emergency Jobs and Unemployment Assistance Act of 1974 is amended by the addition of the following Title IV.

"TITLE IV—EMERGENCY RAIL EMPLOYMENT

SEC. 401. (a) To carry out the purposes of this title, the Secretary of Transportation, in accordance with the provisions of this title and notwithstanding any provisions to the contrary, is authorized from funds appropriated and made available under this title to provide financial assistance to common carriers engaged in transportation by railroad, as defined in the Railway Labor Act (45 U.S.C. § 51), for wages of persons employed in programs and projects to maintain and improve their rights-of-way and structures, including mainline tracks, side tracks adjacent thereto, roadbed, culverts, fills, tunnels and other structures.

"(b) The Secretary shall provide financial assistance for any program or project under this title only upon application by the carrier under regulations to be prescribed by the Secretary.

"(c) The Secretary shall not provide financial assistance for any program or project under this title unless it is determined under regulations to be prescribed by the Secretary that the program or project (1) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of overtime work or wages or employment benefits), and (2) will not result in the substitution of Federal for other funds in connection with work that could otherwise be performed by the carrier during the 12 months following application by the carrier.

"(d) All persons employed under the program or project shall be considered employees of the carrier working under any applicable labor contracts and subject to the same managerial control as all existing employees of the carrier: *Provided however,* That persons employed under such program or project shall not attain interests entitled to protection or the imposition of protective arrangements under the Interstate Commerce Act (49 U.S.C. § 5) or any other provision of law.

"(e) The provisions of Title I shall apply as to eligibility: *Provided however,* That to the extent the carrier had employees on furlough at the date of enactment, such employees shall be first employed.

"(f) Persons employed under such program or project shall be paid wages at rates provided for in collective bargaining agreements negotiated under and pursuant to the Railway Labor Act, and such rates shall be considered as being in compliance with the Davis-Bacon Act, as amended (40 U.S.C. § 276a).

"(g) The Secretary may require reports or by other means insure that assistance authorized under this title is expended by the carrier consistent with its application.

"SEC. 402. There is authorized to be appriated the sum of $500,000,000 to carry out the provisions of this title.

"SEC. 403. (a) The Secretary of Transportation is authorized, on such terms and conditions as he may prescribe, to make loans on behalf of the United States to common carriers engaged in transportation by railroad, as defined in the Railway Labor Act (45 U.S.C. § 51), to be used for equipment, materials, and supplies necessary for rehabilitating, maintaining, and improving their rights-of-way and structures, including mainline tracks, side tracks adjacent thereto, roadbed, culverts, fills, tunnels, and other structures. The maturity date of any loan including all extensions and renewals thereof, shall not be later than thirty years from its date of issuance.

"(b) Any loan by the Secretary under this Act shall be made within 1 year of enactment; shall not be terminated, canceled, or otherwise revoked; and shall be conclusive evidence that such loan complies fully with the provisions of this Act.

"(c) Before making any loan pursuant to this Act, the Secretary must consider whether the prospective borrower is responsible and whether adequate provision will be made for repaying the loan. The Secretary may not make a loan under this Act unless he finds that:

(1) the loan is needed to provide employment opportunities for unemployed and underemployed persons;

(2) the loan will provide funds for needed rehabilitation, maintenance and improvement of the Nation's railroads; and

(3) the activity to be financed will promote the efficiency of rail operations.

"(d) The Secretary may prescribe, as he deems necessary and appropriate, rules and regulations for the administration of this Act.

"(e) The rate of interest to be charged the borrowers shall not be more than 3 per centum per annum. The aggregate unpaid principal amount of loans made by the Secretary under this Act, may not exceed $2,000,000,000.

"(f) Loans authorized under this Act shall be for programs and projects to be performed by the carrier during the 12 months following the carrier's application."

By Mr. HARTKE (for himself, Mr. CRANSTON, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. STAFFORD, Mr. BAYH, Mr. BEALL, Mr. CASE, Mr. CLARK, Mr. DOLE, Mr. GARY W. HART, Mr. PHILIP A. HART, Mr. HATFIELD, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. MATHIAS, Mr. MCGOVERN, Mr. MOSS, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. HUGH SCOTT, and Mr. WILLIAMS):

S. 969. A bill to amend chapter 34 of title 38, United States Code, to extend the basic educational assistance eligibility for veterans under chapter 34 and for certain dependents under chapter 35 from 36 to 45 months. Referred to the Committee on Veterans Affairs.

Mr. HARTKE. Mr. President, on behalf of the members of the Committee on Veterans' Affairs, which I am privileged to chair, together with other Senate colleagues, I introduce today a bill to provide for an unrestricted extension of basic eligibility for GI bill educational assistance benefits from 36 to 45 months. This is an obvious piece of "unfinished business" from our efforts during the past 4 years to significantly improve educational benefits for Vietnam veterans. Hopefully we will be able to proceed quickly to successful enactment of this legislation so that we can insure the continuity of eligibility for most veterans currently in training.

I am pleased to be joined in this measure by fellow committee member, the senior Senator from California (Mr. CRANSTON) who has shown a continued keen interest in the unrestricted extension of an additional school year of entitlement during the past year. Other committee members joining me in introduction of this measure are the Senator from Georgia, (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE) and the Senator from Vermont (Mr. STAFFORD).

I am also pleased that I am joined in cosponsorship of this measure by my esteemed colleague from Indiana (Mr. BAYH) and by Mr. BEALL, Mr. CASE, Mr. CLARK, Mr. DOLE, Mr. GARY HART, Mr. PHILIP HART, Mr. HATFIELD, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. MATHIAS, Mr. MCGOVERN, Mr. MOSS, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. HUGH SCOTT, and Mr. WILLIAMS.

Mr. President, while I believe the merits of this measure are obvious, it would be worthwhile to examine the history of this proposal that is before you today. During extensive hearings on readjustment assistance benefits for Vietnam-era veterans held by the Subcommittee on Readjustment, Education and Employment of the Committee on Veterans' Affairs, which I am also privileged to chair, we received extensive testimony urging that the then maximum entitlement of 36 months be extended.

Proponents of this extension, noting that the World War II veterans could have received up to a maximum of 48 months entitlement argued for additional eligibility and repeatedly testified as to the difficulties of many veterans in obtaining an undergraduate degree in 36 months, that in 4 standard college years of 9 months each. A survey by the National Association of Concerned Veterans—formerly the National Association of Collegiate Veterans, of selected States indicated that large numbers of veterans were not able to obtain an undergraduate degree in the standard 36 months of entitlement. They noted that the higher price of education, the loss of credits involved in transferring from one institution to another, and the lack of adequate benefits in the GI bill heretofore, had all combined to make it very likely that many Vietnam era veterans would not be able to complete baccalaureate degree requirements within 4 school years.

The relatively low level of benefits caused many veterans to devote excessive hours to earn money to supplement their monthly benefit checks in their attempt to obtain an education under the GI bill. NAVC pointed out in its testimony that 12 credit hours per semester added up to 96 credit hours after 4 school years, or 24 credit hours short of 120 required for graduation. Under the quarter system, four years minimum requirement accumulated 144 credit hours or 36 short of the 180 necessary for graduation.

Supportive data on the difficulty in obtaining degrees in 36 months was also submitted by representatives of the American Association of Community and Junior Colleges, who testified that most veterans average only 12 hours for a semester.

Surveys of veterans attending California University at Fullerton, and the University of California at Irvine found that in crowded public institutions where most veterans turn for education, it is often extremely difficult to gain admission in the courses required for graduation and that it took large numbers of veterans an average of 5 years to complete their degree. Given this background these arguments were most persuasive to committee members and in adopting an additional 9 months of eligibility the committee noted in its report accompanying my bill, S. 2784, that—

> Extension of entitlement must be provided to insure that veterans—taking reduced credit loans, forced to work and facing technical and administrative bottlenecks—will be able to complete their undergraduate degrees.

At the same time, the committee noted that since the adoption of the first GI bill over 30 years ago, the American work force had changed radically. Considering the exclusiveness of higher education after World War II, the GI bill then was very much of a bonus but 30 years later it was very much of a necessity. Noting that a major aspect of readjustment assistance is to make a veteran economically competitive, the committee report also noted that in 1950, 7.1 percent of those in the 25 to 29 age bracket in the Nation had baccalaureate degrees, while in the 1973, 19 percent had undergraduate degree in the same age bracket. The committee report also acknowledged that NACV had testified that—

> The employment market today requires that, in many instances, the applicant to attain a higher than bachelor's level degree in order to compete with others. It is possible for an individual to graduate from college and enter the employment market and not even qualify to fill out an employment form, much less compete for a job.

The committee report further noted a recent report by the Carnegie Institution of Higher Education, which pointed out that educational requirements imposed by employers and State licensing agencies and professional certification boards demand increasing periods of higher education.

Thus, in providing for an additional 9 months of educational entitlement, it is clear that the Senate committee was recognizing a dual purpose: first, to allow veterans having difficulties obtaining an undergraduate degree sufficient time to do so; and second, to allow other veterans to make maximum use of additional schooling to meet the increasing educational requirements of society.

The 9-month additional unrestricted entitlement in S. 2784 unanimously passed the Senate by a vote of 91 to 0 on June 19, 1974. The Senate then returned to the House, H.R. 12628, with the text of the Senate-passed S. 2784. Following rigorous discussion and negotiation, all Senate and House conferees agreed to a version of H.R. 12628, which included an additional 9 months of eligibility without restriction. On August 21, the full Senate unanimously agreed to that conference report. On the following day, August 22, however, the House did not consider the conference report following a successful parliamentary point of order raised against its consideration. The House then quickly amended H.R. 12628, which amendments did not include any extension of eligibility. Following this action, a second conference was requested and negotiations began anew. Without reciting in detail all those negotiations, it should be noted that they took place in the context of very strong objections voiced by the executive branch to the extension of any additional entitlement at all. Committee members were diligently seeking a way for compromise that would enable the bill to be approved by the Nation's new President. In this context, the House and Senate conferees unanimously, though not without very serious misgivings on the part of many, agreed to restrict the additional entitlement of up to 9 months to those attempting to complete their undergraduate education. Ironically, this and other conciliatory gestures by Congress were rebuffed by the President who promptly vetoed the measure prompted in my opinion either by bad advice or a misunderstanding of the intent and effect of the measure before him. The compromise having been rejected, congressional misgivings of restricting the expanded eligibility soon proved to be all too well founded. Protests by veterans were unanimous. And, if there was any question then, there is none now, that the restricted eligibility has proven difficult to implement, is inequitable in operation, and contrary to the basis underlying objectives of the program.

I joined in sponsoring separate legislation to remove this restriction with Senator CRANSTON, in S. 4139, but it was not possible to complete action on this measure prior to adjournment of the 93d Congress. Mr. President, as I have mentioned, this restricted 9 months of eligibility is proving to be difficult to implement. Whether one qualifies for the additional benefit turns on technicalities that often seem absurd. For example, a person enrolled in a standard 5-year undergraduate program, such as pharmacy or engineering, may qualify for benefits. But then again he may not qualify for benefits if he was entitled to a bachelor's degree at the end of 4 years. These arguments which rival those computing the number of angels on the head of a pin are both time consuming and unworthy of a Government program designed to aid veterans who served their Nation honorably. Further, the restriction limiting additional entitlement to undergraduate education may have the unintended effect of discouraging rapid and efficient progress by a veteran to his or her ultimate educational objective. Veterans may be encouraged to stretch out their undergraduate career rather than make maximum efficient use of their benefits.

Mr. President, this restriction is also unprecedented. Never in the history of the GI bill readjustment assistance programs, beginning with the World War II GI bill—which provided for up to 48 months of unrestricted entitlement in certain cases—and including both the Korean conflict GI bill and the present program, has any stipulation been imposed on the level of training, undergraduate or graduate, for which the GI educational assistance may be used. The limited 9-month extension thus, in effect, provides unequal benefits for equal service. Veterans who have pursued the same military obligation may receive unequal education benefits. Thus, those students who have completed undergraduate work and are pursuing graduate training or additional education, do not qualify for the additional entitlement. The additional burden demanded by employers, State licensing agencies, and professional certification boards must then be borne by the student veteran. With veteran employment rates for younger veterans running close to 20 percent, educational benefits under the GI

bill program, must assist and not detract motivated veterans seeking greater opportunity through disciplines that previously required less training. Teachers, business persons, lawyers, doctors, dentists, veterinarians, are a few of the professions that generally require advanced degrees.

The Carnegie Commission on Higher Educafion and others have pointed out that educational requirements imposed by employers, State licensing agencies, and professional certification boards demand increasing periods of higher education. What a bachelors degree would qualify a veteran for in 1948 or even 1955 in terms of salary, job opportunities, and responsibilities, may very well require a masters or other advanced degree in the 1970's. As I have mentioned many times before, such additional education should be viewed as an investment in the country not only in the young veterans that have served it but also in the future of the country itself. Increased education through the GI bill has invariably meant increased tax revenues as well as a better educated populace contributing to the welfare and development of our Nation. Based upon last year's estimate, the cost of this provision will be approximately $29 million. However, it should be noted that those estimates were based upon caseloads which are now undergoing revision and the costs may be higher ranging up to $77 million. Mr. President, I am sure that I am not alone when I say that the restriction of eligibility has produced an unprecedented amount of mail from veterans throughout the country. I believe their letters eloquently stress why we should enact this legislation and I ask unanimous consent that excerpts from various letters be placed in the RECORD at this point.

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

My undergraduate education was completed prior to my military service. I have exhausted the 36-month limitation of benefits. I can not see why the additional 9 months of benefits should be limited to only those veterans working toward their undergraduate degree.—Veteran, Bloomington, Ill.

The idea of extending the amount of time for attendance at any institution to forty-five months is great, if you want to waste time and spend it as an undergraduate. . . . I hope to become as highly qualified and well versed in my chosen field of study and not to become a Jack of all trades but master of none. . . . Why not have the best qualified people you can get?—Veteran, Portland, Oreg.

Consider, please, the consequences of the current restrictions on the nine month extension. If I was advising a veteran on utilizing his benefits, I would tell him that if he wished to pursue vocational training, or to receive a Bell and Howell color television kit, or to take flying lessons and in addition seek a college degree, then he should attend college last because he can receive more entitlement, nine months of entitlement. Sir, is this fair, right or equitable?—Veteran, Waco, Tex.

DEAR SENATOR HARTKE: I am a four-year veteran of the Vietnam area and a first-year evening student at the University of Connecticut School of Law. During the day I earn enough money to support my wife and son; only my veterans' benefits permit me to attend law school, and these have only a few more months to run.

I come from a poor family, and I have had to finance my own education from beginning to end. It took me ten years to complete my undergraduate studies, and I can measure the cost in my own sweat. . . . I ask your help, not only for myself and my family, but for the thousands of other veterans who, like me, would seek professional education beyond the undergraduate level—Veteran Hartford, Conn.

Thank you for your support of legislation which provides for increased GI benefits. I find however, that the nine-month extension has failed to help myself and many other students as most are able to complete their bachelors degree in thirty-six months. Too often many prolong their graduation date in order to obtain the extra money. In many cases, students can receive a bachelors and masters degree on the same day.

I graduated with a bachelors degree in technology which proved insufficient in my profession and am currently pursuing a second bachelors degree in electrical engineering but I am ineligible—for the additional benefits—Veteran Provo, Utah.

That graduate students are excluded is patently unfair. That I spent eighteen months as a line officer with a combat unit apparently means nothing. I must respectfully insist that graduate students be treated fairly. . . . There is no equitable distinction between graduate students and undergraduates. We both have tuition bills to pay. I urge you to please act now—Veteran Syracuse, N.Y.

I am seeking information on . . . that part of the act which extends the maximum entitlement of educational assistance benefits for eligible veterans from 36 to 45 months, which can only be used for *undergraduate work*. This really puts a stranglehold on a veteran who intends to complete graduate school. In essence, those of us with families, must not even think of continuing in school past the common four year degree—Veteran, F.S.U. Veterans Club, Tallahassee, Fla.

The key word is "undergraduate." This seems to be inequitable. It discriminates against those of us who struggled to finish our undergraduate programs in the previously allowed 36 months and with, what was then, an inadequate GI Bill.

This new bill benefits only a few of the Vietnam Veterans who have attended or are now attending college. Most of us who wanted to attend colleges are now finished. Many of us need to attend graduate school to better prepare ourselves for professional occupations.

This is the first time in the history of veterans' benefits that this sort of restriction has been placed on graduate study.

The impact of the World War II GI Bill speaks for itself. The number of doctors, lawyers, engineers, and educators it helped through graduate school is in the millions. It seems to me that the government was paid back many times over through the increased taxes of these professional people.

I recently read that we have spent $8 billion in South Vietnam since the peace agreement, and that the Defense Department will be asking for $95 billion in order to carry on their programs in 1975. I'm asking for $261 a month for 9 months, or $2,349, to carry on my program in 1975. That's not too much—Veteran, Marshall, Minn.

I am a graduate student who was recently informed that my veterans' benefits have expired and as a result my educational future is in doubt. . . . I suspect many (are) like me, the failure to extend the benefits for nine months for grad students as well as undergrads represents a gloomy way to begin the new year. . . . At this point I realize that my chances are indeed dim. However, I owe it to myself and my family of four to exhaust the last hope. Is there any chance for that nine month extension to apply to graduate students?—Veteran, Monroe, Mich.

The nine month extension before the amendment to underclassmen only wouldn't have guaranteed that education, but it would have allowed veterans to have time to establish themselves. Many graduate schools won't grant scholarships or fellowships until grades are earned. In many cases this leaves veterans in an untenable position. With the economy declining at an accelerating rate the problem is compounded by veteran's inability to seek work to support their education—Veteran, Bloomington, Ind.

The primary thirty-six months can be used in all phases of education. Does it not seem rather arbitrary to apply a different standard of education to the extension period?—Veteran, Columbia, Md.

I am somewhat distressed, however, at the restriction placed on the nine month extension which limits its use to undergraduate study. This would seem to have the tendency to diminish the veteran/students opportunity to advance into professional level careers requiring advanced study. I hope there will be further efforts to remove this restriction so that veterans have the chance to repay Uncle Sam by making larger contributions to the tax man on the income derived from their professional level jobs—Veteran, Johnson State College, Johnson, Vt.

We do not understand why the new increase in the GI benefits is limited to undergraduate studies . . . In our opinion this is encouraging undergraduates to become lackadaisical and not care about finishing their schooling. The way our economy is, you need a Master's Degree to get and hold a decent job.—Veteran, Virginia Beach, Va.

I do not consider myself a "professional student", but my ambition is to enter agricultural research and this is impossible with only a baccalaureate degree. With your decision to exclude graduates from this additional year of benefits you have made it very difficult for me to complete my objectives within the next two semesters.

Because of the high rates of inflation I have had to work more and more hours per week in order to meet food and housing costs. I now work thirty hours per week while attending college full time.

In the state of California a fifth year is required after graduation in order to receive a teaching credential. You have now eliminated an opportunity for many qualified veterans to become teachers which could only benefit young people and the country as a whole.—Veteran, LeGrand, Calif.

Mr. HARTKE. Mr. President, I also ask unanimous consent that the full text of the bill be inserted in the RECORD at this point and restate my conviction that I believe we should act expeditiously on this measure.

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

S. 969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sub subsection (a) of section 1661 of title 38, United States Code, is amended by striking out in the second sentence all after "period of" the second time it appears and inserting in lieu thereof "45 months (or the equivalent thereof in part-time educational assistance).".

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

"(c) Except as provided in subsection (b) and in subchapters V and VI of this chapter, no eligible veteran shall receive educational assistance under this chapter in excess of 45 months.".

SEC. 22. Subsection (a) of section 1711 of title 38, United States Code, is amended by striking out "thirty-six" and inserting in lieu thereof "45".

Mr. CRANSTON. Mr. President, I am pleased to join the distinguished chairman (Mr. HARTKE), other members of the Senate Veterans' Affairs Committee, and a bipartisan group of 21 other Senator in introducing this measure to extend from 36 to 45 months the basic eligibility for GI bill educational assistance under chapter 34 of title 38, United States Code.

BACKGROUND

Mr. President, during the Senate Veterans' Affairs Committee's consideration last year of S. 2784, the Vietnam Era Veterans Readjustment Assistance Act of 1974, now Public Law 93-508, I proposed an amendment to increase the total GI bill entitlement period by 9 months, from 36 to 45 months. This amendment was accepted by the committee and retained in the first conference report on this measure—H.R. 12628.

As my colleagues will recall, the Senate unanimously passed S. 2784 on June 19, 1974, and the first conference report on H.R. 12628 was unanimously approved by the Senate on August 21, 1974.

So I point out, Mr. President, the bill we are introducing today, is not raising a new issue. During the 93d Congress, the Senate, on two occasions, overwhelmingly approved a measure containing precisely this provision.

Unfortunately, however, this provision—which had previously received such strong support—was amended in the second conference agreement that was unanimously passed in both the Senate and the House in October 1974. The conference agreement restricted the additional 9 months of entitlement for use only by GI bill trainees who are pursuing a program of education leading to a standard undergraduate college degree.

Mr. President, just prior to the second House-Senate conference on H.R. 12628 on October 2, 1974, I wrote to all the members of the Senate Veterans' Affairs Committee urging that this restriction, which had been agreed to as a negotiating position by the Senate committee prior to the conference, not be included in the conference agreement. After the restricted provision was retained in the conference agreement, I introduced S. 4139, a bill identical to the bill we are introducing today.

UNWISE AND INEQUITABLE RESTRICTION

Mr. President, it was clear then, as it is now, that this restriction will seriously disadvantage many veterans going to school on the GI bill. There are a number of reasons why I feel very strongly that this baccalaureate restriction on the extension of educational assistance eligibility is most unwise and inequitable.

INTENDED DUAL PURPOSE OF 9 MONTHS OF ENTITLEMENT

As stated in the Senate committee report in the last Congress—No. 93-907, page 61—the 9-month provision had two principal purposes: "to insure that veterans—taking reduced credit loads, forced to work, and facing technical and administrative bottlenecks—will be able to complete their undergraduate degrees" and to meet "the increasing periods of higher education" demanded by "the educational requirements imposed by employers, State licensing agencies, and professional certification boards." The baccalaureate restriction removes the second purpose regarding the need for advanced degrees in order for veterans to be competitive in a job market which more and more requires a master's degree rather than just a bachelor's degree.

This trend is set forth in a recent report of the Carnegie Commission on Higher Education, which points out that educational requirements imposed by employers, State licensing agencies, and professional certification boards demand increasing periods of higher education. In plain terms, what a bachelor's degree would qualify a veteran for in 1948 or 1955 in terms of salary and job responsibility may very well require a master's degree in 1974.

INEQUITIES AND ADMINISTRATIVE PROBLEMS

Mr. President, the baccalaureate restrictions will create gross inequities and has already resulted in administrative difficultes in the overall educational assistance program. Specifically, I have the following concerns:

UNPRECEDENTED POLICY DECISION

Never in the history of GI bill readjustment assistance programs, beginning with the World War II GI bill which provided for 48 months of unrestricted entitlement in certain cases, and including both the Korean conflict GI bill and the present program, has there ever been any stipulation as to the level of training—undergraduate or graduate—for which GI bill educational assistance must be used. Nor am I aware, Mr. President, that there has ever been such an underlying policy. The baccalaureate restriction serve as only to widen further the gap between the educational benefits available to veterans after World War II and the benefits currently available to Vietnam-era and post-Korean conflict veterans.

DISCRIMINATES AGAINST VETERANS WITH LEAST PRIOR EDUCATION

The baccalaureate restriction is also highly discriminatory as applied in the case of veterans leaving service without any college-level training. Data on post-Korean conflict GI bill trainees through April of 1974, reveal that 21 percent have had 1 or more years of college. No restriction is placed, nor is any proposed, on these veterans using their GI bill entitlement for study toward advanced degrees beyond a bachelor's degree. No such restriction has ever been statutorily or administratively imposed under the GI bill. Numerous veterans—including a number of distinguished Members of Congress—have been supported by the GI bill through medical or law school. Yet, under the present baccalaureate restriction, the 79 percent of GI bill trainees leaving service without any college-level training—those who obviously need the greatest education and training assistance to compete effectively in this tight, selective job market—would be denied this same advantage.

UNEQUAL BENEFITS FOR EQUAL SERVICE

In the same way, Mr. President, the restriction violates the principle of "equal benefits for equal service," which has for so long been a touchstone of the GI bill. Those veterans who were able to finish college with 36 months of entitlement and those who left service with some or all their college training completed would get no added benefit for their equal service contribution. Whereas other veterans needing extra time to finish college could obtain a monetary benefit of up to $2,430—9 months by $270—plus eligibility for a $600 low-interest loan.

ADMINISTRATIVE DIFFICULTIES

The restriction has already resulted in numerous difficulties in administration by the Veterans' Administration, particularly in terms of 5-year, single degree programs such as in engineering, pharmacy, and veterinary medicine.

BROAD SUPPORT FOR UNRESTRICTED EXTENSION

Mr. President, in my opinion, there is no question about the need to enact a measure which would extend the period of eligibility with no restriction. In addition to the thousands of letters, calls, and telegrams my office has been receiving over the past several months—the great majority of which specifically have been in support of the original version of the 9-month extension provision or my bill S. 4139—my offices, both here in Washington and in California, have been swamped with phone calls, protesting the restricted provision, since it was adopted in conference last October.

The Veterans of Foreign Wars, in an October 2, 1974, letter to me had urged the elimination of the "unwise, unjustified" restriction on the additional 9-months entitlement. The National Association of Concerned Veterans had also stressed its strong disapproval of any limitation on additional months of entitlement.

CONCLUSION

Mr. President, in closing, I would like to stress, once again, the dual purpose of the 9-month entitlement provision, as I originally proposed it in the 1974 GI bill amendments. In addition to providing a means of insuring that all veterans may obtain at least an undergraduate degree, it clearly was meant to enhance the ability of many veterans to be economically and educationally competitive with their nonveteran peers. Limiting these additional months of entitlement to undergraduate courses is preventing and will continue to prevent many veterans from having the opportunity to compete for the increasing number of jobs which require advanced courses of education.

By Mr. HARTKE:

S. 970. A bill to amend the Social Security Act to provide for catastrophic health insurance coverage for the unemployed. Referred to the Committee on Finance.

CATASTROPHIC HEALTH INSURANCE FOR THE UNEMPLOYED

Mr. HARTKE. Mr. President, unemployment in the United States is more widespread today than anytime since the Great Depression. The prospect is for further economic recession and higher levels of unemployment. Each morning the newspapers carry yet another set of statistics that emphasize the dire nature of the present situation.

The unemployed individual is not a statistic. He is a man who faces not a mathematical field, but a world turned sour. In a matter of a few months his life has been fundamentally disrupted. He is no longer able to face the future with equanimity, let alone anticipation; tomorrow is filled with fear and anxiety.

Foremost among his fears is the fear of illness. The prohibitively high cost of medical care would make even a relatively minor illness or operation financially disastrous. Not even the wealthiest families can afford not to have health insurance. I propose that the Federal Government assist the unemployed to insulate themselves against the severe and often devastating financial shocks associated with health care.

Let me preface my remarks by stating that what I am proposing today is not an ideal answer to the fundamental problems facing this Nation in the field of health care. I strongly believe that we need a system of national health insurance; and were such a system in effect, there would be no need to enact what can only be viewed as stopgap legislation. It is my hope that the present crisis together with the consideration and adoption of legislation of the sort I am proposing will spur the Congress towards the goal of establishing a national health policy.

A majority of working men and women carry some form of health insurance, although it is generally inadequate. However, those policies are almost invariably work-related. When the individual is terminated, his health insurance usually expires within a month. He is then given the option of retaining a watered down version of the policy at double or triple the premium. Since this comes at a time when the individual is most vulnerable financially, coverage usually lapses. Some union contracts provide for longer carryover periods, but the final result is the same.

There is another class of worker which does not fall into this pattern. That is the individual who has no hedge against health-related expenses except his job. On the whole, these workers tend to be the same ones who are not covered by regular State unemployment programs. Recent Federal legislation has provided coverage for these groups. Since January of this year, almost all unemployed individuals are covered for at least 26 weeks; in most cases, coverage extends for a full 52 weeks.

The legislation I am introducing is uncomplicated in conception and, comparatively, easy to administer. It eschews continuing an individual's existing health insurance program at government expense because that invokes two major inequities. First, assistance would be extended to the unemployment in a pattern which is inverse to real need. Individuals with the best and most comprehensive health care insurance would be given more assistance than those less fortunate. Second, the plight of individuals who have no job-connected health insurance is ignored. All the unemployed should be aided—equally and irrespective of any prior health insurance policy.

It has also been suggested that the unemployed should be covered by part A of medicare. This is a more equitable solution to the problem.

It is also fraught with off-setting difficulties. First, fundamental administrative problems are connected with certification of individuals for medicare. What is required now is immediate relief; I fear that the medicare approach will involve lengthy and inflexible administrative procedures that will not be responsive to immediate needs. Second is the cost factor; even by conservative estimates, it would be an extremely expensive program.

My legislation builds from the working assumption that what the unemployed need most immediately is protection against catastrophic health care expenses. What frightens most people during this very insecure and anxiety-ridden period is the prospect of illness or accident requiring hospitalization, operations, extended care, or rehabilitation therapy. In other words, the big, expensive items that would be absolutely ruinous but which are also absolutely essential.

I have borrowed the catastrophic illness section of the national health insurance proposal introduced last Congress by Senators LONG and RIBICOFF to use as a standard for minimal coverage under this bill. However, to make the plan more relevant to the financial situation of the unemployed, I have fundamentally altered—in monetary terms—the definition of what constitutes a catastrophic illness.

Full hospitalization coverage begins on the 16th day of in-patient hospital care, as opposed to the 61st day under the original plan. If the average hospital cost per day is approximately $100, the family would be responsible for $1500 before the coverage came into effect. The total amount of payments for physicians' services and other medical services would be $100 in 1974 dollars, while the limit on copayments would be $500. Thus, the notion of what is catastrophic has been scaled down to an approximate threshold of $3,000.

The parameters of the catastrophic insurance coverage are mandated by this legislation; implementation, on the other hand, is left to the States. They are required to enter into agreements with private carriers to provide the mandated coverage. The duration of benefits would coincide, as would eligibility, with coverage under State and Federal unemployment compensation statutes. States would be reimbursed by the Federal Government for 100 percent of the cost of the coverage and for 100 percent of the cost of administering the program.

Funding would be provided through general revenues. A special catastrophic health insurance trust fund for the unemployed would be created within the Treasury that would be entirely separate from any social security or medicare funds. The program would terminate 3 years from the date of enactment subject, of course, to congressional review and extension if economic conditions warrant.

This legislation is no panacea either for the plight of the unemployed or for the sorry state of American health care delivery. It is, however, a reasonable alternative which provides an essential level of assistance to an important segment of American society during a period of competing social demands. It is not an unreasonably expensive program, nor would it create any administrative nightmares. It avoids glaring inequities, and favors no group among the unemployed more than any other.

My proposal is not a substitute for a comprehensive national health insurance program. But it is a measure that is essential to deal with the immediate economic crisis and the great human suffering that it has generated.

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

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

S. 970

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

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

"(A) every individual who—

"(i) is unemployed,

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

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

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

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

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

SEC. 2. The Social Security Act is amended by adding after title XIX the following new title:

"TITLE XX.—CATASTROPHIC HEALTH INSURANCE FOR THE UNEMPLOYED

"DESCRIPTION OF PROGRAM

"SEC. 2001. The insurance program established by this title provides protection

against the high cost of catastrophic illnesses for the unemployed and establishes the conditions individuals must meet to become entitled thereto.

"ELIGIBILITY

"SEC. 2002. (a) The Secretary shall make grants to States equal to 100 percent of the costs and administration for the implementation of programs which provide health benefits to the unemployed in accordance with the requirements of subsection (b).

"(b) To be eligible for a grant under subsection (a) a State shall have in effect an agreement with insurance carriers within such State that such insurance carriers shall provide for payments for health services as described in section 2003 on behalf of individuals described in section 226(j).

"SCOPE OF BENEFITS

"SEC. 2003. (a) The benefits provided to an individual by the insurance program under this title shall be—

"(1) hospital insurance benefits which shall consist of entitlement to have payment made on behalf of an individual for—

"(A) inpatient hospital services (as defined in section 1861(b));

"(B) post hospital extended care services (as defined in section 1861(i) but only if with respect to at least one of the three days of hospitalization required by such section payment may be made pursuant to section 2004(a)(1)(A) for services furnished on each day);

"(C) home health services (as defined in section 1861(m));

"(D) outpatient physical therapy services (as defined in section 1861(p));

"(E) medical and other health services (as defined in section 1861(s), but subject to the limitation and conditions described in section 1832(a)(2)(B)); and

"(2) medical insurance benefits which shall consist of entitlement to have payment made to an individual or on his behalf for—

"(A) medical and other health services (as defined in section 1861(s));

"(B) services of the type described in section 1814(d)(1) for which payment cannot be made under paragraph (1)(A) or subparagraph (A) of this paragraph solely because the hospital does not elect to claim payment, but only if the provisions of section 1814(d)(2)(B) or section 1835(b)(2)(B) are met);

"(C) services described in section 1814(f).

"(b)(1) Notwithstanding the previous provisions of this section no payment may be made with respect to expenses incurred for items or services if pursuant to section 1862 (a), (b), (c), or (d) payment may not be made for such expenses under title XVIII.

"(2) Notwithstanding the previous provisions of this section no payment may be made with respect to expenses incurred for items and services provided under subparagraph (a)(1)(B) for any individual over and above those provided under section 1812(a)(2).

"PAYMENTS, DEDUCTIBLES AND COINSURANCE

"SEC. 2004. (a) Subject to the succeeding provisions of this section, there shall be paid to the States from the Federal Catastrophic Health Insurance Trust Fund for the Unemployed, in the case of each individual who is covered under the insurance program established by this title and incurs expense for services with respect to which benefits are payable under this title, amounts equal to—

"(1)(A) in the case of services described in subparagraph (A) of section 2003(a)(1), the reasonable cost of such services (as defined in section 1861(v)) furnished after the 15th day of inpatient hospital services (as defined in section 1861(b)) to such individual in any calendar year, reduced by a coinsurance amount (subject to subsection (e)) equal to one-quarter of the inpatient hospital deductible (as determined under section 1813(b)(2)) for each day after such 15th day on which such individual is furnished such services, except that—

"(i) the days on which such individual was an inpatient of a hospital in the last 3 months of the preceding calendar year and which were included in the 15-day period for which no benefits were payable during such calendar year shall be included in determining such 15-day period; and

"(ii) the reduction under this sentence for any day shall not exceed the charges imposed for that day with respect to such individual for services (and for this purpose, if the customary charges for such services are graded in the charges so imposed, such customary charges shall be considered to be the charges so imposed);

"(B) In the case of services described in subparagraph (B) of section 2003(a)(1), the reasonable costs of such services (as defined in section 1861(v)) reduced by a coinsurance amount (subject to subsection (e)) equal to one-eighth of the inpatient hospital deductible (as determined under section 1813(b)(2)) for each day on which such individual is furnished such services;

"(2) In the case of services described in subparagraphs (c), (d) and (e) of section 2003(a)(1), 80 percent of the reasonable costs of the services (as determined under section 1861(v)) and subject to subsection (e) of this section; and

"(3) In the case of services described in subsection (a)(2) of section 2003, 80 percent of the reasonable charges for such services (subject to subsection (e)).

For the purposes of paragraph (1)(A), any individual who is entitled to benefits under this title and to hospital insurance benefits under part A of title XVIII shall be deemed in the case of services described in section 2003(a)(1)(A) to be entitled to a payment made only under this title when such services are furnished after the 15th day of inpatient hospital services (as defined in section 1861(b)) to such individual in any calendar year.

"(b) Before applying paragraphs (2) and (3) of subsection (a) with respect to expenses incurred by an individual during any calendar year, the total amount of the expenses incurred for such individual during such year including any expenses incurred for medical insurance benefits provided under part B of title XVIII (which would but for this subsection constitute incurred expenses from which benefits payable under paragraphs (2) and (3) of subsection (a) are determinable) shall be reduced by deductible of $1,000; except that—

"(1) the amount of the deductible for such calendar year as so determined shall first be reduced by the amount of any expenses incurred by such individual in the last three months of the preceding calendar year and applied toward such individual's deductible under this section for such preceding year, and

"(2) any such expenses so incurred by other members of such individual's family shall be deemed to have been incurred by such individual.

For the purposes of paragraph (2), a family may consist of one or more individuals (i) one of whom is entitled to benefits under this title by reason of section 202(a)(1)(A) or (B), (ii) such others of whom are so entitled by reason of section 2002(a)(1)(C) or (D), but only to the extent that the individuals included under clause (i) and (ii) are living in a place of residence maintained by one or more of them as his or her own home.

"(c) The Secretary shall between July 1 and October 1, 1975, and each year thereafter determine and promulgate the deductible which shall be applicable for purposes of subsection (b) in the succeeding calendar year. Such deductibles shall be equal to whichever is higher—

"(1) $1,000, or

"(2) $1,000 multiplied by the ratio of the component of the Consumer Price Index, prepared by the Department of Labor for June of the year in which such determination is made and promulgated which represents fees for physician's services to such component of such Consumer Price Index for the month of June 1974, with such product, if not a multiple of $50 being rounded to the nearest multiple of $50.

"(d) Payment for services under this title shall also be subject to limitations described in section 1812 (c) and (e) and section 1813 (c) and (e).

"(e) Whenever the total of any coinsurance amounts under subsection (a) (1) (A) or (B) and any deductible under subsection (a) (2) and (3) which is required to be paid by an individual under this title exceeds the sum of $500 in any calendar year the Secretary shall pay any such amounts as are in excess of $500 during such calendar year.

"CONDITIONS OF AND LIMITATIONS ON PAYMENT FOR SERVICES

"SEC. 2005. (a) To the extent that payment may be made for services described in section 2003 (a) (1), the provisions of section 1814, 1815, 1816, 1833 (f) and 1835 shall apply.

"(b) To the extent that payment may be made for services described in section 2003 (a) (2), the provisions of section 1842 shall apply.

"APPLICABILITY OF CERTAIN PROVISIONS OF TITLE XVIII

"SEC. 2006. The provisions of section 1861 (except subsection (a) and (y)), 1866, 1867, 1869, 1870, 1871, 1872, 1873, 1874, and 1875 shall apply with respect to this title to the same extent as they are applicable with respect to title XVIII.

"(b) The provisions of section 402(a) of the Social Security Amendments of 1967 shall be applicable to this title to the same extent as they are applicable to title XVIII.

"FEDERAL CATASTROPHIC HEALTH INSURANCE TRUST FUND FOR THE UNEMPLOYED

"SEC. 2007. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the Federal Catastrophic Health Insurance Trust Fund for the Unemployed (hereinafter in this section referred to as the 'trust fund'). The trust fund shall consist of such amounts as may be deposited in, or appropriated to, such fund as provided in this part. There are hereby appropriated to the trust fund for the fiscal year ending June 30, 1975, and for each of the next 2 succeeding fiscal years thereafter, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the purposes of this title. The amount appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the trust fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than taxes specified in such sentence.

"(b) With respect to the trust fund, there is hereby created a body to be known as the 'board of trustees of the trust fund' (hereinafter in this section referred to as the 'board of trustees'), composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the board of trustees (hereinafter in this section referred to as the 'Managing Trustee'). The Commissioner of Social Security

shall serve as the secretary of the board of trustees. The board of trustees shall meet not less frequently than once each calendar year. It shall be the duty of the board of trustees to—

"(1) hold the trust fund;

"(2) report to the Congress not later than the first day of April of each year on the operation and status of the trust fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

"(3) report immediately to the Congress whenever the board is of the opinion that the amount of the trust fund is unduly small; and

"(4) review the general policies followed in managing the trust fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the trust fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the trust fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the trust fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the trust fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(c) It shall be the duty of the Managing Trustee to invest such portion of the trust fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purpose for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the trust fund. Such obligations issued for purchase by the trust fund shall have maturities fixed with due regard for the needs of the trust fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

"(d) Any obligations acquired by the trust fund (except public debt obligations issued exclusively to the trust fund) may be sold by the Managing Trustee at the market price, and such public debt obligations may be redeemed at par plus accrued interest.

"(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the trust fund shall be credited to and form a part of the trust fund.

"APPROPRIATIONS FOR CONTINGENCY RESERVE

"SEC. 2008. In order to assure prompt payment of benefits provided under this title and the administrative expenses thereunder during the early months of the program established by this title, and to provide a contingency reserve, there is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, to remain available for the 2 calendar years immediately following December 31, 1975, for repayable advances (without interest) to the trust fund, an amount equal to one-half of the amount of benefits estimated to be paid under this title in each of such calendar years.".

(b) Section 201(g) of the Social Security Act is amended by—

(1) inserting after "title XVIII" the first time it appears the following: "and the Federal Catastrophic Health Insurance Trust Fund for the Unemployed established by title XX";

(2) inserting after "title XVIII" each time it appears therein after the first time the following: "and title XX".

SEC. 3. Effective 3 years after the date of enactment the amendments made by this Act are repealed.

By Mr. BAKER:

S. 971. A bill authorizing further appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes. Referred to the Committee on Public Works.

Mr. BAKER. Mr. President, I am today introducing legislation that has been recommended by the administration. This bill would extend indefinitely the authority for the Interior Department to pay for the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts here in Washington. This includes a portion of the security, utilities, and janitorial costs.

At the direction of the Committee on Public Works, the General Accounting Office is studying the financial status of the Kennedy Center. This 2-year study, which should be available to the Congress next month, will assess questions such as the adequacy of the formula for determining the nontheatrical costs of the Center and the effectiveness of the Kennedy Center's auditing system.

Once this report is available, I would hope that the Senate will be able to act on this proposal so that the question is decided before the present authorization expires on June 30, 1975.

I recognize, of course, that the Senate traditionally shuns authorization that are indefinite in cost and period. I agree that such indeterminate authorizations are unwise, and I would assume that the Senate will limit this authorization in time and dollars.

I would note, Mr. President, that the President's budget requests $2,575,000 for the Kennedy Center during fiscal year 1976; the fiscal year 1975 cost is estimated at $2,500,000.

To explain more fully the need for this bill, I ask unanimous consent that a copy of the letter of transmittal be printed at this point in the CONGRESSIONAL RECORD.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., February 13, 1975.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "Authorizing further appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

Section 10 of the Public Buildings Amendments of 1972 (86 Stat. 216, 222), approved June 16, 1972, added a new subsection (e) to section 6 of the John F. Kennedy Center Act, as amended. The new subsection directed the Secretary of the Interior, acting through the National Park Service, to provide maintenance, security, information, interpretation, janitorial, and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. It authorized such sums as may be necessary to carry out these functions, but only for the fiscal year ending June 30, 1973. Section 6 was further amended on July 10, 1973 by Public Law 93-67 (87 Stat. 161) which authorized sums to carry out the nonperforming arts functions of the Center through the fiscal year ending June 30, 1975.

The enclosed draft bill would amend the appropriation authorization in subsection 6(e) to delete the language limiting the authorization to fiscal year 1975, thus permitting the National Park Service to continue to receive appropriations after 1975 for carrying out the nonperforming arts functions for the Center.

On October 4, 1972, this Department entered into an agreement with the Board of Trustees for the Kennedy Center whereby interpretation and information services, maintenance services, and utilities and janitorial services, as related to the nonperforming arts functions, would be supplied by the Secretary.

The amounts authorized by the July 1973, amendment were: FY 1974, $2,400,000; and FY 1975, $2,500,000. At the time the $2,400,000 for FY 1974 was authorized on July 10, 1973, the electric bill for the Center was running approximately $60,000 per month, or $720,000 per year. The bill is now averaging $82,400 per month, while the use of electric energy at the Center has been reduced by 30 percent. This results in an annual cost of about $1,000,000. The National Park Service share of that cost is about $670,000. A year ago, the National Park Service share of the annual cost was $482,000. In addition, PEPCO is seeking a further rate increase of about 20 percent. We have reduced the lighting at the Center as much as possible, while still permitting continued use of the building.

The $100,000 increase in fiscal year 1975 over fiscal year 1974 has been completely absorbed with a wage board and classified pay increase in excess of 5 percent and a police salary increase of 16 percent.

In addition, the amounts authorized did not provide for replacement of items such as floor carpeting and wall covering and equipment for the mechanical plant. It is now necessary to make some replacements of the floor carpeting and wall covering, which will cost approximately $100,000 per year.

We have determined, that unless the present limitation is removed, the existing increase of $188,000 for electricity, plus the pending rate increase, can only be absorbed through termination of the security personnel assigned to the theaters during the day, and through termination of the Park Service interpretation booths in each of the halls and

on the roof-top. All interpretation at the Center would thus be left to the Friends of the Kennedy Center, although we would be able to continue to develop and coordinate audio services and hand-out materials. This public interpretive program is presently similar in quality to the program for other memorials in the Washington, D.C., area, such as the Washington Monument, and the Lincoln and Jefferson Memorials. No increase in the level of public service is proposed, except during the 3-month period when Bicentennial visitation will be at the highest level.

The only alternative to these cutbacks would be to close the Center one day a week. This action would require the concurrence of the Board of Trustees, and would require considerable advance notice.

We believe that these alternatives are inappropriate for the Kennedy Center, the official memorial to the late President Kennedy, and a Center of National reputation and importance. Visitation at the Center continues to exceed 2.5 million annually, and the Center attracts 15,000 to 20,000 visitors per day during the peak periods.

We urge timely and favorable action on the enclosed proposal in view of the approaching expiration of the appropriation authorization with which the proposed bill deals.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely yours,

CURTIS BOHLEN,
Acting Assistant Secretary of the Interior.

By Mr. MOSS:

S. 972. A bill to provide scholarships for the dependent children of public safety officers who are the victims of homicide while performing their official duties, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. MOSS. Mr. President, among the most underpaid employees in this Nation are the peace officers and firemen who serve in our local communities. These public servants who are underpaid often die in the line of duty without adequate benefits or protection for their surviving families. This is so because being underpaid they cannot afford the death and disability insurance policies which require a higher premium payment for insurance because of the "high risk" nature of their public service. Policemen and firemen should not have to sacrifice both in salary and in benefits just because they are public servants, but they are doing so because of their convictions and their desires to provide a better community in which each of us can live.

To those who give their lives in this public service we owe some responsibility to insure the future of their dependents, a future which will be placed in jeopardy because the provider lost his life for our protection. The Public Safety Officers Memorial Act which I introduce today will provide at least some assurances for the future of the children of public safety officers. With the passage of this bill those public servants can at least go to work with the assurance that their children's future will be provided for should they lose their life in the line of duty.

Mr. President, one of the only assurances for some future for these children is the enactment of this legislation. Police officers and firemen are highly trained, skilled, and professional individuals who are underpaid for their dedication. Certainly they should not be asked to jeopardize their children's future any longer in service to their communities when that jeopardy can be avoided simply by enactment of this legislation. I urge immediate committee and Senate consideration of the Public Safety Officers Memorial Act.

By Mr. HUGH SCOTT (for himself, Mr. ROBERT C. BYRD, and Mr. MCCLURE):

S.J. Res. 46. A joint resolution authorizing and requesting the President to issue a proclamation designating October 5–11, 1975, as "Newspaper Week" and also designating October 11, 1975, as "Newspaper Carrier Day." Referred to the Committee on the Judiciary.

Mr. HUGH SCOTT. Mr. President, once each year for nearly a half century the newspapers of this country have observed during 1 week in October "Newspaper Week" and "Newspaper Carrier Day." These observances have been recognized by Presidential proclamation following passage of a joint resolution by the Congress of the United States.

It is particularly fitting that the Congress this year should recognize "Newspaper Week" during the period October 5–11 and "Carrier Day," Saturday, October 11, because the theme ties in well with the responsibilities of a free press during our two centuries of American democracy. Were it not for the contributions of the press during this 200-year period and the time prior to the signing of the Declaration of Independence in Philadelphia, we might not be privileged to enjoy such an open forum for discussion of the actions of our Federal Government today.

The press of this Nation has been in the forefront of support for the basic freedoms of speech, religion, and press embodied in the first amendment since the beginning.

It is important to note that the first observance of Newspaper Week developed from the cooperative efforts of the executives of the Pennsylvania Newspaper Publishers Association and the California Newspaper Publishers Association. They foresaw a continuing need for the press of America to rededicate itself each year to maintenance of high standards of service to the American people.

With 1,760 daily newspapers serving more than 63,000,000 circulation and 7,650 weekly newspapers with more than 35,000,000 subscribers, Americans enjoy a healthy and viable press.

The boys and girls who serve millions of families as newspaper carriers for these newspapers also deserve equal consideration. These young people supply their customers with their newspapers while at the same time learning about business service, thrift and thoroughness. Few people realized that they earn almost $800 million yearly which is put toward educational and other personal needs.

I am pleased to introduce this resolution honoring the American newspaper carriers. I urge its early passage in order to facilitate observance of their important part in the American Bicentennial.

By Mr. WILLIAMS:

S.J. Res. 47. A joint resolution to authorize the President to proclaim annually the last Friday of April as "National Arbor Day." Referred to the Committee on the Judiciary.

NATIONAL ARBOR DAY RESOLUTION

Mr. WILLIAMS. Mr. President, tree planting ceremonies to symbolize man's bond with nature are probably as old as civilization itself. Arbor Day, however, is purely an American idea which had its origins in the treeless prairies of Nebraska. There, on the west bank of the Missouri, Julius Sterling Morton took squatter's rights in 1854 and started planting trees. Throughout Nebraska, he spread the message to other farmers—that trees are a source of protection, of permanence, of fuel and building materials, and of beauty. He also recognized the educational, social, and spiritual value of tree planting.

In 1872, as president of the State board of agriculture, Morton introduced a resolution to designate one day in April as State Arbor Day. Nebraskans espoused the resolution enthusiastically and planted more than a million trees that first Arbor Day. The idea was soon adopted in surrounding States, and by 1920, Arbor Day observance had spread to 45 States and territorial possessions of the United States, as well as to several foreign countries. People of all ages and callings participated in tree planting on a large scale, and the new awareness of the importance of trees inspired significant conservation legislation.

Our environment has undergone considerable changes since the first Arbor Day. The frontier setting of that first observance has yielded to urban development and suburban sprawl. The Nebraskan pioneers who overcame the desolation and hostility of their environment by planting trees have been replaced by city dwellers and modern farmers. But these new pioneers confront another sort of desolation—that caused by the continuous encroachment of man on nature. Our natural environment has largely been conquered, and now its gradual depletion poses a serious threat. Man has again begun to realize that his survival depends upon the survival of his environment.

For this reason, Mr. President, I believe it is time for us to renew our commitment to nature and its conservation. What better way for us to affirm this commitment than to set aside one day each year as National Arbor Day. In the 92d Congress, I was pleased to have introduced the Senate version of legislation which designated the last Friday in April 1972, as Arbor Day. That date marked the 100th anniversary of the first observance in Nebraska. But I believe that it should be a national observance every year, an annual pledge of all Americans to preserve and restore the earth. Therefore, I am today introduc-

ing a resolution to authorize the President to proclaim the last Friday of each April as National Arbor Day. It is my hope that this holiday will attain its well-deserved importance and will symbolize our ongoing responsibility to our environment.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 32

At the request of Mr. KENNEDY, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 32, a bill to establish a framework for the formulation of national policy and priorities for science and technology, and for other purposes.

S. 357

At the request of Mr. BAYH, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 357, a bill to amend title II of the Social Security Act to increase to $4,800 the amount of outside earnings permitted each year without deductions from benefits thereunder.

S. 425

At the request of Mr. WILLIAMS, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 425, the Foreign Investment Act of 1975.

S. 448

At the request of Mr. CRANSTON, the Senator from California (Mr. TUNNEY), the Senator from Vermont (Mr. LEAHY), and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 448, a bill to amend the Immigration and Nationality Act with respect to a waiver by the Attorney General, of certain grounds for exclusion and deportation, for an offense in connection with possession only of marihuana.

S. 551

At the request of Mr. DOMENICI, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of (S. 551), a bill to provide for the recycling of used oil, and for other purposes.

S. 566

At the request of Mr. HUMPHREY, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 566, a bill to provide authority for the District of Columbia to place two statues in Statuary Hall of the Capitol.

S. 584

At the request of Mr. BURDICK, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 584, a bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 625

At the request of Mr. KENNEDY, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Jersey (Mr. CASE), the Senator from Vermont (Mr. LEAHY), the Senator from Indiana (Mr. BAYH), the Senator from Maine (Mr. HATHAWAY), the Senator from Utah (Mr. MOSS), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 625, the Emergency Unemployment Health Benefits Act of 1975.

S. 660

At the request of Mr. MONDALE, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from California (Mr. TUNNEY), the Senator from Illinois (Mr. PERCY), and the Senator from Pennsylvania (Mr. SCHWEIKER), were added as cosponsors of S. 660, the Home Owners' Loan Act of 1975.

S. 667

At the request of Mr. BEALL, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 667, a bill to amend the Internal Revenue Code of 1954 to encourage the preservation and rehabilitation of historic buildings and structures and the rehabilitation of other property, and for other purposes.

S. 697

At the request of Senator HUMPHREY, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 697, to improve agricultural yields in the production of soybeans through the establishment of a Soybean Research Institute jointly supported by the United States and the People's Republic of China.

S. 718

At the request of Mr. HOLLINGS, the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CLARK), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of S. 718, the U.S. Postal Service Amendments of 1975.

S. 744

At the request of Mr. MANSFIELD, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 744, a bill to authorize a vigorous Federal program of research, development, and demonstration to assure the utilization of MHD (magnetohydrodynamics) to assist in meeting our national energy needs.

At the request of Mr. METCALF, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 744, supra.

S. 805

At the request of Mr. DOMENICI, the Senator from Arizona (Mr. FANNIN), and the Senator from Utah (Mr. Moss) were added as cosponsors of S. 805, a bill to amend section 5(c) of the National Trails System Act.

S. 862

At the request of Mr. CHURCH, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor to S. 862, a bill to amend the Social Security Act to provide for the coverage of certain drugs under part A of the health insurance program established by title XVIII of such act.

S. 863

At the request of Mr. PEARSON, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 863, the Local Rail Services Act of 1975.

SENATE RESOLUTION 92

At the request of Mr. CLARK, the Senator from Maryland (Mr. BEALL), and the Senator from New Mexico (Mr. MONTOYA), were added as cosponsors of Senate Resolution 92, a resolution directing standing committees of the Senate to identify laws in their jurisdictions which discriminate on the basis of sex and to make suggestions for changes which would be consistent with the principle of equal rights.

SENATE CONCURRENT RESOLUTION 10

At the request of Mr. HUMPHREY, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of Senate Concurrent Resolution 10, to provide for the selection of members of minority groups who have made significant contributions to the United States, and to obtain their likenesses for placement in the Capitol.

SENATE RESOLUTION 99—SUBMISSION OF A RESOLUTION TO PROTECT TUNA AND OTHER FISH IN THE EASTERN TROPICAL PACIFIC

(Referred to the Committee on Commerce.)

Mr. TUNNEY. Mr. President, I am introducing today a resolution which will request the Secretary of Commerce, in collaboration with the Secretary of State, to submit a report which should greatly assist the Congress.

The continuing dispute between the United States and Ecuador over the seizure of American tuna fishing vessels during the last 15 years has cost the American taxpayer millions of dollars and has caused over 135 American fishing vessels to be detained in a foreign port.

The situation has dramatically escalated during the last 2 months to the point now where American fishermen have not only been subjected to severe and unreasonable financial penalties, but assaults have been made to their persons, thefts have been reported of their belongings, and numerous other indignities have taken place.

The United States must stop ignoring these injustices and not stand idly by while another nation abuses our fishermen and their right to earn a decent living. We must not continue an embarrassing precedent which has shown other nations that we will not protect U.S. citizens who must work the oceans to help feed this Nation.

We must take serious and forthright action. The resolution looks toward the possibility of economic and other nonmilitary sanction against Ecuador in an attempt to end the acts of piracy. Hopefully this resolution will be a base for action and the forthcoming report will act as a catalyst for settlement of this dispute which has lasted far too long and cost this country too much in unjust fines.

I urge my fellow Senators to join with Senators MAGNUSON, JACKSON, CRANSTON, TOWER, SYMINGTON, PHILIP HART, HOLLINGS, FONG, BENTSEN, and myself in supporting this most important resolution.

The resolution reads as follows:

S. RES. 99

Whereas the tunas represent a high protein food resource that is of great value to the world and to the United States of America,

Whereas the Congress enacted the Tuna Conventions Act of 1950, as amended (76 Stat. 923) to implement the Convention for the Establishment of an Inter-American Tropical Tuna Commission, which was concluded in 1949,

Whereas since 1966, the Inter-American Tropical Tuna Commission has recommended, on the basis of scientific investigations, proposals by the High Contracting Parties to such Convention designed to keep the populations of Yellowfin Tuna at levels of abundance which will permit the maximum sustained catch,

Whereas since 1966 the Government of the United States and other countries party to the Inter-American Tropical Tuna Commission have agreed to regulate their citizens and vessels subject to their jurisdiction for purposes of carrying out the tuna conservation recommendations of the Inter-American Tropical Tuna Commission,

Whereas the Government of Ecuador joined the Inter-American Tropical Tuna Commission in 1961 and then denounced the Convention effective August 1968,

Whereas the Government of Ecuador during the period 1961 through 1974, and most recently on January 25, January 28 and February 1, 1975, has seized 136 fishing vessels of the United States on the basis of rights or claims on the high seas which are not recognized by the United States,

Whereas the Government of Ecuador and the United States of America engage in extensive trade: Now, therefore, be it

Resolved, that Congress hereby expresses its grave concern with respect to the actions of the Government of Ecuador which have directly and indirectly affected tuna fishing operations within the Eastern Pacific Ocean in a manner and under circumstances which have diminished the effectiveness of the Inter-American Tropical Tuna Commission tuna conservation program, and further, that the Government of Ecuador, by its actions, has adversely affected the interests of the United States in the tuna fishery of the Eastern Tropical Pacific in that the Government of Ecuador has seized tuna fishing vessels of the United States on the basis of rights or claims in the high seas which are not recognized by the United States or by international law.

SEC. 2. The Secretary of Commerce, in collaboration with the Secretary of State, is hereby directed to determine and report to the Congress what action can be taken to promote international compliance with conservation measures established by the Inter-American Tropical Tuna Commission, an international commission to which the United States is a party, to include but not be limited to—

(1) a determination whether the provisions of Section 8 of the Fishermen's Protective Act of 1967 (85 Stat. 786) should now be invoked, the extent to which it should be invoked, whether it should be amended to more clearly apply to countries that seize vessels of the United States on the basis of rights or claims in the high seas not recognized by the United States, and whether it should be amended to include products in addition to fisheries products; and

(2) a study of what other unilateral steps or international measures can be taken to promote the objectives of this Senate resolution, including bilateral talks with Ecuador; and

(3) an examination of trade agreements with Ecuador in the light of the objectives of this Senate resolution.

ADDITIONAL COSPONSORS OF AMENDMENT

AMENDMENT NO. 25

At the request of Mr. METCALF, the Senator from Florida (Mr. STONE) was added as a cosponsor of amendment No. 25, intended to be proposed to the bill (S. 598), to authorize appropriations to the Energy Research and Development Administration.

At the request of Mr. MANSFIELD, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of amendment No. 25, supra.

NOTICE OF HEARINGS ON EFTS MORATORIUM BILL

Mr. McINTYRE. Mr. President, the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs, will hold hearings on S. 245, a bill to impose a temporary legislative moratorium on electronic fund transfer systems, at 9:30 a.m., on March 14, in room 5302, Dirksen Senate Office Building.

Anyone wishing further information regarding this hearing should contact Mr. William Weber, room 5300, Dirksen Senate Office Building, 224–7391.

ANNOUNCEMENT OF HEARINGS ON "FUTURE DIRECTIONS IN SOCIAL SECURITY"

Mr. CHURCH. Mr. President I would like to announce that the Senate Special Committee on Aging will continue its hearings on "Future Directions in Social Security" in room 4221, Dirksen Senate Office Building, at 10 a.m. on March 18 and 19 and on March 20 at 2:30 p.m. Witnesses will deal with recent appraisals of the future of the social security system and will deal, in particular, with the challenges posed to the social security system by present economic difficulties.

ANNOUNCEMENT OF HEARING

Mr. KENNEDY. Mr. President, the Subcommittee on Health will hold a public hearing on Monday, March 17, 1975, at 10 a.m. in room 4232 on legislation to extend the expiring provisions of the Public Health Service Act respecting the Heart, Lung, Blood, and Blood Vessel Act and the National Research Act.

Persons desiring to testify should contact Mr. Lee Goldman, subcommittee staff director, at 224–7675.

HEARINGS SCHEDULED ON LEGISLATION CREATING STRATEGIC ENERGY RESERVES

Mr. JACKSON. Mr. President, on March 11 at 10 a.m., in room 3110 of the Dirksen Senate Office Building, the Senate Committees on Interior and Insular Affairs and Armed Services will hold joint hearings on legislation creating strategic energy reserves and authorizing the production of petroleum from the naval petroleum reserves.

The measures to be considered at the hearing include S. 618 and titles I and II of S. 594 which set forth the administration's proposals on these subjects, and Senate Joint Resolution 13, a joint resolution introduced by Senator CANNON to authorize increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes. S. 677, the Strategic Energy Reserves Act of 1975, which I have introduced, will also be considered.

Testimony will be received from administration witnesses.

NOTICE OF HEARING

Mr. JACKSON. Mr. President, on February 11, I announced 2 days of field hearings in Hawaii by the Committee on Interior and Insular Affairs on Hawaii Native Claims. These hearings are to be held at 10 a.m. on March 24 at the Honolulu International Center in Honolulu and at 6 p.m. on March 25 at the Konawaena Cafetorium in Kona.

I would like to announce today the scheduling of a third day of hearings to accommodate the numerous requests to testify. This hearing will be held in the Hanalei District Court, Hanalei, beginning at 3 p.m., March 27, 1975.

Those who wish to testify or submit a written statement for the hearing record should, by no later than March 17, contact Mr. Steven P. Quarles, Senate Interior Committee, 3106 Dirksen Senate Office Building, Washington, D.C. 20510 (202-224–9894); Ms. Barbara Sakamoto, Office of Senator DANIEL K. INOUYE, 1833 Kalakaua Avenue, room 414, Honolulu, Hawaii, 96815 (808–946–1691), Ms. Patsy Chung, Office of Senator HIRAM L. FONG, Finance Factors Building, room 702, 195 S. King Street, Honolulu, Hawaii 96813 (808–538–7011).

ADDITIONAL STATEMENTS

THERE WAS NO TIME FOR SAIGON'S SIDE

Mr. MORGAN. Mr. President, this morning a professor from the University of North Carolina expressed to me his opposition to the granting of further aid to Cambodia and South Vietnam. He said that based on what he had seen on CBS television, he was convinced that "our ravaging of these countries is inexcusable." It was rather ironic that he should make such statements to me on this morning, for just a few minutes before I had read a column in the Philadelphia Inquirer by John D. Lofton, Jr., which appeared February 28, 1975. The column was entitled "There Was No Time for Saigon's Side." Mr. Lofton pointed out in his column that, when Mr. Tran Van Lam, the president of the Republic of Vietnam's senate, appeared before the National Press Club to present his country's cause for continued military aid, neither the CBS, NBC, nor ABC news networks bothered to give any coverage to his plea. It seemed, according to Mr. Lofton, who made inquiries of each network, that they were all too busy covering "heavy news" assignments of the day.

CBS was covering the sentencing of the Watergate defendants and "chasing

reactions" to the sentencing. There was also on CBS a report on a speech in Pittsburgh by convicted Watergate Conspirator Jeb Magruder—and a story about Bebe Rebozo's plans to turn the former Florida White House into a monument to Richard Nixon. This piece included an interview with an irate neighbor who opposed the idea.

According to Mr. Lofton, on NBC the same night there was a story about a woman in Hesperus, Colo., who owns a coal mine and is fighting with the Government about it.

The rationale behind the NBC blackout of Mr. Lam's talk was that—

It is normal and not out of the ordinary that an official of a government should make such a pitch for his government.

Yet it was perfectly acceptable to NBC on their Sunday night program "The Loyal Opposition" to present the views of two of my distinguished colleagues, who oppose aid to these countries and who contend that the killing will stop if we withdraw from the picture and permit the Communists to prevail.

Mr. President, I commend the Members of the Senate and the House who took valuable time from their schedules here and away from their constituents at home to go to Cambodia and Vietnam and see for themselves some of the things that are happening there. I have been impressed with some of the press reports of their reactions. Until I see their own reports, I will not comment except to say that I will be far more willing to base my judgment upon reactions and views of those who have taken the time to find some of the facts for themselves.

Mr. President, I ask unanimous consent that the article by Mr. Lofton, which I have referred to, be printed in the RECORD.

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

NETWORKS WERE BUSY—THERE WAS NO TIME FOR SAIGON'S SIDE

(By John D. Lofton, Jr.)

WASHINGTON.—When the Honorable Trans Van Lam made the case last week for why his country should get continued U.S. Military aid, the man who is South Vietnam's Henry Kissinger and Mike Mansfield rolled into one stressed to his National Press Club audience that he spoke for a government but not for his constituency.

"I am convinced," said Lam, who is president of the Republic of Vietnam's senate, "that the Vietnamese people ought to be heard in a debate which is of total concern to them."

But from all practical purposes—aside from those of us in the audience—no one heard Mr. Lam's side of the argument because none of the three TV networks showed up to film him. Why? This is what I asked the networks.

Monica Newton, who identified herself as "one of the desk flunkies" at CBS News, explained that the problem was one of "availabiilty." You know, she said, "we've just completely down to our last man."

I said I did not know, and asked what those people who were available were doing when Mr. Lam spoke? She says just a minute, puts me on hold and switches me to Bill Headline, an assistant news director.

Headline explains that CBS News has six or seven film crews but they were "busy with a lot of other things." Like, Well, primarily at the court for the sentencing of the Watergate defendants and "chasing reaction" to the sentencing.

At ABC—which has five staff camera crews and can hire free cancers for any given situation—assignment editor John Arrowsmith explained the ignoring of Mr. Lam's address saying: "We just had such a heavy news day that we couldn't get it."

The rationale behind the NBC News blackout of Mr. Lam's talk was the most interesting. Dina Modianot, an assignment editor, tells me:

"It is normal and not out of the ordinary that an official of a government should make such a pitch for his government. On that basis, we did not go." Presumably had Mr. Lam attacked the idea of military aid for his country, NBC News would have been there.

Watching the network news the night after Mr. Lam's talk, there were several "soft" stories which could have either been cut down or eliminated to make way for what the President of South Vietnam's Senate had to say:

For example, on CBS—besides a brief report on a speech in Pittsburgh by convicted Watergate conspirator Jeb Magruder—there was a story about Bebe Rebozo's plans to turn the former Florida White House into a monument to Mr. Nixon. This piece included an interview with an irate neighbor opposed to the idea.

On NBC, this same night, there was a story about a 69-year-old woman in Hesperus, Colo., who owns a coal mine and is fighting with the government about it.

But the Honorable Tran Van Lam should not despair. Perhaps if his country falls to the Communists—and if he can be located before he is executed—maybe Walter Cronkite will condescend to at least a telephone interview at which time Mr. Lam can talk about how U.S. military aid might have helped prevent the Red takeover of his country.

Who knows, with any luck at all, the interview may actually be broadcast on the CBS Evening News, assuming of course that Jeb Magruder makes no speeches the same day.

INDUSTRY MOVES TO METRICS—WITHOUT CONGRESS

Mr. GARN. Mr. President, the Congress has been studying the issue of metric conversion for more than 10 years, and practically every year authorizes studies of the question which cost millions of dollars, to tell us what we already know: That the metric system is simple, easy to understand, more efficient, and used by most of the world.

Still there are cries for Government action to accomplish conversion, no doubt through the creation of a metrication board or agency, which will be authorized to do more studies, issue regulations and guidelines, and provide subsidies to minimize the impact of metrication or industry.

Interestingly enough, a recent article in Industry Week indicates that private industry in this country is able to accomplish something without Government action. Even though the Federal Government is not through studying the problem yet, 30 percent of U.S. industry has already converted to the metric system. Perhaps when the results of the studies are in, we will fall into line behind the progressive sector of the national economy.

Mr. President, I ask unanimous consent that the article referred to be printed in the RECORD.

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

INDUSTRY MOVES TO METRICS—WITHOUT CONGRESS

(Metrication was legalized in the U.S. in 1866, but since then Congress has repeatedly failed to pass a conversion bill—most recently last summer. Meanwhile, about 30% of U.S. industry has converted.)

"Metrication will never happen here." That myth has died. About half of the top 500 industrial companies in the U.S. have made the move, and the domino effect is rippling through the rest of manufacturing USA.

There is no conspiracy against suppliers by the corporate giants, but if you are caught unprepared by increased metric usage, you may think there is.

The burdens of metrication are not unique. Once studied, they are revealed as the usual problems of businesses confronted by market and technical changes of any kind. And that is why it is important not to wait for legislation.

Actually, there is no need to legalize the metric system—that was done in 1866. And in 1893, we officially became a metric nation.

Federal legislation would merely coordinate a conversion to the system. Ideally, the major points of such a bill would include a national planning board, an eight- to ten-year voluntary conversion period, no special subsidies or exemptions, and the coordination of federal buying with the piecemeal conversion of the industrial sectors.

Firms large enough to have international markets and operations appear to be the leaders in metrication because of their exposure to buyers who customarily think in the metric system. Although "made in America" still carries enough prestige to offset our nation's system of measuring, it is inefficient for international firms to have manufacturing plants working both in inches and millimeters.

"Firms without a direct international connection face the biggest danger in not planning their metric conversion early enough," says metric consultant Robert C. Sellers of Robert C. Sellers & Associates Inc., Floral Park, N.J.

"Consider the impact of the General Motors Corp. announcement [in April 1973] that all new components would be designed in metric units. That impacted on 40,000 suppliers, and many of them no doubt felt that metrication couldn't happen to them."

One small company that did make the changeover to the metric system early is Regal-Beloit Corp., South Beloit, Ill. Few companies can count their advertising department as a profit center, and fewer yet can sell their direct mail, but that is how Regal-Beloit is profiting from its marketing transition to the metric system. Its primary business is selling tooling and gages.

Kenyon Y. Taylor, president, first saw the opportunities about ten years ago while visiting European operations in France and Italy. "We reacted by setting up a metric study group that planned our transition to the metric system. When we began laying out our promotional brochures, we discovered the general absence of any metric information designed for manufacturing. So our promotion efforts are aimed at metric education; product information is almost incidental.

"Over 300,000 copies of our first brochure, 'U.S.A. Goes Metric,' were mailed to managers. We had a similar reaction from a film, 'Discover Why Metrics,' that we made with the assistance of the University of Wisconsin. A brochure version followed, and we now produce a complete line of training materials and a bimonthly publication that we handle via our newly formed subsidiary, Swani Publishing Co. We also conduct metric seminars—over 2,000 in the past 18 months."

Here is a sampling of companies that are taking actions that will lead to metrication:

Honeywell Inc., Minneapolis, is operating under a ten-year metric conversion plan aimed at reversing the roles of the inch and metric systems in its U.S. operations by 1982.

"Costs so far look as if they will be lower than an outsider might have thought," says Lowell W. Foster, director of corporate standardization and also a director of the American National Standards Institute (ANSI).

"In most cases, we find that standard inch machines need only minor adjustments to produce metric parts. No wholesale replacement of machines and equipment is required.

"Training should be highly selective. A massive training program is not only costly, but upsetting to personnel. Our approach is: decide carefully what employees need to know and when they need to know it. Teaching them too far ahead of time can be just a waste of time."

Timken Co., Canton, Ohio, began its move to the metric system in 1962, the result of increasing resistance to its inch-measured products in international markets, says A. E. Matejka, group manager-engineering.

The company's background not only included some metric manufacturing during World War II, but also a French operation which had been producing both inch and metric products in the same plant with the same equipment.

"Looking back, our decision to start designing and producing metric products in 1962 was correct, but we made some mistakes in other decisions.

"First, we continued our old shotgun philosophy of designing new bearings. We evolved more and more new metric bearings, tailored specifically to each new job that came our way. That policy gave us products with limited appeal, low volume, and high prices that penalized anyone who wished to use the metric bearings in preference to the inch units.

"Another mistake was the failure to identify the new metric bearings in a significant way. The metric products were lost in the galaxy of inch-bearing part numbers. Most of our customers and some of our salesmen did not recognize them.

"Mixing U.S. industry inch standards with ISO [International Standard Organization] metric standards was another problem. All of our problems were really part of one problem: inadequate planning."

Timken's second look at metrication started in 1965 and evolved into 326 metric bearings in 12 application-oriented lines. "The package was presented to the Anti-Friction Bearing Manufacturers Assn. as a proposal for an industry standard in the U.S. Under the sponsorship of ANSI, the plan was presented to ISO to be considered as an international standard.

"Although the plan was rejected by ISO, we are not going to scrap our concept of a metric-bearing master plan. Remember that you must consider fully the implications of national and international standards on any plan that is developed. It can be a serious stumbling block."

Deere & Co.'s Waterloo, Iowa, plant. The company made the decision to go metric 13 years ago.

"Farm and construction equipment makers are less dependent on supplier groups, since they control more of the design process than other industries," says Harold Brock, consulting engineer. "We design, develop, and make all but a few parts. Our goal is to make parts interchangeable throughout the world, thereby reducing their total number.

"Existing drawings are dual-dimensioned, and factories in the U.S. still use customary inch units. Since November 1973, all new drawings have been in Metric SI [System International D'units], with computer-generated customary printouts in the corner of the drawing.

"We find that the toolmaking industry, which is not trained in SI, can present a problem, since it often charges an additional 10% to 15% to work exclusively in metric.

"Company reports and correspondence use metric only or dual metric-English units. Eventually, only metric units will be used in correspondence and reports."

Rockwell International Corp., Pittsburgh, announced its decision to adopt the metric system in January 1974.

"It will take about ten years for the system to become predominant in all divisions," says Willard F. Rockwell Jr., chairman.

"We didn't wait for metric legislation because, with the United States in the position of being the only major nation not yet committed to the metric system, delays can seriously affect our industrial position in the world."

Although the corporation is now preparing for metrication, the decision on when to convert—or whether to convert—is a divisional responsibility that must be based on cost effectiveness.

Using a drafting practice similar to John Deere, Rockwell International plans to use only metric dimensions, but it will include computer-generated inch conversions in a chart on each drawing.

Only new products will be designed with metric units, but inch system-threaded fasteners will be retained until the Industrial Fasteners Institute's Optimum Metric Fastener System (OMFS) proposal is resolved with ISO:

EXPORT TRADE

One example of the pressure on U.S. firms exporting to other markets is the directive on measurement units issued by the European Community (United Kingdom, West Germany, France, Luxembourg, Belgium, Denmark, the Netherlands, Italy, and the Republic of Ireland). Anyone trading with EC countries must, by the end of 1977, use SI metric units.

The directive is limited to the language describing the product. Only sales literature, invoices, service manuals, and drawings must be expressed in metric SI units.

The EC directive is in reality merely an objective, and the difficulty will lie in the enforcement it will receive by the individual member nations. However, the EC could take corrective action in the European Court of Justice against member countries which fail to observe the basic objectives.

The use of dual dimensioning, both inches and millimeters, could pose a problem to some exporters. Although the directive doesn't prohibit that practice, it doesn't authorize it either. Even EC officials have some doubts about what will eventually be allowed by member countries. For anyone using dual dimensioning, probably the best guideline would be to avoid any dimensioning practice that could possibly mislead.

DO NOT FORGET STANDARDS

U.S. manufacturing shouldn't delay metric standards-making, either, warns Donald L. Peyton, ANSI managing director.

"Every standards-developing organization should now begin to prepare for metric standards development," he says. "Whatever Congress does, the worldwide trend to metric will, in time, bring about a change in product design, engineering, and manufacturing in the United States. If American industry waits for governmental action, if it waits for someone else to begin the long, hard, tedious, and complex process of developing engineering standards, it may become dependent on the metric standards of other nations. In the final analysis, the name of the metric game is standards.

"In international standards development, the U.S. in many respects is playing catch-up ball. Our participation at times is considered too little and too late by metric countries.

"Even in those cases where an enormous amount of research and money have gone into the development and testing of totally new metric series, such as in the Optimum Metric Fastener Series, we are finding growing objection to its consideration in the technical committees of the ISO because of the reluctance of other countries to change.

"But there is still time for the U.S. to have a real influence. Out of some 3,000 ISO and International Electrotechnical Commission standards, only about 300 are metric.

"Being the last player in the metric game can have its advantages. There are thousands of metric standards available from metric countries that could be utilized or adapted in the U.S. and should be considered by standards committees."

Standards-developing organizations should have or should develop the capability to perform document search and analysis on metric standards, Mr. Peyton advises. Every committee should start from the premise of adoption or adaptation of international standards. Where metric standards are not needed immediately, he adds, they should be developed in parallel with new nonmetric ones as a hedge against the future.

SENSITIVITY GUIDANCE

"We firmly believe that with or without legislation the U.S. will and is going metric," says Kenyon Y. Taylor, president Regal-Beloit Corp. "The first job for American manufacturing is to determine its senstivity to the measurement change.

"Large multinational firms are keenly aware of their sensitivity to a measurement system, but smaller firms are often late to feel metric impact—usually due to their different market exposure."

The following are guidelines recommended by the Research Institute of America Inc. (RIA), New York, in its latest study, "Preparing Now To Go Metric."

Is the product or product line exported in substantial quantities? Your metric customers may now prefer metric-dimensioned parts, to avoid costly parts and repair problems.

Are any manufacturing facilities located in other nations? Metrication can provide standardization benefits and improve intracompany liaison.

Does the cost of operations involve a significant design component? Because metric units are easier to work with, savings in design time could be as high as 10%.

What are competitors' plans on metrication?

Are the byproducts of metrication advantageous? Changeover can give manufacturers the once-in-a-lifetime opportunity to eliminate needless sizes or to redesign to today's engineering practices. For example, General Motors Corp. plans to replace 900 sizes of inch fan belts with only metric sizes.

Are metric material and purchased parts readily available?

Do suitable metric standards exist? That caused a problem with Britain's goal of conversion by 1975, because many segments of its industry are still waiting for the emergence of effective international standards.

Are new or improved products planned? That could be the logical time to start conversion.

Is the product among the 20% that is often responsible for 80% or more of the profits? This is the group often most susceptible to metrication initially. Slow movers may be partially phased out in a variety reduction effort.

Would the metrication process be relatively lengthy and costly? Manufacturers need to analyze product life span, the need for inch replacement parts, and how to handle the problem machines that do not convert to metrics easily.

Would metrician be relatively straightforward for customers and suppliers? That

could be the case when the products are dimensionless—liquids for instance—and when neither the manufacturing process nor the end product must be altered.

RIA's advice: Analyzing an updated input-output table can produce a good rough cut for predicting how metrician programs in other sectors of the economy might affect the sector in which you operate.

RULE XXII

Mr. ALLEN. Mr. President, a valued constituent, Mr. Finley P. Ledford, Jr., of Athens, Ala., has written me at length with reference to several matters of importance to the people of Alabama and our Nation at this time.

In his letter, Mr. Ledford focuses particularly upon the importance of retaining Senate rule XXII as presently constituted.

I have found the contents of Mr. Ledford's letter to be most thought-provoking and I ask unanimous consent to have his letter printed in the RECORD.

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

ATHENS, ALA.,
March 1, 1975.

Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: In recent days, I have found the "Congressional Record" more than equivalent to the nation's best selling books, for holding a readers interest. It is the first time, I can recall, that I look forward to the next edition of the "Record", with more eagerness, than for the daily newspaper. It is exciting, and, in my opinion, illustrative of the most crucial debate in modern history. I detect the grave danger that America is about to lose a freedom which can, ultimately, lead to the total destruction of our great nation, as a Republic. "Freedom of debate", is absolutlely essential, in the Senate, for maintaining the God given rights, that our forefathers fought for, so valiantly, and the American people will be forever in your debt for whatever vestige of freedom is left, when the current debate is concluded. I, as one citizen, still loyal to our American form of government, wish to express my eternal gratitude to you, and to those distinguished Senators, who have so ably assisted you, in this current effort to preserve "Rule XXII", as it presently stands.

Rule XXII, is to the Senate, and to the American people, as a fire extinguisher is to the driver of a gasoline "Tank Truck". It is rarely needed, but ONE single instance is enough to justify it's presence, regardless of any inconvenience it might cause beforehand. I refer to this analogy, because I once operated a tank truck, which had an extinguisher in the cab, and one in the rear. Frequently, these extinguishers were in my way, and it was a bother to check them, at regular intervals, making sure they were completely filled, and ready. I was careful, and anticipated no fires, but, when one did, finally, occur, while unloading, at a station, in a congested area, I feel that hundreds of lives, and many dollars worth of property, were saved, due to the ready availability of one of these "fire guns". For several more years, I had not the slightest need for these extinguishers, but I found indescribable comfort in knowing they were there, loaded, and ready for any remote emergency. The "Filibuster", by the same token, may not be needed for many years,—maybe never,—but it should certainly be a comfort to any Senator, and to any loyal American Citizen, knowing that it is a protective weapon, always loaded, and ready for our immediate safety. A Senate, operated on a principle of a simple majority system of voting, is no longer a "Protective" agency, and I would even question the value of having a Senate, under such circumstances. We, the people, have ample representation, as such, in the House of Representatives, and, certainly, it should appear that 435 of our peers are quite capable of working with the Executive Branch, in passing legislation suitable for the masses, but, so long as we deal with human beings, we are subject to error; thus, our forefathers saw fit to establish the safeguard of having a third body, to review such possibilities. We've repeatedly observed the necessity of having minority views brought to light, in every government operation, if we are to retain our freedom. This is not, necessarily, to infer that even such an exalted body, as the United States Senate, is infallible, or sanctified, but, in combination wtih the Executive, and the House, Branches, we have the greatest government on this Earth, and the people should tolerate no further tampering with its inherent protective devices.

Many of us are presently impatient, and deeply disappointed, with the progress of legislation to meet with our current crises, and we may expect pressure to increase, daily, toward a solution of our immediate problems. This very urgency, however, could lead to hasty decisions of serious detriment to our most valued heritage. We must recover, and maintain, our perspective. We are in an emergency, with our economy, and with Energy, but we must not destroy our very means of coping with such situations. We've had previous emergencies, and, in their time, were looked upon just as seriously, as we look upon ours; meanwhile, we did not consider the destruction of our form of government, for the simple purpose of meeting with a temporary emergency. With our present form of government, we can overcome our obstacles, and many more to come, but, if we lose our government, while overcoming one emergency, we've gained nothing. In years past, we, the people, have tended to leave critical decisions to our elected representation, with confidence, but, in recent years, we, the people, have begun to sit up and take notice that there are those in government, whose greed, for money, and personal gain, are bringing about our destruction. There is obvious unrest, and doubt, growing to anger, if the most recent election began to demonstrate these feelings, "you ain't seen nothing yet"! I am just one of those simple, but dedicated, citizens, and while I can't purport to speak for the vast majority, I find that my thinking is quite typical with that of the "man on the street". We're angry about being misled, misinformed, and looked down upon as having too little intelligence to understand what goes on, in Washington, and to understand what is wrong with our economy. I consider it highly probable that the average citizen has a much better understanding of our economy, and it's present failures, than do our so-called economic experts. We're informed that they wish to educate us, when it is they, who need the educating. It is they, who have brought on this mess, for they are not our "Peers", and it is our peers, by whom we wish to be governed. We have reached an extremely dangerous condition, in which our president seems to search for "experts", in solving our problems. The true experts, are out here amongst us. They are not, repeat: not, in Washington. To offer due credit, I concede that our Washington economists may have all knowledge required, for amassing personal fortune, and for advising clients, in how to amass fortunes, but, this is not the interest of the masses of people. We have little hope of making massive investments, for we are consumed in the simple problems of existing, from day to day. One of the typical ridiculous suggestions that we hear, from the economists, is that we pay more for something now, and look for a "rebate", later. Can't they understand that "rebates, next year", have absolutely no appeal to one who finds it a strain to pay this month's house rent, or mortgage payment? We can't buy the stupid proposal of depositing 5¢ or any other amount, on gasoline, in hopes of a "rebate", next year if we are able to do without this money for a year, we can do without it forever. There is just no convincing evidence that another nickel of tax on gasoline would reduce consumption. The real evidence shows in the fact that the price of gasoline has already been doubled, with no reduction in consumption, as a result. Truly, the people have reduced consumption, as a voluntary measure, but it is extremely doubtful that price had the slightest appreciable effect upon the volume of consumption. The people have cooperated, and are about to be penalized further, for their cooperation. Now, is not the time for increased prices of energy, and Washington will not convince us that it is. We are intelligent enough to realize that increased prices are not the answer to our dilemma, for the answer is obviously in increased production of necessary goods, along with purchasing power to buy these goods. It was our "expert" economists, who stopped industrial growth, and our ability to meet buyer demand, with "tight money", and exorbitant interest rates. We're not too dumb to realize that energy facilities must be built, before we have a form of self-sustenance, and we'd like to ask when these facilities are to be built? I see little wonder that we doubt the educational value of anything our "economists" might have to say. Our kind of needed economy will not come from the "higher institutes of learning", but will eventually come from the common citizenry. Herein lies the key to our lack of credulence in what we hear from Washington, but it goes much further.

Let's isolate a few simple, and recent, examples of why we doubt our leadership. Here's a good one: In January, our great president announced that he was about to implement an immediate form of assistance to the "Long-Term" unemployed. This made headlines, and revived a slight feeling of confidence among millions of our unemployed, but—we didn't observe any headlines to explain that the specified form of assistance was practically nulled, with a condition that required a prospective recipient of these benefits to have filed a valid claim for compensation within the immediately preceding 52 weeks! Now, we hardly require a Computer, to calculate that anyone who filed a valid claim, within the previous 52 weeks, was probably already receiving benefits, but, those who had exhausted their valid claims were not entitled to receive any form of assistance. Obviously, this move did not assist the long-term unemployed, but appeared as a form of pure trickery, which led us to believe that our president was coming to our rescue. (I'm, personally, fully aware of the trickery illustrated here, for I'm one of the victims, having exhausted my benefits in February of 1974, and with no recourse to further compensation, under existing law.) Now, the masses of people have been led to believe that our great president "rescued" us, when nothing could be further from the truth. I blame the news media, for not bringing these facts before the people, for this farce could have been exposed, and, if the interpretation were in error, the president might have saved credence in a correction of an obvious misrepresentation. With the aforementioned trickery in mind, I, naturally, examined the proposal to reduce income taxes. This, to me, appears as just another, and similar, form of trickery, in the appearance that, in effect, we are to "get a hundred dollars," in return for a possible seven hundred dollars, in tariffs, or taxes; not to mention the multitudinous disastrous

side-effects of, higher utility bills, increased shortages and prices of consumer goods related to oil and gas production, and a hidden opportunity for another "rake-off," by big oil interests. Yes, I'm bitter toward government, for it is side-stepping the urgent issues, with more, and more, tomfoolery.

Inherently, our government machinery is slow, and, even this, has it's ultimate advantages, for some problems simply "go away," if left to simmer, for a while. In our present instance, the problems can do nothing but get worse, until we have a crash program in the construction of new production facilities, research and development of existing resources, and the immediate financial salvation of our most important resource of all; the American worker. No matter how we try to evade the facts, it should be evident to every citizen of this great nation, that all taxes, revenues, trade, and everything else of monetary value, goes back, ultimately, to the employment of our citizenry. Without jobs, there are no sales, no tax money available, and no production. Just as logically, we must conclude that, regardless of immediate, and temporary, cost, we must take drastic action to re-employ our unemployed. Such action is not, really a cost, but an investment, which pays dividends, in the long range.

Further, if we delve deeply into our energy crisis, we *may* find that we will eventually wish we'd *increased* our purchases of crude oils, while they are available, rather than cut back. Certainly we should practice conservation, especially in motor fuels, but we have other, and more important uses for oil and it's by-products. There are hidden dangers in a "Price Floor" under oil and I should consider the Senate very wise, in taking some second looks at every facet of our proposals for price floors, increased tariffs, and ANY increase in oil taxes. The situation could become explosive, upon short notice, if we do anything to hamper our present flow of crude oil, and it will be to our ultimate advantage to accumulate enormous quantities, at the lowest possible price.

Undoubtedly, there has been trickery, and unfair profit-taking, in oil, sugar, and in many other items, in whose shortages we have actually promoted, in many instances. These markets are obviously being manipulated for unfair advantage to a few greedy individuals. Apparently these manipulations are being sanctioned in certain areas of government, whether by purpose, or inadvertently. Some form of tax penalty, is in proper order, against these manipulators. On the one hand, we must encourage private enterprise toward increasing production (meanwhile making jobs), but just as importantly, we must recognize the greed, exhibited by certain individuals, who have absolutely no regard for the welfare of our citizenry, as a whole.

Now, despite the undesirable length of this letter, I have hardly touched upon our real problems, and their solutions, but, hopefully, I have suggested cause for doubt, and for further study, in some of our more prevalent attempts at recovery, through common sense methods.

In summary, I'd say, let's first save our government, in it's danger of losing the right for free debate on the Senate Floor. Then, let's consider a government by our "peers", by dropping the ridiculous requirements for experts, at every turn. Certainly, the head of a housing agency should be well acquainted with our housing problems, and should have a reasonable knowledge of HOUSING, in general, but such information is certainly not copyrighted in any University. I've observed people better versed in housing, who had only a high school education, or less, than I've observed in Washington, during the past ten years. At least, we out here, in the boon docks, know the relative value of a house suitable for a common working man and his family, and this appears to be a mystery to the Washington bureaucrats, who seem to think of homes in a $45,000 class, and up. Many of us, down here, are still trying to negotiate homes in the $10,000 class, and less. We see much more good in four $10,000 homes, than in one $45,000 mansion. We need homes, jobs, unemployment benefits, ample old age benefits, and many other practical items, now, and we need our peers, to administer these benefits—not a gang of super-educated, wealthy, bureaucrats. I respect education, but let's remember that someone "had to write the book", and he had to do it from experience, that may have denied him a formal education. Some of the books didn't get written, and they're still out here.

Sincerely,

FINLEY P. LEDFORD, Jr.

OIL TARIFF COMPROMISE

Mr. DOLE. Mr. President, it is the understanding of the junior Senator from Kansas that the President has made a compromise on the imported oil duty which will delay increasing the tariff to $2 per barrel until May 1. I am pleased to hear that the President is making this compromise and support his willingness to seek an accommodation with Congress in this matter.

FOLLOWS EARLIER PROPOSAL

On February 10, 1975, I suggested the need and possibility for a compromise on the oil import duty. The nature of that compromise, as described in the RECORD at that time, was to freeze the imported oil tariff at $1 per barrel until May 1.

On February 13, amendment No. 11 to H.R. 1767, which incorporated that compromise, was laid on the desk and ordered to be printed. For several days, support was sought for this compromise amendment. No Member of the Senate Finance Committee was willing to lend any support to my compromise proposal.

On February 17, 1975, the Finance Committee reported H.R. 1767 to the Senate. My supplemental views in the report again spoke of the need for compromise and the need to move promptly toward a comprehensive program to reduce our dependence on foreign oil. Those remarks spoke of the time lost in a confrontation between the President and Congress, of the rhetorical support for compromise by a number of Senators but with an absence of any specific action, and of the urgency of finding solutions to our economic and energy problems.

On February 19, when H.R. 1767 was passed by the Senate, there was again no support for freezing the $1 per barrel tariff until May 1. The amendment was withdrawn without a rollcall vote.

SUPPORT IN CONGRESS

During the debate on H.R. 1767 on February 19, the senior Senator from Rhode Island (Mr. PASTORE) was adamantly opposed to any compromise on the oil import duty, as he was when the compromise proposal was first spoken of on February 11, as the record shows. The junior Senator from Kansas now understands that the senior Senator from Rhode Island is willing to support a freeze of the $1 per barrel tariff until May 1. The Senator from Kansas is pleased to see the Senator from Rhode Island joins in the compromise.

In addition, the junior Senator from Kansas is pleased to note that his colleague from Delaware, Mr. ROTH, is now able to support this compromise.

It is also the understanding of the junior Senator from Kansas that the majority and minority leadership of Congress is now prepared to accept a compromise of freezing the tariff at $1 until May 1. It is regrettable this compromise could not have been agreed on nearly 1 month ago when it was first considered so that we could have already spent that time in consideration of a comprehensive program to reduce our dependence on foreign oil. However, this new willingness to compromise is greatly beneficial and hopefully it is a sign that Congress can now move forward and work together with the President toward achieving independence in energy production and toward an end of our dependence on foreign oil.

Perhaps the President was correct in waiting until now to offer this compromise solution. During earlier consideration of H.R. 1767, feelings on both sides of the aisle were too polarized to reach a middle ground. It only seems regrettable that we must have a confrontation between Congress and the President and use up the time involved in that confrontation before we can reach a compromise.

PROBLEM OF CONFIDENCE

This Senator believes that the American people want to see some meaningful progress toward achieving energy independence and a reduction of our dependence on foreign oil. The American people would like to see something besides the great deal of rhetoric that has been stated during the more than 500 days since the oil embargo.

There has been a great deal of testimony in the Senate Finance Committee and other committees that indicates we need to move as promptly as possible to stop to drain of our national wealth going for oil imports. We need to stop the outflow of dollars that means a loss of jobs and loss of real income for the American people. That testimony also indicates we need to reduce the threat to our national security which any potential oil embargo would hold for our economy, since more than 35 percent of our petroleum consumption comes from imported oil.

The energy proposals of the President and the tariff order he issued was an initiative that has stimulated a great deal of action in Congress. The views of this Senator were expressed in the committee report on H.R. 1767 that a compromise is needed to keep that initiative going. It is my hope the middle ground of freezing the import tariff at $1 until May 1 will accomplish that purpose.

It is also my hope the Congress will accept that middle ground. Otherwise it is my concern that the American people will continue to lose confidence in the ability of their Government to find meaningful solutions to their economic and energy problems.

The dialog that is and has been taking place on energy proposals is good. As stated before, the junior Senator from Kansas hopes acceptance of the compromise the President has made will be an

indicator that we can move forward together toward a meaningful and comprehensive program to reduce our dependence on foreign oil.

EARL OF SNOHOMISH ELECTED TO HALL OF FAME

Mr. JACKSON. Mr. President, as a lifetime resident of Snohomish County, Wash., and as a baseball fan for as long as I can remember, I am doubly proud of the acceptance of Earl Averill of Snohomish, Wash., into the Hall of Fame, in Cooperstown, N.Y.

Earl Averill is known as the Earl of Snohomish because he hails from Snohomish, Wash., just a few miles from my hometown of Everett. Earl was one of the great center fielders in baseball history, serving for many years with the Cleveland Indians and he had a lifetime batting average of .318.

I am proud that Earl, who is now 73, could see in his lifetime his acceptance into the Hall of Fame. My county has spawned many great baseball players but Earl was certainly the greatest of all.

After him came Earl Torgeson, who had a great baseball career with Boston, and then Earl Averill's son, who later played with the Los Angeles Angels. Each was successively known as the Earl of Snohomish and each brought pride to our area.

I ask unanimous consent to have printed in the RECORD the article from the Seattle Times of February 3 announcing the acceptance of Earl Averill into the Hall of Fame as well as the column by Hy Zimmerman who is a well known sportswriter for the Seattle Times, entitled "The Earl of Snohomish Feels Like a King."

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

[From the Seattle Times, Feb. 3, 1975]

AVERILL, HERMAN, HARRIS ELECTED TO HALL OF FAME

NEW YORK.—Earl Averill of Snohomish, Wash., Billy Herman and Bucky Harris were elected to baseball's Hall of Fame by the veterans committee today.

They joined Ralph Kiner, home-run slugger, elected by the Baseball Writers Association of America last week, and will be inducted in ceremonies at Cooperstown, N.Y., August 18.

Warren Giles, chairman of the board of the Hall of Fame and former president of the National League, made the announcement of the election by the committee, which judges persons who were out of the game 25 years or more.

Averill, known as the Earl of Snohomish, an outfielder, came up with the Cleveland Indians in 1929 and also played with the Detroit Tigers and the Boston Braves through 1941.

He batted .318 in the major leagues and had a son, Earl, Jr., who also played in the majors from 1956–1963.

Herman, a second baseman, played for the Chicago Cubs, Brooklyn Dodgers, Boston Braves and Pittsburgh Pirates from 1931 through 1947. He compiled a .304 batting average and later managed the Pittsburgh Pirates and the Boston Red Sox as well as several minor-league teams.

Harris was an infielder with the Washington Senators and Detroit Tigers from 1919 through 1931 and also gained recognition as a major-league manager with Washington, Detroit, the Boston Red Sox, Philadelphia Phillies and the New York Yankees.

As a player he batted .274 and holds the major-league record for most put outs in a season by a second baseman, 479 in 1922.

Harris won pennants in his first two seasons as a manager with the Senators in 1924 and 1925 and piloted the Yankees to the American League pennant in 1947.

The veterans committee is allowed to elect two players and one nonplayer each year.

The 12-man committee consists of Charlie Gehringer, Waite Hoyt, Joe Cronin, Bill Terry and Stan Musial, all Hall of Famers; Bill DeWitt, Giles and Paul Kerr, executives, and Charles Segar, Bob Broeg, Fred Lieb and Dan Daniel, writers.

Terry and Musial were absent from today's meeting. Election required eight affirmative votes from the 10 men present.

[From the Seattle Times, Feb. 3, 1975]

THE EARL OF SNOHOMISH FEELS LIKE A KING

(By Hy Zimmerman)

The Earl of Snohomish today felt like a king.

Earl Averill, after years of disappointment, was elected to baseball's Hall of Fame.

"I understand," said the former star outfielder, "that it was a unanimous vote. That kind of makes up for the long wait.

"It's been a long time coming, but better later than never."

Averill, over a major-league span which covered nearly 13 years in center field with the Cleveland Indians, Detroit Tigers and Boston Braves, batted .318.

He totaled 238 homers and twice hit 32 in a season. He had 128 triples, with a league-leading total of 13 one season. His credentials were gilt-edged, yet he couldn't gain entry to baseball's shrine, to which he was elected today along with Billy Herman and Bucky Harris.

"It is wonderful," said Averill, "to make it while you still are alive. I'm going on 73.

"In fact, I told my sons that, if I didn't make it while I was still alive, that they turn it down if I made it afterward."

Averill said he first heard of the honor when Warren Giles, former National League president and a member of the Veterans' Committee which voted him in, telephoned.

Calls followed from two other committee members, Joe Cronin, former president of the American League, and Waite Hoyt, former major-league pitcher.

All three narly missed him—by the width of a razor. Earl just was setting out for Seattle to have his razor fixed. "Yes," he said, "have to take the darn thing to Seattle. They can't fix it around here."

He has plenty of time for such errands. Earl retired from motel ownership five years ago. Now he is taking it easy, with "a little poker in the winter and ocean fishing in the summer.

"My boy, Les, has a charter-boat business in Sekiu. Earl, Jr.? He has a good job in California but wants back here. He likes the fishing."

Young Averill also reached the majors, as an outfielder-catcher, but never neared his father's accomplishments. And now, the father said:

"My ambition is reached. I really longed for this. And, you know, a lot of good ballplayers never make it.

"I think I would have made it last year but missed by one vote because Cronin was sick and wasn't there to vote.

"Now, I can hardly wait for my ring that goes with it. The rings are beautiful. Lefty Gomez showed me his when he was up here."

One of the good ballplayers who has not yet made it is Bob Lemon, who seven times won 20 or more games a season for Cleveland. Averill said:

"When Lem's Sacramento team played in Tacoma, I made a trip down to see him and asked him when he'd make it into the Hall of Fame.

"So he asked me when I would make it. Now, I hope Lemon doesn't have to wait as long as I did. He deserves it now."

Young Earl played for Lemon when Bob managed the Seattle Angels. The senior Earl also wore a Seattle uniform. He finished out his playing career with the Rainiers of 1941.

And now, he was in the Hall of Fame. He savored the situation; his voice had the timbre of delight. He might have talked on but broke it off.

He had to get that razor fixed.

GOVERNMENT-MANDATED PRICE INCREASES

Mr. TOWER. Mr. President, concern over inflation in the past has tended to focus either on actions taken by the private sector or the role played by monetary and fiscal policies. Recently, however, attention has turned to the role which various Federal programs play in the inflationary process. To those of us who have viewed the proliferation of Federal programs with some degree of concern, it should come as no surprise that these new programs not only cost the taxpayer something in tax dollars but that they also introduce an inflationary bias in the economy.

This subject is dealt with in some detail by Murray L. Weidenbaum in a recent publication entitled "Government-Mandated Price Increases." Dr. Weidenbaum is director of the Center for the Study of American Business at Washington University in St. Louis, Mo., and an adjunct scholar at the American Enterprise Institute. In this publication, Dr. Weidenbaum analyzes the various Federal programs which have an inflationary bias. As he points out, Government actions can make inflation worse by increasing the costs of production and raising the prices of the products and services which are sold to the public. He concludes that if the trend continues "the resulting loss in productivity could lead to stagnation in real living standards."

Mr. President, I commend Dr. Weidenbaum's analysis to all those who are concerned about the role of Government in causing inflation, and I ask unanimous consent that the introduction and summary to Dr. Weidenbaum's publication be printed in the RECORD.

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

INTRODUCTION AND SUMMARY

The dollars that private enterprises and individuals are required to spend for environmental and other purposes are no less a drain on output because they come from private pockets than they would be if they came directly from government coffers.—MILTON FRIEDMAN.

As the American public is learning to its dismay, there are many ways in which government actions can cause or worsen inflation. Large budget deficits and excessively easy monetary policy are usually cited as the two major culprits, and quite properly. Yet, there is a third, less obvious—and hence more insidious—way in which government can worsen the already severe inflationary pressures affecting the American economy.

That third way is for the government to require actions in the private sector which

increase the costs of production and hence raise the prices of the products and services which are sold to the public. As shown in Chapter 3, for example, the price of the typical new 1974 passenger automobile is about $320 higher than it would have been in the absence of federally mandated safety and environmental requirements. Attention needs to be focused on this third route to inflation for two reasons: (1) the government is constantly embarking on new and expanded programs which raise costs and prices in the private economy and (2) neither government decision makers nor the public recognize the significance of these inflationary effects. Literally, the federal government is continually mandating more inflation via the regulations it promulgates. These actions of course are validated by an accommodating monetary policy.

In theory, the monetary authorities could offset much of the inflationary effects of regulation by attempting to maintain a lower rate of monetary growth. In practice, however, public policy makers, insofar as they see the options clearly, tend to prefer the higher rate of inflation to the additional monetary restraint and the resulting decreases in employment and real output.

Obviously, most of these government actions are not designed to increase prices. Nevertheless, that is their result. In part because of efforts to control the growth of government spending, we have turned increasingly to mechanisms designed to achieve a given national objective—better working conditions, for example, or more nutritious foods—without much expenditure of government funds. The approach emphasizes efforts to influence private decision makers to achieve specific ends. Thus, rather than burden the public treasury with the full cost of cleaning up environmental pollution, we now require private firms to devote additional resources to that purpose. Rather than have the federal governmental spend large sums to eliminate traffic hazards, we require motorists to purchase vehicles equipped with various safety features that increase the selling price.

At first blush, government imposition of socially desirable requirements on business appears to be an inexpensive way of achieving national objectives: it costs the government nothing and therefore is no burden on the taxpayer. But, on reflection, it can be seen that the public does not escape paying the cost. For example, every time that the Occupational Safety and Health Administration imposes a more costly, albeit safer, method of production, the cost of the resultant product will necessarily tend to rise. Every time that the Consumer Safety Commission imposes a standard which is more costly to attain, some product costs will tend to rise. The same holds true for the activities of the Environmental Protection Agency, the Food and Drug Administration, and so forth.

The point being made here should not be misunderstood. What is at issue is not the worth of the objectives of these agencies. Rather, it is that the public does not get a "free lunch" by imposing public requirements on private industry. Although the costs of government regulation are not borne by the taxpayer directly, in large measure they show up in higher prices of the goods and services that consumers buy. These higher prices, we need to recognize, represent the "hidden tax" which is shifted from the taxpayer to the consumer. Moreover, to the extent that government-mandated requirements impose similar costs on all price categories of a given product (say, automobiles), this hidden tax will tend to be more regressive than the federal income tax. That is, the costs may be a higher relative burden on lower income groups than on higher income groups.

This study does not address the philosophical question of whether government regulation is good or bad. Government regulation is an accepted fact in a modern society. The point being made here is the more modest one that a given regulatory activity generates costs as well as benefits. Hence, consideration of proposals—and they are numerous—to extend the scope of federal regulation should not be limited, as is usually the case, to a recital of the advantages of regulation. Rather, the costs need to be considered also, both those which are tangible and those which may be intangible.

It should be acknowledged that what is taking place in the United States represents not an abrupt departure from an idealized free market economy, but rather the rapid intensification of fairly durable trends of expanding government control over the private sector. In earlier periods, when productivity and living standards were rising rapidly, the nation could more easily afford to applaud the benefits and ignore the costs of regulation. But now the acceleration of federal controls coincides with, and accentuates, a slowdown in productivity growth and in the improvement in real standards of living. Thus, the earlier attitude of tolerance toward controls is no longer economically defensible.

Worthy objectives, such as a cleaner environment and safer products, can be attained without the inflationary impact that regulation brings, and public policy should be revised to this end. But before we turn to this question, we need to examine more closely the phenomenon of government-mandated price increases. It is likely that this unwanted phenomenon will be with us for some time—at least until consumers and their representatives recognize the problem and urge changes in public policy.

As these government-mandated costs begin to visibly exceed the apparent benefits, it can be hoped that public pressures will mount on governmental regulators to moderate the increasingly stringent rules and regulations that they apply. At present, for example, a mislabeled consumer product that is declared an unacceptable hazard often must be destroyed. In the future, the producer or seller perhaps will only be required to relabel it correctly, a far less costly way of achieving the same objective.

TABLE 1.—*Extension of Government regulation of business, 1962–73*

Year of enactment, name of law, and purpose and function:

1962, Food and drug amendments: require pretesting of drugs for safety and effectiveness and labeling of drugs by generic names.

1963, Equal Pay Act: eliminates wage differentials based on sex.

1964, Civil Rights Act: Creates Equal Employment Opportunity Commission (EEOC) to investigate charges of job discrimination.

1965, Cigarette Labeling and Advertising Act: requires labels on hazards of smoking.

1966, Fair Packaging and Labeling Act: requires producers to state what package contains, how much it contains, and who made the product.

1966, Child Protection Act: bans sale of hazardous toys and articles.

1966, Traffic Safety Act: provides for a coordinated national safety program, including safety standards for motor vehicles.

1967, Flammable Fabrics Act: broadens federal authority to set safety standards for inflammable fabrics, including clothing and household products.

1967, Wholesome Meat Act: offers states federal assistance in establishing interstate inspection system and raised quality standards for imported meat.

1967, Age Discrimination in Employment Act: prohibits job discrimination against individuals aged 40 to 65.

1968, Consumer Credit Protection Act (truth-in-lending): requires full disclosure of terms and conditions of finance charges in credit transactions.

1968, Interstate Land Sales Full Disclosure Act: provides safeguards against unscrupulous practices in interstate land sales.

1968, Wholesome Poultry Products Act: increases protection against impure poultry.

1968, Radiation Control for Health and Safety Act: Provides for mandatory control standards and recall of faulty atomic products.

1969, National Environmental Policy Act; Requires environmental impact statements for federal agencies and projects.

1969, National Environmental Policy Act: warning about the hazards of cigarette smoking.

1970, Amendment to Federal Deposit Insurance Act: Prohibits issuance of unsolicited credit cards. Limits customer's liability in case of loss or theft to $50. Regulates credit bureaus and provides consumers access to files.

1970, Securities Investor Protection Act: Provides greater protection for customers of registered brokers and dealers and members of national securities exchanges. Establishes a Securities Investor Protection Corporation, financed by fees on brokerage houses.

1970, Poison Prevention Packaging Act: Authorizes establishment of standards for child-resistant packaging of hazardous substances.

1970, Clean Air Act amendments: Provide for setting air quality standards.

1970, Occupational Safety and Health Act: Establishes safety and health standards which must be met by employers.

1971, Lead-Based Paint Elimination Act: Provides assistance in developing and administering programs to eliminate lead-based paints.

1971, Federal Boat Safety Act: Provide for a coordinated national boating safety program.

1972, Consumer Product Safety Act: Establishes a commission with power to set safety standards for consumer products and ban those products presenting undue risk of injury.

1972, Federal Water Pollution Control Act: Declared a national goal to end the discharge of pollutants into navigable waters by 1985.

1972, Noise Pollution and Control Act: Regulates noise limits of products and transportation vehicles.

1972, Equal Employment Opportunity Act: Gives EEOC right to sue employers.

1973, Emergency Petroleum Allocation Act: Establishes temporary controls over petroleum.

1973, Vocational Rehabilitation Act: Requires federal contractors to take affirmative action on hiring the handicapped.

Yet, the recent trend is clear—more frequent and more costly governmental regulation of the private sector. Table 1 summarizes some of the major extensions of this trend in recent years. This monograph is not concerned only with a past trend, however. For example, the desire to increase the federal role in health care while minimizing the burden on the public treasury has led to a variety of proposals to require employers to pay part of the cost of health insurance for their employees and their families. Although these proposals would not directly result in an added burden on the taxpayer, they would increase the cost of doing business and would inevitably lead to higher prices to consumers or in lower wages for employees.

If the trend continues unchecked, the resulting loss in productivity could lead to stagnation in real living standards. Further expansion of government control over private industry is not inevitable, however. Not all controls last forever and the federal government does not adopt every suggestion for increasing government controls over the private sector. For example, in January 1974, the government ended the interest equaliza-

tion tax on American holdings of foreign stocks and bonds and the controls over direct investments abroad by U.S. corporations. Simultaneously, the Federal Reserve System ended its guidelines limiting lending and investments overseas by U.S. banks and other financial institutions. Further, on April 30, 1974, the legislation authorizing wage and price controls was allowed to expire and the formal wage and price control system was dismantled. Yet it is likely that some vestige of government influence over private price formation will remain. The recently established Council on Wage and Price Stability appears to be in an early stage of its development; it is expected to "jawbone" against large wage and price increases. To a limited extent, the newer controls over energy use are performing some of the functions previously exercised by the wage and price review system.

THE HUMANITARIAN NEEDS OF ETHIOPIA

Mr. KENNEDY. Mr. President, events in Ethiopia have been a source of deep concern for many Americans and people around the world. Reports from Addis Ababa—including official reports to our own Government and elsewhere—fully confirm the massive humanitarian problems facing the Ethiopian people. Fighting in Eritrea has created severe hardship for thousands of civilians caught between the forces of the Ethiopian Army and the Eritrean liberation organizations.

Whatever the outcome of this civil conflict, the people of Eritrea have been totally cut off from food and medical assistance as a result of the fighting. Refugees from the province tell of much suffering and severe malnutrition. And civilian casualties—both dead and wounded—number in the hundreds, if not thousands.

In Ethiopia's two drought-stricken provinces—Wollo and Tigre—the situation is just as desperate. These two provinces, which have been forced to endure the severe effects of drought for several years, have not received adequate food assistance in weeks. Due to the unstable political and military situation throughout the countryside, international food relief efforts have come to a virtual standstill, leaving millions of people stranded without food.

Mr. President, I do not rise to offer any magic solution for meeting the immediate political and humanitarian problems of Ethiopia. But I do rise to express a deep personal concern over the plight of Ethiopia's civilians—and especially the continuing violence in Eritrea which is taking such a great toll in human life. While conflict is not unknown to the Ethiopian people, the sheer magnitude of death and destruction in Ethiopia today is cause for great concern, which must be met with an international commitment to help alleviate the humanitarian problems of the country.

Apart from securing a meaningful cease-fire and a negotiated settlement in Eritrea, there are several humanitarian concerns of immediate interest to me as chairman of the Subcommittee on Refugees.

First, emergency relief needs of refugees and others in distress—including food, water, shelter, medicine, and protection—must be made available in the three provinces to help avert further suffering.

Second, freedom of movement for international relief convoys and humanitarian personnel from the United Nations or the International Committee for the Red Cross—ICRC—including the access of Red Cross personnel to detention centers on both sides, should be permitted by the Provisional Ethiopian Government. I urge the administration to do whatever it can in exercising its best efforts with the Ethiopian Government to secure this humanitarian goal.

Third, I call upon the administration to be generous in its contributions to these relief efforts. The important cooperation and assistance of our Government in helping to meet the immediate relief needs of the Ethiopian people is necessary to the eventual success of any relief undertaking. I am hopeful that our Government will work closely with the United Nations and the ICRC as well as with other regional organizations in their efforts to bring relief and security to the Ethiopian people.

In conclusion, let me express some concern over the course of U.S. policy toward Ethiopia. I fully appreciate the immense difficulties which the situation in Ethiopia poses for our Government and the international community. It is a complex matter for diplomats and humanitarians alike. But Congress should be informed of U.S. policy objectives—especially in view of Ethiopia's recent request for military assistance. I am extremely hopeful, Mr. President, that the administration will show evidence of a very active concern over the needed efforts to bring peace and relief to the people of Ethiopia, and help minimize further suffering in Eritrea.

RESEARCH AND DEVELOPMENT OF MAGNETOHYDRODYNAMICS

Mr. BAKER. Mr. President, I would like to add my support to the amendment introduced yesterday by Senators MANSFIELD and METCALF to the ERDA legislation. Briefly this amendment will establish a separate agency within ERDA to manage the research and development of magnetohydrodynamics.

Magnetohydrodynamics is a technology for coal conversion and utilization, which is capable of increasing the energy efficiency of coal-fired electrical generation by a very substantial amount. And MHD will also greatly reduce the air pollution problems associated with coal use.

Coal is our most abundant domestic resource and must play a vital role in future energy policies. But conversion to coal is hampered by two problems: The long leadtime and extensive capital requirements for increasing production capacity and air pollution problems associated with coal use. MHD can provide great assistance with both of these problems.

The University of Tennessee in association with the Arnold Engineering Development Center has been working with MHD technology for almost a decade. The university has established a multimillion-dollar facility which has played a leading role in MHD research. According a spokesman for the research facility located at the UT Space Institute in Tullahoma, Tenn.:

> Our MHD generator system was the first and has remained for three years the only system in the world operating entirely on coal. We have shown that coal can be burned successfully at the high temperatures needed in MHD. . . . We have designed and operated apparatus which even in the first model removes up to 95% of the ash from the gas flow after the generator:
>
> Because of its simplicity, MHD power generation is less expensive than ordinary coal or nuclear plants. It also is more economical; because of its higher temperature, it can raise the 40% efficiency of present baseload power stations to 60% or more. That would mean that we will get 50% more energy for a pound of coal burned in our MHD plant than can be obtained from a conventional coal-fired plant.

Mr. President, there are several MHD research efforts going forward across the Nation. These programs have been hampered in the past by sporadic and inadequate funding.

The establishment of the Division of MHD Electric Power Generation within the ERDA and the provision of adequate funding for these research efforts will insure that MHD technology is given the priority it deserves.

I am advised that the funding provided by the proposed amendment, $50 million for fiscal year 1976, will not only maintain existing research programs, but will acelerate the development of this important fuel conservation technology. And the expanded research effort will be able to focus on the problems and potentials of the applications of this technology to both eastern high-Btu and western low-Btu coals.

Mr. President, the continuation of the MHD research efforts of institutions like the University of Tennessee Space Institute with the funding provided by this amendment will be appropriately responsive to our energy goals. I commend the Senators from Montana for their leadership in bringing this matter to the Senate.

THE GENOCIDE CONVENTION AND INTERNATIONAL LAW

Mr. PROXMIRE. Mr. President, there are those who oppose the ratification of the United Nations Genocide Convention on the grounds that it is entirely superfluous. After all, they argue, any nation engaging in the act of genocide would become the immediate focal point of public outrage, with or without a convention.

I agree that public opinion would be outraged with or without a convention, but I vehemently disagree that this makes ratification of the convention unnecessary.

I maintain that any convention which enjoys the support of a vast majority of sovereign nations will have an important deterrent effect among the nations of the world. The Genocide Convention clearly brings the issue of gen-

ocide into the international legal framework and thereby assigns world opinion greater weight than if it were just a matter of moral importance.

As former Ambassador to the United Nations Charles W. Yost stated before a subcommittee of the Committee on Foreign Relations in 1970:

We are trying at the United Nations to build up a climate, both of opinion and of law, which will make things more and more unlikely to happen which in the absence of a mobilized opinion and a clear body of international law and practice would be more likely to happen.

Referring specifically to the Genocide Convention, Ambassador Yost continued:

Governments which might be tempted to, under certain circumstances, engage in this practice, might think twice if there were on the statute books of the international community and of all the principal States of the world legislation of this character.

In ratifying this convention, the United States would be making an important contribution to the development of international law in the field of human rights. This is the way international law is built.

The delay in Senate ratification of the Genocide Convention has been pathetically long. I urge speedy consideration and ratification of the convention.

DIFFICULT CHOICES

Mr. BROCK. Mr. President, if all of the decisions facing this body were easy, there probably would be little need for it to exist. Recently, columnist James Kilpatrick wrote a very interesting article entitled "Difficult Choices." I believe the matters which he has discussed should be shared, and I ask unanimous consent that his article be printed in the RECORD.

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

DIFFICULT CHOICES

(By James J. Kilpatrick)

Let me talk for a moment, if I may, about the high price of cars, the need for coal, and the road to Woodville, because the three themes twist together; they all add up.

For the past 10 or 12 months, the Forces of Progress have been at work on our road. A year ago, we had an entirely adequate gravel country road. It was lined with trees that were pastel lace in spring and crimson fire in fall, the ditch banks provided cover for rabbits, woodchucks, and quail. Near White Walnut Run, the day lilies, red and gold, used to spring up like pennoned trumpets every May.

In the memory of man, there had not been a serious accident on the road. The volume of traffic was not impressive: two vehicles an hour around the clock. But the Forces of Progress prevailed. Now the trees are gone, the animals are gone, the day lilies lie bedded beneath three inches of compact stone, and we have a spendid boulevard instead.

Last week the President of the United States, a man of conservative instincts, wrestled with the strip mining bill. The purpose of the bill is to protect land and surface waters from the bleeding scars that are left when stripped earth exposes veins of coal.

If the bill becomes law, coal will cost more; and the higher price will further inflate the cost of steel, electric energy, and industrial goods.

Earlier this month, General Motors filed an impressive statement with the Senate Government Operations Committee, pleading for a three-year moratorium on further safety and environmental requirements. These requirements, imposed with the very best intentions, already have added $615 to the cost of a new car. If pending proposals also are adopted, these costs would roughly double, to about $1,225 per car. Largely because of high price tags, automobile sales have slumped and nearly 300,000 auto workers have lost their jobs.

How do we tie these things together? How do we find right answers? How do we cope wisely with both the short run and the long haul? In the making of political decisions, it is no problem to choose between right and wrong. The problem—the most difficult of all problems—is to balance right against right, to choose between what is needed and what is needed in a different way.

Nothing is gained, it seems to me, by vituperation, demagoguery, and insult. Out in Kansas City the other day, George McGovern delivered a blistering assault upon the "robber barons" and "exploiters" of industry. My friends in industry, for their part, tend to denounce McGovern's people as bleeding hearts, do-gooders, and gauzy dreamers. This gets us nowhere.

My brother conservatives, if they would be worthy of the name, cannot let themselves be identified with the short haul only. If our function is not to conserve, what, then, is our function?

We are often accused of looking too much to history, to what is past. We ought to welcome a charge that we look also to history yet unwritten, to what will be.

Our little winding country road offers an example of all those bogus improvements that are destructive to no good end. The strip mining bill and the moratorium on automobile requirements are examples of the grey area in which men of good will must seek fair compromise. Looking to the short haul, we must insure economic survival. Looking to the long haul, we cannot afford to lose the momentum toward clean air, clear water, and the preservation of a livable land.

A sensible strip mining bill ought to be enacted; we need it for the long haul. The automobile industry must be protected from further obsessive demands by overzealous environmentalists and safety fanatics. The industry desperately needs short-haul relief. And men of good will everywhere owe it to generations past, and to generations future, to think harder on the need for conserving this planet. It is after all the only planet we have.

TRAVEL AND THE HANDICAPPED

Mr. MONDALE. Mr. President, as a member of the Subcommittee on the Handicapped, I am very aware and concerned about the problems faced by handicapped persons when they travel. We have tried to eliminate some of the barriers that face the handicapped when they come to Capitol Hill, but we still have a long way to go.

I was pleased to see the New York Times call attention to this problem in two articles which appeared in the February 23 editions. These stories make it clear that it is possible now for the crippled, the deaf and the blind to experience the tourist attractions of Europe to some degree. One reason for this is the development of travel companies which specialize in services to the handicapped. I am proud that one of these organizations—Flying Wheel Tours—is located in my home State of Minnesota.

I ask unanimous consent that the articles entitled "World From a Wheelchair: Travel for the Handicapped"; and "They Have Guts . . . They're Patient . . . They Enjoy" be printed in the RECORD.

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

THE WORLD FROM A WHEELCHAIR: TRAVEL FOR THE HANDICAPPED

(By Stanley Carr)

Friends were skeptical when Ruth and John Moline of St. Paul, Minn., announced plans to honeymoon in Hawaii. Both had been afflicted with polio since childhood and were confined to wheelchairs. But the Molines did fly to Hawaii, enjoyed the sightseeing, the restaurants, the sunbathing—they even splashed in Waikiki Beach's surf with the help of able-bodied companions who carried them into the water.

Their trip was organized by Flying Wheel Tours of Owatonna, Minn., one of a handful of travel agencies in the United States that regularly schedule tours for the handicapped. Most travel agents say they lack the expertise necessary to look after disabled travelers, or the time to make special arrangements, and that in any case they don't encounter sufficient demand to warrant packaging vacations for the disabled. But the few agents who have established themselves as tour operators for the handicapped in the past few years say that their business is growing steadily.

Of course, only a fraction of the 11 million adult handicapped Americans (the figure comes from the last United States Census) can afford to travel very far on vacation. While many are employed, the number able to attain the middle or higher income brackets is small. "Most handicapped people are concerned mainly with survival," said a member of the Mayor's Office for the Handicapped in New York. "They are not executive types, and travel is expensive."

Yet thousands of severely handicapped persons are today making the tourist rounds, including those afflicted with muscular dystrophy, multiple sclerosis, myasthenia and polio. Paraplegics, even quadraplegics, as well as the blind, the deaf and the retarded are also taken on major trips by agents.

Most organizers do not count on making much profit from tours for the handicapped. "The markup is very low," says Jack Hoffman, whose mother, Mrs. Betty Hoffman, is president of Evergreen Travel Service in Lynnwood, Wash. "We sometimes operate our handicapped tours in red ink." Evergreen's tours for the disabled are a sideline to its regular business. Handy-Cap Horizons, which like Evergreen is a major operator in the field, is in fact a nonprofit organization involved in education and job placement for handicapped people as well as travel. Handy-Cap is led by Mrs. Dorothy S. Axsom and run from her home in Indianapolis. Judd Jacobson, a quadraplegic who operates Flying Wheel Tours, says that his prices are sometimes higher than those for regular tours, "but only as a result of the attendant care we must provide and the fact that we have to use the higher priced hotels because they're more suitable for our clients."

One piece of equipment all handicapped-tour operators use is a "boarding chair," a high-backed, all-metal, two-wheeled chair, only 13 inches wide, that is employed to wheel or carry non-ambulatory travelers onto planes and trundle them along an aircraft's aisles. The disabled cannot take their wheelchairs into a plane's cabin; the chairs are stowed in the luggage compartment. "Most handicapped people remain virtually immobile during flights," says Hoffman. "Many don't drink any liquids for 24 hours before take-off so they needn't go to the bathroom."

People with catheters are seated next to a window because they won't have to use the lavatory; others who do have to use it either squeeze into the boarding chair and wheel themselves along or are carried by an agency escort or relative.

The ratio of escorts, relatives and friends to handicapped persons on a trip varies (often about one to three), but most organizers balk at taking along too many able-bodied types. Mrs. Axsom's rule of thumb is: "Don't have more able-bodied persons than are actually needed because they may desire activities not possible for the handicapped and therefore contribute to the 'left-out' feeling to which the disabled are vulnerable." Evergreen doesn't normally send a doctor or a nurse with a group; Mrs. Hoffman says its experienced escorts are quite capable of taking care of clients. The mobile helpers' tasks include aiding the handicapped on and off buses, cutting up food for those who have lost the use of their hands, and the like.

Once a destination is reached, the groups usually do all their touring aboard a bus equipped with a mechanical elevator that lifts wheelchairs and their occupants up to sliding doors on the side of the vehicle. The interior of the buses have room for the wheelchairs and wide aisles so the chairs can be wheeled to and fro.

Transportation is something the operators have become proficient at smoothing out. What remains more of a challenge is the suitability of hotel accommodations, requiring careful scouting in advance of a trip. Doorways, especially bedroom and bathroom doorways, have to be measured. Wheelchairs are usually 24 or 26 inches wide, so doors that are narrower present a problem. One solution is to ask the hotel to remove the offending doors. If an entrance is still not wide enough, a device called a "narrower" can be brought into service. A narrower fitted to the arms of a wheelchair and then tightened with a turning movement can shave the width of a chair by as much as two inches.

Other barriers: Does the hotel have entrance steps and, if so, can the management provide a ramp? Are rooms on the same level? Steep steps up or down at the entrance to a dining room, for example, are bad news.

"In some of the older hotels in Europe, particularly in England and Scandinavia, elevators just aren't large enough to take a wheelchair,' says Hoffman, 'and often the floor buttons are too high. Some have "maneating' doors that close too quickly for people in chairs."

As Ruth Fein of Rambling Tours puts it, "All architectural barriers have to be checked out well in advance." That policy extends to facilities other than hotels. Rambling, for example, checks out places of entertainment in a city to insure there won't be any problem when chairs are wheeled in and out of restaurants or nightclubs.

While handicapped tour groups have roamed the world and visited many cities during a single trip, places with good accessibility to sightseeing are preferred. Mrs. Marie Kasheta, president of Kasheta Travel of East Rockaway, L.I., a regular agent who is now extending her business to include tours for the handicapped, emphasized this accessibility after traveling thousands of miles in Europe, the Orient and South America to inspect suitable locations. "You must have interesting sightseeing within easy reach of the hotels," says Mrs. Kasheta, who often during her research trips put herself in a wheelchair to test local conditions. Hilliard Fahn, a quadraplegic who operates Hills Travel House in Sacramento, Calif., says 'London is very good in this respect—a great deal to see packed into one area."

For the most part, the handicapped and their escorts engineer their own solutions to problems, but they are quick to give credit to persons who make their travels smoother. The bus drivers hired to transport the groups, for example, often become very attached to their charges. A muscular dystrophy patient who has traveled three times with Evergreen said: "In Honolulu our driver was a huge man who liked to carry us into the surf, and in Hong Kong there was another fellow, tremendously strong, who carried everybody about and wouldn't let anyone else help."

In Dusseldorf a hotel purchased a wooden ramp, with railings, to run from the door of a bus up the seven feet of steps to the entrance hall. In Honolulu, the Princess Kaiulani Hotel ripped out narrow doors and installed wider ones so that it could accommodate a wheelchair group. In Sydney, the Chevron Hotel built a ramp with a wooden wall at one side to enable wheelchairs to navigate a short flight of stairs to the restaurant. In London groups are often allowed to sit inside the gates of Buckingham Palace to watch the Changing of the Guard, and at the Louvre in Paris members of blind groups are permitted to touch the Venus de Milo and other treasures.

On tours for blind persons, said Betty Hoffman of Evergreen, guides skilled in description and with a good knowledge of such subjects as architecture are essential. She leads her agency's blind groups in conjunction with her son who comments on art and history. She concentrates on word pictures of the locale and people.

"It is important, we believe, to maintain a continuous and very detailed commentary," she says. "We like to buy small plastic models of landmarks on our route, such as Mont Blanc, or St. Peter's in Rome, which are passed around so the travelers can feel with their fingers what is being described." While in flight, the blind travelers are handed models of the plane.

Fewer special techniques are needed for deaf tourists. The main requirement is to have experts at sign language available every step of the way. Jim Grant of Grant Travel Consultants of Shrewsbury, N.J., who has organized deaf groups for cruises, says: "When we stop in Bermuda our party joins other passengers for a motorcoach tour, and a sign language expert translates the guide's words. Someone who 'reads sign' is also with the group in the ship's dining room to help them with their orders, and there is a daily meeting with an interpreter to review the day's itinerary and determine which activities are likely to appeal to the group. They enjoy bingo, for example, with the aid of an interpreter, and one of their favorite diversions is dancing; they feel the vibrations of the music from the floorboards."

Grant said that many of the deaf people who sailed on the two cruise trips he has run so far had traveled little before, but were happy to vacation with other deaf people. He wants to continue arranging cruise trips and to branch out into a European tour.

The growth in travel by the disabled is bringing its own rewards, "More and more hotels, and cities, are eliminating architectural barriers—providing ramped curbs, for example—so that it becomes easier for us to get about," says Fahn. This trend helps generate travel, which, say Fahn and Jacobson, both agents in wheelchairs, is of tremendous therapeutic value, Jacobson, who has been paralyzed from the neck down since an accident 30 years ago, says: "As a result of the advances made in rehabilitation and the programs that make opportunities available to handicapped people today, more and more of them are getting into the mainstream of society—and, therefore, developing a desire for travel, especially foreign travel. But we can't always get the cooperation we would like from the travel industry. There is still some discrimination against us."

Mrs. Kasheta, who believes she is the first commercial agent in the New York area to make a major effort to organize foreign tours for the handicapped, says: "After speaking to disabled people's clubs about my plans, I realize that they are citizens who have been shortchanged. They can travel. As one man put it, 'You have opened the door of a cell for me.'" Tour operators like Mrs. Axsom of Handy-Cap Horizons have been doing that and much more for some time. "Cupid," says Mrs. Axsom, "is among the products of our trips and our work. There are many children around today whose parents met on one of our tours."

AIRLINES POSE OBSTACLES

The handicapped are traveling more than ever before, but they don't always find the going easy. Spokesmen for groups of the disabled speak of the "capricious" attitude of airlines, in particular toward a handicapped person—in a wheelchair or using a brace—who travels without an able-bodied companion.

The traditional rule is that airlines may refuse to board any person traveling alone who is incapable of caring for himself. But, as Edmond J. Leonard, program director for the President's Committee on Employment of the Handicapped, points out, the rule is "subject to subjective interpretation." Mrs. Rhoda Gellman, a consultant to the National Easter Seal Society, underlines the uncertainty faced by the unaccompanied handicapped person. "In one case," she says, "a girl in a wheelchair was among the passengers asked to leave a plane before takeoff because of some technical difficulty. Then she was refused permission by the pilot to board again when the other people got back on." Such actions, the airlines say, reflect employes' concern for the handicapped passenger's safety, as well as the safety of other passengers, in the event an emergency situation develops.

The Federal Aviation Administration, which is trying to work out equitable rules, held hearings on the subject in six cities across the country in 1973, but the tentative proposals it made last year ran into such strong opposition from organizations for the handicapped that it decided to review its ideas—and is still doing so. The proposal that drew the fiercest criticism was one that would require disabled passengers flying unaccompanied to obtain a certificate (renewable every six months) from a physician saying they were able to participate unassisted in emergency procedures. That requirement is likely to be dropped from the revised F.A.A. proposals when they are issued, probably in June.

An F.A.A. official said that among ideas now being discussed is that the number of unaccompanied disabled persons on a plane should be limited to the number of floor-level emergency exits. (There are eight on a 747.) Also under consideration is that handicapped people flying alone should sit next to the emergency exits and should be briefed individually by flight personnel on how they would be assisted during an emergency evacuation.

Meanwhile, the F.A.A. is conducting tests at its Aeromedical Institute at Oklahoma City—both with dummies and with handicapped volunteers—on how various categories of disabled people could best use a plane's emergency chutes.

A LIST OF TOUR OPERATORS

Following is a list of the travel agents mentioned in the accompanying article who operate tours for the handicapped in this country and abroad. There may be other such agents as well, and the list does not include service agencies, religious bodies and other organizations that from time to time arrange vacations for the disabled.

Flying Wheel Tours, 148 West Bridge Street, Box 382, Owatonna, Minn. 55060 (tel: 507 451-5005). The agency, which opened in 1970, runs one- and two-week tours for wheelchair travelers and separate trips for

the blind and the deaf. Among destinations scheduled this year are Acapulco, Mexico ($399 a person plus air fare for one week), Hawaii ($829 from the West Coast for 12 days), the Orient ($1,428 from the West Coast for 10 days).

Evergreen Travel Service Inc., 19429 44th Street, Lynnwood, Wash. 98036 (206 776–1184) has been operating tours for the handicapped for 15 years and runs about four a year, plus three for blind persons and two for retarded youngsters. Its program for this year includes a 22-day South Pacific tour in March for $2,016, a 19-day tour of Britain in May for $1,490 and a two-week visit to Alaska in July.

Handy-Cap Horizons, 3250 East Loretta Drive, Indianapolis, Ind. 46227 (317 784–5777). This is a nonprofit organization that has been operating trips since 1963 and specializes in people-to-people contacts in other countries. Last year it had a 26-day European tour of eight countries for $1,099. This year it's planning a Caribbean cruise, a week in Myrtle Beach, S.C. and another European tour.

Rambling Tours Inc., P.O. Box 1304, Hallandale, Fla. 33009 (305 921–2161). Rambling, which started in 1969, plans an 18-day visit to Spain, Portugal and North Africa in May for $1,195 and 16 days in Britain and Ireland in July at a cost of $1,250.

Hill Travel House, 2628 Fair Oaks Boulevard, Sacramento, Calif. 95825 (916 488–8681), which started in 1973, has run tours to Hawaii and is now planning trips to Europe and Israel.

Kasheta Travel, Inc., 139 Main Street, East Rockaway, L.I. 11518 (516 887–4545), recently started vacations for the handicapped and on its schedule is a 14-day vacation in Paris, Rennes and Tours in May for $1,444 a person, a two-week tour of Italy in May for $1,679 and a three-week trip to the Orient and Hawaii in November for $2,914.

Grant Travel Consultants, 427 Broad Street, Shrewsbury, N.J. 07701 (201 842–7447), is continuing its program of cruises for deaf persons with a seven-day trip to Bermuda and Nassau in August from about $395 a person and a 12-day tour of the Caribbean (after a flight to Miami or San Juan, P.R.) next winter for about $600.

"THEY HAVE GUTS . . . THEY'RE PATIENT . . . THEY ENJOY"

(By Justine DeLacy)

"I'm ready to pawn everything and take to the road." This from a gray-haired grandmother in a wheelchair, Bridget Willox of New Jersey, who has been crippled with rheumatoid arthritis for a quarter of a century. "For years I never left my back porch," she says. "Oh, there were outings with the family to upstate New York. Rockland County, that was my big deal. But look at me now! I'm in Paris!"

This is her second trip to Europe with Rambling Tours, an organization that specializes in foreign travel for the physically handicapped. Before her first trip, to make sure she would fit in with the group, Bridget wrote a 10-page letter to Ruth Fein (who, with her husband, Murray, runs the tours), describing the things she could and could not do. Mrs. Fein picks up the story: "Most handicapped people read about these tours and say to themselves, 'They don't have my problems.' Well, we've had a girl who could move only one thumb and one heel, and a quadraplegic with a portable iron lung. You just have to want to come badly enough."

There were 32 tour members who arrived in Paris, the 15th day of their 18-day trek through Europe. Seventeen were in wheelchairs, paralyzed from either the neck or the waist down, eight others walking on crutches or with canes, seven were accompanying family members or friends. All were jubilant.

On the sidewalk in front of the Ambassador Hotel, Boulevard Haussmann, the tour members are riding the 900-pound-capacity hydraulic elevator invented by Murray Fein to lift wheelchair patients into their bus. (The elevator, about the size of a couple of steamer trunks, is transported as luggage aboard planes and buses during Rambling's travels.) First up is a Kate Smith-size woman named Margaret Dyer. "Willy, give me a hand," says Ruth Fein to the Belgian bus driver. "She's very heavy." Turning to Margaret, she adds, "I don't mean to insult you, baby." "No way," chortles Margaret, who had to have both her legs amputated not long ago. The exchange is typical of the spontaneous, non-pity atmosphere of the group. Next is Don Tuttle from Chicago, "the elephant man" to his fellow travelers. Don's chief concern in Paris is getting back to the Galleries Lafayette where he saw a bargain china elephant. He is in a wheelchair and there are four curbs between the hotel and the store. "Paris isn't so expensive!" he exclaims. "Elephants only 5 francs!"

Bobby Arts is standing on his battery-operated scooter, awaiting his turn in the elevator. Everyone is talking about the traffic jam he caused the night before by leading a caravan of wheelchairs down a taxi lane with his scooter, to the outrage of French taxi drivers. Crippled by cerebral palsy from birth, he is on the tour with his wife, June. June would be much taller than Bobby, who is about four and a half feet, if she stood up. But she never does. She has had polio since she was 12 years old. She and Bobby met at a camp for the handicapped in Hunter, N.Y., 20 years ago. "That was when they still put mentally retarded people in with the physically handicapped," explained Bobby. "June came up to the first person she saw reading The New York Times—she figured he wasn't mentally retarded—and that was me."

Next on the bus was Frank Vytal, a handsome Bostonian in his thirties who was paralyzed from the waist down a couple of years ago during an operation for a spinal tumor. He does not have full use of his hands, so his chair, instead of just having a wheel to push, is fitted with protruding spikes that enable him to use his wrists to propel himself. "Here's Frank in his Roman chariot," announces Ruth. He beams at the attention.

Once the wheelchairs are strapped down on the right side of the bus, where the seats have been removed, we're off to the Louvre. Some people stay in their chairs for the ride; others transfer to regular seats with the help of Willy, the driver, who has a penchant for breaking into "She'll Be Comin' Round the Mountain" in Flemish. Ruth has obtained special permission for the group to use the Louvre's Henri II entrance, which has no steps. Don can't resist yelling, "Hi, Jeanne," as we pass the golden statue of Jeanne d'Arc near the Tuileries, described by Bill, the tour's droll English guide, as "a French wench who thought she could try her tricks on the English and get away with it."

Frank is worried that he won't get any pictures of the Arc de Triomphe. He can hold the camera fine; he just can't push the button. I aim his Kodak and shoot, then ask him which country he liked best. He preferred Switzerland, like most of the people on the trip. "I used to ski and hike a lot in the Presidential range in New Hampshire," he says by way of explanation, then rattles off the peaks he has climbed: "Monroe, Franklin, Madison, Jefferson, Adams. . . ." His voice trails off, and he looks out the window.

Most of the people on the tour have lived a long time with their afflictions, but Frank has only been paralyzed for about two years and he's having trouble getting used to it. Seeing how other handicapped people have managed to accept their condition is more important than France or Germany for people like Frank.

The group was delighted with Paris's sidewalk cafes, which are to wheelchairs what drive-in food chains are to automobiles. Everyone agreed that the biggest problem facing handicapped people who travel was bathroom facilities. "We've never been anywhere we didn't have to have the bathroom door taken off," says Tonka Sadesky, who has been crippled with muscular dystrophy for 17 years. Bidets in Europe block access to the toilet, she says, and she wishes the two could be switched around. "Everyone in Europe has offered to help, though," said Patsy, "not like in New York, where they run from wheelchairs!" But people's willingness to help is actually a problem in a foreign country, Don added. "Unless you take a wheelchair perpendicularly down a curb, it is likely to tip over," he said. "You can't warn people about that if you don't speak the language. Last night I was waiting to go down the curb and a Frenchman took hold of my chair before I knew it. I almost fell out into the street!"

Bobby and June Arts have traveled all over the world alone. This is their first trip with a group, and they're enjoying it. "You can relax. You don't have to worry about the next flight of steps all the time," says Bobby. He recalls how he and June were stranded in London one evening after the theater. "The taxis disappeared in five minutes. When you're handicapped, you can't exactly beat the other guy to a cab! It started pouring, and finally June had to roll her chair out into the street to stop one. You don't have these problems with a group, and it's more fun to be with other people." Bobby also finds it too expensive to travel alone now, since being handicapped means hiring private cars, chauffeurs and taxis.

He feels the biggest help to the handicapped would be the standardization of airport loading equipment. The Arts were once trapped for three hours in a plane at Kennedy Airport because the ground personnel claimed that union rules precluded them from boarding the plane to carry them off. Bobby praised the Zurich airport, which sends a car equipped with an elevator to the plane to unload the handicapped first.

Mrs. Fein seems to be everywhere at once, hugging, reassuring, smiling, encouraging, helping to hoist wheelchairs into the bus, or getting them up and down the thousand curbs they have encountered in Europe. She is especially attentive to Althea Taylor, an 18-year-old quadraplegic from Ft. Lauderdale, Fla., who had the courage to come alone on the trip—a high school graduation present from her parents.

Ruth Fein likes traveling with the handicapped. "They have guts," she says, "and they're so patient. They never complain. In Ireland, another tour director saddled with a bunch of grumpy old maids wanted to trade places with me.

"You should have heard the group after our wine-tasting party in Burgundy. I could hardly get them back into the bus, they were singing so loudly. On the Scandinavian tour last year, six of our group went on the Tivoli roller-coaster in Copenhagen!"

Back in the bus, Ruth was making a note to try and switch the group to a 9 P.M. sound and light show instead of one at 11 P.M., since everyone wanted to go to the Lido nightclub and the Folies Bergère later on.

PROJECT DA VINCI

Mr. DOMENICI. Mr. President, historically, New Mexico has been the proving ground for an impressive amount of scientific and technological research in this country. It has recently enjoyed another successful scientific research accomplishment known as Project Da Vinci, a manned balloon utilized for meteorological purposes. Even though balloons have been used for many years,

they have not been devoted to studying the structure and composition of the lower atmosphere which has so much to do with our environment.

New Mexico was proud to have participated in this research project which took place in Las Cruces on November 1, 1974. The project was sponsored jointly by the U.S. Atomic Energy Commission, the Army's Atmospheric Sciences Laboratory, the National Geographic Society, and many other organizations.

Mr. President, I ask unanimous consent that two articles appearing in recent issues of Ballooning magazine and New Mexico magazine which describe Project Da Vinci be printed in the RECORD.

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

[From New Mexico Magazine]

SCIENCE SOARS INTO THE PAST

(By Mike Murphey)

Almost in the shadow of White Sands Missile Range—the proving ground for some of man's most advanced technology—science recently took a step into the past.

For the project, scientists shunned the missiles which climb from WSMR into the lower reaches of outer space. Neither did they employ the ultra-modern aircraft that operate from various New Mexico Air Force bases, nor the advanced propulsion systems developed in Las Cruces by the National Aeronautics and Space Administration.

They turned instead to man's oldest vehicle of aviation—a balloon.

On Nov. 1, Project da Vinci, the largest manned balloon package ever launched, lifted off from the Las Cruces Municipal Airport on a manned atmospheric research expedition.

The 70-foot-tall helium balloon hoisted aloft a 5,000-lb. payload of 25 scientific experiments and a four-member crew. Floating to altitudes of 14,000 feet, its mission was to study the immediate layer of atmosphere that most affects man's environment, and about which surprisingly little is known. But an important secondary goal for those involved was to prove the usefulness of manned balloon flight in scientific research.

The 25 experiments aboard Project da Vinci were divided into five major categories. One group of instruments was designed to explore the meteorological structure of the lower atmosphere. These instruments gathered information on pollution levels, temperature, winds and rainfall.

Other instruments were to determine exactly what substances now make up the earth's atmosphere. Scientists believe that such things as pollutants and solar radiation may be slowly altering the atmospheric makeup.

A third group of experiments measured the earth's electrical field. They were designed to determine how the field varies, and what things cause such variation. The fourth category of scientific instruments studied the radiation in the earth's atmosphere.

Other equipment was aboard for the purpose of measuring balloon dynamics and response. Project officials hoped that data gathered during the flight on how balloons and air masses interact would be useful in future balloon design.

One crew member explained, "Ballooning has been ignored as a means of scientific exploration. It was passed over in the interest of speed and controllability."

Project officials added that the primary advantage of a balloon over other aircraft in such research is that the balloon can travel slowly with a specific parcel of air and study it as the given air passes over cities, deserts and mountains.

Project da Vinci was a joint undertaking of the U.S. Atomic Energy Commission, the Army and the National Geographic Society. The crew included pilot Jimmie Craig, a balloonist employed by the U.S. Navy; copilot Vera Simons, an artist and balloonist who first conceived of Project da Vinci; Dr. Rudolf J. Englemann, a scientist with the AEC, and Otis Imboden, a National Geographic photographer.

Originally, the flight was planned to last 36 hours and to end near Lubbock, Texas. Las Cruces was chosen as the launch site because of the availability of ground tracking and telemetry at White Sands, and because of the area's "almost ideal average October weather conditions," for such a flight.

But unfortunately, October weather in 1974 was far from the "ideal average." Clouds and southerly winds, which would have carried the balloon into Mexico, caused four weeks of launch delay. Finally, at 8:45 p.m. on Nov. 1, the project was launched. Winds carried it on a more northerly path than planned, and threatening weather conditions caused termination of the flight near Wagon Mound in northern New Mexico after only 12 hours.

Flight officials were disappointed until they learned that 23 of the on-board experiments had been successful. That success warrants future manned research flight funding, they said.

The very limitations that forced man to look beyond balloon flight as a practical means of aviation eventually victimized Project da Vinci. But not before the practicality of manned balloon research had been proved. New Mexico may have witnessed the rebirth of a balloon age.

[From Ballooning Magazine, Winter 1974–75]

THE MIDNIGHT RIDE OF BALLOON DAVINCI

(By Dick Brown)

In an age of super-sophisticated scientific research vehicles, it was back to the simple manned balloon for a meteorological research mission under the name "Project DaVinci." The vehicle was a 75-foot diameter helium gas balloon with a 10-foot square, double-decker, fiberglas gondola, complete with coed living quarters and nearly 3000 pounds of scientific, life support, communication, and navigation equipment. Aboard this translucent dream machine were four aeronauts who rode "DaVinci" across the moonlit San Andres mountains and northwards through starry New Mexico skies, to a stand-up landing a few hours after sunrise.

The project mission was to gather information about the structure and composition of one of the least understood parts of the earth's atmosphere—the lower region that is shared by all of us. This is the region which controls how far pollution is carried from its source, where regional air circulation takes place, and how inversions trap pollution at the breathing level. In-flight measurements included air pressure, temperature, humidity, gravity waves, density, ozone content, electrical fields, aerosol content and pollutant concentrations. In addition to atmospheric research, Project DaVinci included experiments on balloon dynamics and balloon response which will benefit man's many uses of balloons, whether for science, for industry, or for sport.

DaVinci was outfitted with a three-directional wind flow detector in order to study how air is moving in relationship to the balloon. The aerostat's behavior in response to atmospheric motions, heating, and cooling were also documented. Five temperature sensors were placed on the envelope surface and inside the helium gas in order to record the thermal changes caused by darkness and daylight. How rapidly the balloon gains or loses altitude as it gains or loses heat on the envelope skin was recorded in concert with the directional wind flow detector data and the recorded altimeter readings.

After several weekends of adverse weather, a launch window appeared between two frontal systems. The flight was scheduled to start at Las Cruces, on the west side of the Rio Grande and the San Andres Mountains of the White Sands Missile Range. Weekday range operations restricted a balloon from crossing the military reservation. But on November 1st, both the weather and the range were clear for launch.

The Project is named after our first aerospace engineer and artistic genius, Leonardo da Vinci. It was he who first employed art as an instrument of science and it was he who first set the pattern for a scientific investigation of air as a medium of transport. Leonardo da Vinci attempted to reveal the order and beauty of the universe through visualized knowledge.

It is no wonder that Vera Simons, project originator and a world-renowned artist, chose DaVinci for the project name. Project DaVinci merged old and new methods of atmospheric exploration. For Vera, DaVinci is a dream come true. As a balloonist and a scientist, she had advocated for years the use of manned balloons as a multi-experiment platform for atmospheric studies. A gas balloon is an ideal tool for such studies since it does not contaminate the surrounding air, and yet it floats noiselessly (speaking both acoustically and electrically) with a packet of air on its journey over various types of terrain, making meaningful measurements as it drifts.

There was no mistaking "DaVinci" for a sporting gas or hot air balloon. And it was not just another helium-filled scientific contraption. It had a 600-pound, two-tier gondola that was designed and constructed by Grumman Houston Corporation. The aluminum and fiberglas structure featured corrugated cardboard shock absorbers and was designed to withstand a landing impact of 3 G's. The lower level was devoted to crews quarters, battery banks, and equipment storage.

The gondola was delivered in early September to Sandia Laboratories in Albuquerque for equipment installation and checkout. Keith Smith and Preston Herrington of Sandia handled the systems engineering and integration tasks for the science and life-support equipment.

The gondola, with all of its projecting arms and dangling instruments, was suspended 70 feet below the balloon. Karl Stefan of the Balloon Works served as the balloon systems engineer and was responsible for ensuring that the balloon lift matched the payload weight. The balloon, built by Winzen Research, Inc. of Sulphur Spring, Texas, was a 160,000 cubic foot, naturally-shaped sphere. The envelope was fabricated from vertical gores of double-walled, 2-millimeter polyethelene film. The gores were heat-sealed at the seams and reinforced by 2-inch wide nonwoven fiber tapes.

A startling feature of the DaVinci system was its string of 10 tetroons (4-sided helium balloons) which resembled the fins of a chinese dragon. These 6-foot mylar tetrahedrons were to be released to study atmospheric turbulence and diffusivity by measuring the rate at which they separated from the gondola.

The launch site was the airfield at Las Cruces Municipal Airport. The bright yellow gondola glistened in the late afternoon sun. It was a scene of bustling activity as engineers and technicians made their final instrument check-outs. At the same time, the DaVinci crew gathered in a back room of the hangar for a briefing with Duke Gildenberg, Launch Advisor. In attendance were Jimmie Craig, pilot; Vera Simons, co-pilot; Dr. Rudolf Engelmann, on-board scientist; Otis Imboden, on-board photog-

rapher and assistant scientist; Dr. Harold Ballard, ground-based director; Dick Keuser, launch director; and other project personnel. They debated the flight options which included a landing on the Range. The anticipated flight duration was weighed against the amount of scientific data that could be gathered. The winds aloft showed a projected flight path to southwestern Kansas, with a maximum duration of 24 hours. The ground wind was out of the southwest at 10 mph. The decision was go!

The 470-pound envelope was laid out just before sunset. The inflation lasted 90 minutes and was by far the noisiest part of the entire project. For what seemed an infinite length of time, the shrill hissing of helium gas rushing through two plastic inflation ducts into the top of the balloon, prevailed at the launch site. A tense moment occurred during the link-up between the inflated balloon and the 6000-pound gondola. The clutch on the crane slipped and the balloon jerked upward, almost departing on its own. It was a good, but unplanned, mechanical shock test for the double-walled gores and 900-pound fiberglas load tapes. The entire link-up procedure was a formidable sight to behold. A 6000-pound dummy load hung 6 feet off the ground at the side of a rental truck. With a ladder on the truck roof, leaning against the crane cable, two crewmen (one on the ladder, the other on the top of the crane) disconnected balloon DaVinci from the weighted block and attached it to the gondola which itself was loaded down with bags of lead shot and 1500-pound weights at each corner. When the latter were removed, lift-off was imminent.

Pilot Jimmie Craig of Ridgecrest, California, began dropping ballast bags. Since his early ballooning experiences with Ed Yost, Jimmie has logged over 750 hours of gas and hot air balloon flight. He was the U.S. National Hot Air Balloon Champion in 1964 and 1965.

Leaving a stream of lead shot ballast across the Las Cruces airfield, balloon DaVinci (N4DV) lifted off at 8:50 PM. (Stowed on board were copies of the Summer and Autumn issues of *Ballooning!*) The balloon drifted toward the northwest, then penetrated an inversion layer at 5000 feet and finally swung around to the northeast. Soon only the balloon's steady white light and flashing red beacon were visable. The crew carried with them the excitement of night flight and the nagging worry that a seam may have opened as a result of the severe shock experienced less than an hour ago. After punching through another temperature inversion layer, the balloon levelled at 9000 feet and flew the ground contour for the duration of the flight. That nagging worry faded and the balloon tracked up the slopes of the San Andres, crossing the mountain range near Capital Peak at 12,000 feet. From high above the San Andres Range, the crew could see the sparkling sands of White Sands National Monument. This was the only point in the flight at which the crew donned their oxygen masks.

Once on the top side of the inversion layer, very little ballast was dropped. Jimmie timed the valving to establish the desired rate of descent on the east slope of the mountains. Balloon DaVinci acquired a tremendous attraction for the mountains and drifted northwards along the eastern slopes of the Los Pinos and Manzano Ranges. After settling at 7000 feet, Jimmie turned the controls over to co-pilot Vera Simons, and went below for a few hours of sleep.

Vera, a resident of Washington, DC, has 17 years of helium balloon design, construction and flight experience. She is also an artist who is known internationally for her LTA inflatable sculptures. She has logged 150 hours of balloon time and is one of less than half a dozen women in the U.S. licensed to fly gas balloons. She was the first woman in the world to fly plastic balloons. She has been intimately involved in numerous atmospheric research projects, including Transosonde, Sky-Hook, Stratolab, and Man-High. She is co-holder of 4 balloon patents, some involving gas balloon manufacturing techniques.

Vera became convinced that a well-planned combination of experimentation and manned flight could be advantageous in lower atmospheric study. In 1971, she began discussing the possibilities for such a flight with members of the scientific community. These discussions eventually led her to the AEC and the National Geographic Society. Project DaVinci was jointly funded by the AEC which currently supports one of the largest meteorological research programs in the United States, the National Geographic Society which has had a distinguished association with balloon research, and the Army's Atmospheric Sciences Laboratory at White Sands. Some of the other organizations which provided scientific equipment and support services include the Institute for Storm Research of the University of St. Thomas at Houston, the Atmospheric Physics Laboratory at John Hopkins University, and the National Oceanic and Atmospheric Administration.

There were 25 interrelated experiments conducted during the flight. Five telemetry data links relayed the airborne measurements to ground stations where the data was coupled with that of ground-based experiments for comparison. The on-board scientist, Rudy Engelmann, monitored the data gathering functions and kept so busy targeting instruments that it is believed he rarely looked up to enjoy the flight. Rudy is an AEC meteorologist and has a wide range of experience spanning the entire gamut of environmental sciences and balloon research. Rudy was backed up by Dr. Robert Woods of Sandia Laboratories just in case he was unable to make the flight.

The chase started out with a midnight ride across White Sands. An instrumented motorhome, a 4-wheel drive carryall, and this writer's 2-wheel drive passenger car followed the balloon on the ground from start to finish. The flight was documented by video tape and still-camera photography. The aeronauts maintained radio contact with the chase vehicles, the flight advisory center in Houston, and the base station at White Sands throughout the flight. An instrumented trailer-van at the Range base station received and recorded the telemetered data while two other mobile vans were deployed along the flight path in a leap-frog fashion, one recording from a fixed position, as the other proceeded to an advance location. Approximately 95% of the data was collected.

Also on board was Otis Imboden, a photographer with the National Geographic Society. He was the Society's photographer in residence at Cape Kennedy during the active years of the U.S. manned space program and helped design the photographic systems for some of the space flights.

Balloon DaVinci swung north, away from the chasers. When the carryall broke down near Alamogordo, this author's car was loaded up with video tapes, radios and stranded chase personnel. The situation, though unfortunate in one respect, was an excellent opportunity to meet strandees Bob Gall of Sandia Public Relations, Bill O'Neill of the NGS News Service, and Gail Bradshaw of the AEC Office of Information Services. By the light of the silvery moon (as they say), the chase wound its way through quiet ghostly New Mexico villages such as Corona, Willard, Moriarty, Trementina, and Solano.

Meanwhile, balloon DaVinci, picking up a more easterly wind component, swung past Clines Corners on Interstate-40 and watched the eastern sky grow brighter. The sun appeared over the horizon as the balloon drifted over Villanueva at the southern tip of the Santa Fe National Forest. Soon threatening frontal activity would force a premature end to this scientific voyage through 350 miles of the earth's delicate atmosphere.

In preparation for landing, the crew tied down all equipment and carried spent batteries to the upper deck in case ballast needed to be dropped. Gas was valved off and the balloon dropped down to a lower altitude. Two cow-punchers chased the balloon between two tabletop mountains. Jimmie guided the balloon over an abandoned ranch house and held at 100 feet, waiting for the balloon to lose its inertia. He lowered the ground rope and stopped at 50 feet. From there on, it was a "story book" landing (as Jimmie explains it). In a controlled descent, Jimmie alternated between valving and throwing batteries. The corrugated cardboard crash pads were not even dented. At 8:30 AM, November 2nd, "DaVinci" was down, only 4 miles northeast of Wagon Mound, New Mexico. The chasers arrived an hour later . . .

The scientific success of this manned balloon expedition has paved the way for a 5-day cross country flight, tentatively planned for this autumn on the west coast. "DaVinci" marks the beginning of a new era in manned balloon flight.

OVERCOMING BARRIERS AMONG GENERATIONS

Mr. WILLIAMS. Mr. President, for some years now, in my work with the Special Committee on Aging, I have tried to make the point that communities lose much if they ignore their elders.

Within the past decade or so, I have seen a very gratifying increase in senior citizen involvement within their communities. Many are serving in volunteer or senior aide programs. Others are being served by Older Americans Act programs or engaging in political action designed to inform the Congress, State legislatures, and municipal officials of their opinions and needs.

Gradually, the barriers between generations are being reduced.

Gradually, the retirement years are recognized for what they are: a large part of a lifetime, too precious to be wasted or thwarted.

Recently, a New Jersey newspaper, the Hackensack Record described a significant and heartwarming example of interaction between a community and its older residents.

The editorial described the use of public schools in Glen Rock, a largely suburban municipality in the northern part of the State. It also wisely observed:

There is no single formula for effectively meeting the needs of the growing ranks of senior citizens, nor can there be. Human beings do not become peas in a pod merely by retiring on pension or passing a designated birthday. They remain distinct individuals with diverse interests, abilities, likes, and dislikes.

In addition, I have an editorial which appeared in the February 17 issue of the Washington Star. It deals with efforts by a group of high school students in Alexandria who are acting on behalf of older Americans in their community—and deriving a great deal of satisfaction from their efforts.

I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles

were ordered to be printed in the RECORD, as follows:

[From the Hackensack (N.J.) Record, Feb. 4, 1975]

BRIDGING A GENERATION GAP

There is no single formula for effectively meeting the needs of the growing ranks of senior citizens, nor can there be. Human beings do not become peas in a pod merely by retiring on pension or passing a designated birthday. They remain distinct individuals with diverse interests, abilities, likes, and dislikes.

For some, the secluded retirement community is the answer, filling the days—just as the advertisements claim—with new friends, pool parties, shuffleboard leagues, and talent shows. For others, who can't afford or can't bear to move away from hometowns and old friends, golden-age clubs provide welcome opportunities for associating with others of retirement age.

Still others, however, prefer to remain active in the wider community, with people of all ages. It is with this group in mind that the Glen Rock public schools have embarked upon an interesting program designed to involve senior citizens in school life.

Older residents of Glen Rock can pick up a Golden Key Card at any school. The card entitles them to free admission to all school concerts, plays, and athletic events, and to take adult-school courses without tuition fees. There will be a special matinee performance of the high-school musical show this month for senior citizens who like to get out in the daytime but prefer to spend evenings at home. And elderly residents are invited to have lunch whenever they like in the high-school cafeteria. The daily hot meal there costs 85 cents, a price that should help those hard-pressed to live on a retirement budget.

More than 100 senior citizens attended the opening luncheon at which the program was explained, but it is too early to tell how many will find it appealing on a long-term basis. Lunch in the spirited confusion of a high-school cafeteria is not, after all, every senior citizen's cup of tea. Neither is a high-school basketball game or student concert.

But if the Glen Rock program broadens the horizons and brightens the days of even a handful of older residents, it will perform a useful service—and at little or no public cost. Other communities would do well to consider similar programs of their own.

[From the Washington Star-News, Feb. 17, 1975]

SUPER TEENAGERS

Almost everytime we sink into a slough of despond and temporarily succumb to the feeling that the world is going to hell in a handbasket, or some larger and speedier conveyance, a small piece of intelligence pops up that reassures us that perhaps all is not as gloomy as it seems. This time, we are indebted to a group of high school students in Alexandria for banishing our mental shadows.

They are the members of the Distributive Education Club (which Star-News reporter Mary Margaret Green informs us is a "marketing" group) at T. C. Williams High School. Exhibiting what struck us as a remarkable degree of maturity and tenacity, the students undertook as a project an ambitious survey of the status of elderly residents of the city. They were stunned to discover just how wretched is the plight of many older people today. Many must exist on annual incomes "less than some of us make on part-time jobs," said Cheryl Hanback, vice president of the club. "But we don't have to pay for rent, food or medicine and they have all of that," she added.

Well, what's so super about high school students doing a survey, even one of sufficient breadth and depth as to be commended by the Virginia Office of Aging as "the only statistically valid report on the elderly in the state of Virginia"?

It was not just the competence of their project, it was the reaction of the T. C. Williams students to the results they turned up. They decided to "try our hardest to get something done" about the widespread deprivation of elderly citizens. They have resolved to spend the rest of the year trying to prod government officials, businessmen and civic groups to increase the buying power of the aged. Their statistics showed that more than half of the elderly spent at least 50 percent of their income on housing, leaving less than $2.30 a day for food.

The youngsters are going to visit local merchants to seek to persuade them to add their stores to those already offering discounts to the elderly. They intend as well to work with the city's Senior Citizen Employment Service to inform older people to special prices and government programs available to serve their needs. City Councilman Nicholas A. Colasanto, who was an adviser to the project, has put himself firmly behind the young people's campaign.

The economic predicament of many older Americans gets a great deal of unctuous rhetoric, particularly around election time. But far less is done to improve their situation than is needed. We applaud these T.C. Williams students; they are doing a proud job. And we would add one further note that demonstrates that these youngsters are not naive about the dimensions of the task. Miss Hanback said, "We're doing everything we can do to let people know the conditions (cited in their report). If we don't get a response, maybe people just don't want to listen."

We deeply hope that will not sum up their experience. So impressive, indeed, is the degree of commitment from these students that we are almost inclined to forgive them for their taste in music, the dread sound of rock.

THE PRESERVATION OF CIVILIZATION

Mr. BROCK. Mr. President, I could not help but be moved upon recently reading an article by Sir Arthur Bryant. His remarks were directed toward Britain, but I believe it would be very easy to simply substitute our Nation in most instances.

Mr. President, I ask unanimous consent that this excellent article by Sir Arthur Bryant be printed in the RECORD.

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

THE PRESERVATION OF CIVILIZATION

(By Sir Arthur Bryant)

Twice in the present year we have had a general election in which, viewed cynically, the chief issue for many ordinary men and women seemed little more than which of two highly organized major political parties should, by securing a virtual monopoly of legislative power for the next few years, dictate to us and order our lives from Westminster. By every one of us exercising a tiny and insignificant fraction of a constituency poll, we were allowed the choice of deciding which of the rival factions' leaders should retain, or win, place and power by occupying the much-coveted and highly rewarded offices whose political holders preside, in the name of the Crown, over the executive Departments of State.

Such an attitude, however just, is held today, to a greater or lesser degree, by large numbers of electors whose views of politicians and the profession of politics have become very different from those held earlier this century by their parents and grandparents. It may partly explain why as many as five million of them voted for a third party, whose leaders had little or no chance of holding office at all. If parliamentary democracy is to survive and not be superseded by anarchy or dictatorship—and history teaches that the latter almost invariably follows the first—this is not a state of affairs which bodes well for the future.

There is, however, another and, I believe, better explanation for the comparatively low place into which politics and politicians have fallen in this traditionally mature political country, as well as for the general malaise from which, as a nation, we seem at the moment to be suffering. The explanation is the excessive and disproportionate emphasis laid by politicians of all persuasions on the purely economic aspects of our corporate life. For, as a Conservative ex-Minister pointed out in a speech last October, during the election the voter was faced with three parties, all of whom claimed that they alone had the secret of fighting inflation, of achieving economic growth, of keeping down prices and of providing financial "benefits."

Sir Keith Joseph justly said about the years during which our general elections have increasingly presented voters with this purely economic choice: "This auction has raised expectations which cannot be satisfied, generated grievances and discontents. Far from bringing well-being, this 'economics first' approach has aggravated unhappiness and social conflict, as well as overstraining the whole economic system to a point where it is beginning to seize up. Would it not now be better," he therefore asked, "to approach the public, who know that economics is not everything, as whole men rather than economic men?" For while the rival political parties were exclusively seeking, the one economic "growth", and the other redistribution of incomes and "Socialist" or Civil Service control of industry, he pointed out that neither increased economic prosperity nor great economic equality were producing the beneficial results expected. "Real incomes per head have risen beyond what anyone dreamed of a generation back; so have education budgets and welfare budgets. So also have delinquency, truancy, vandalism, hooliganism, illiteracy, decline in educational standards . . . Teenage pregnancies are rising; so are drunkenness, sexual offenses, and crimes of sadism."

In short, here was a Conservative statesman publicly saying what some of us have been vainly contending over the past 30 or more years: that man is not merely an economic consumer-unit, and that any society which, on whatever ideological pretext—be it "capitalist" or "socialist"—treats him solely as such, will find in the end that its economy, and ultimately its very existence, will break down. Human beings so conditioned become bereft of the human and moral virtues and capacities without which no economy or corporate society can remain viable. For man is not only an economic consumer, a mere mouth and purchaser of commodities of use. He is, and far more importantly because even consumption depends on his being so, a creator and a producer. Unless he takes satisfaction in creating and producing and treats this essential human activity as something more than a means of acquiring purchasing power, he will be an unhappy, discontented and, because aggrieved and deprived, ultimately aggressively destructive being.

To seek to abolish want, squalor, disease and ignorance, as the late Sir William Beveridge and his political disciples set out to do towards the end of the Second World War 30 years ago, was a noble ideal. Yet to do so by purely economic means was not sufficient. The mere absence of these scourges of humanity—as observation of any society of idle and richly-endowed playboys and millionaires will show—does not itself create satisfactory and useful human beings or rid them

of the vices of selfishness, self-indulgence, greed and unkindness, malice and cruelty.

The well-being of any community depends in the last resort on the virtue—the honesty, industry, self-control, good behaviour and helpfulness to one another—of its members. As these virtues do not come at all easily to mankind and have to be inculcated, preferably in youth, it follows that any society which fails to foster and teach them is doomed to ultimate disintegration and ruin, both political and economic. Financial "growth", that false ideal of "Selsdon Man" Conservatism, unless simultaneously accompanied by moral growth—the indispensable human virtue which alone creates economic wealth—is only, as we are now beginning to see, another word for the social cheat, inflation, which is the cliff towards which the Gadarene swine of today are hastening.

When Sir Keith Joseph spoke of the destruction of the Christian ideals which made our civilization and led us, little by little, from the jungle, by a permissive, money-mad and so-called progressive but, in reality, reactionary, ideology, he was saying to an infinitely wider public what I wrote on this page six years ago. "The more vocal part of the younger generation, both in Europe and America, has been, and is being taught, by those who should know better, to denigrate and revile the virtues—truthfulness, honesty, courage, tolerance, industry—which have built the house in which civilized man lives and has his being. Above all, they . . . are being taught, often in the name of high-sounding abstractions like pacifism, equality and antiracism, to hate and, the inevitable fruit of hatred, to destroy. What is wanted, in a world still riven by two great global wars, is not anger, violence and destruction, but tolerance, understanding, love and peaceful creation. If those responsible for our schools, universities, books, television, broadcasting and newspapers could only realize this and apply their realization of it to their work, they could do more to remove the causes of war, racial intolerance and class conflict than all the protest marches, demonstrations and sit-downs that have ever taken place."

There is so much good—the cumulative product of 2,000 years of Christian civilization—still surviving in this country and its people that it is like hearing a trumpet-call when a political leader of whatever party raises his voice, amid all the babel of false shibboleths and cheap-jack prescriptions, and points the way back to the virtues and age-long truths which made us great.

NUCLEAR LEADERSHIP

Mr. GRAVEL. Mr. President, we in Washington are often referred to as—among other things—leaders. But sometimes we might do a better job if we thought of ourselves as followers.

The nuclear power controversy is an example.

Here in Congress, nuclear power has been one of our least controversial topics. We have handed out billions of dollars to subsidize an industry that could render our Earth barely habitable and could compromise the genetic integrity of our race.

All this without batting an eye.

In the Senate, it has been rare even to have rollcall votes on nuclear proposals.

The feeling seems to prevail that somewhere, someone—some "expert"—is taking care of us.

Thank heaven our citizens are more skeptical of the nuclear genie, and of all those Alladins busy polishing their brass lamps.

With little help from their "leaders," people are finding out that nuclear power is unreliable, uninsurable, underregulated and unsafe.

The antinuclear movement is not a toy of utopians in Washington. It is a call for sanity from the people whose land and whose children are threatened.

In California, half a million voters have signed an initiative petition that would stop the licensing of nuclear power plants at least until the technology is proven safe.

When we look at what the Californians are asking for, we get an idea of the kind of "leadership" that has been exhibited in nuclear development.

The initiative says nuclear plants should not be built:

Until their principal safety equipment has been tested;

Until they are insurable;

Until nuclear accident evacuation plans are publicized; and

Until we know whether nuclear wastes can be safeguarded, and we have a plan for doing so.

Would "leaders" who deserve the name have allowed nuclear energy to grow without these basic, commonsense provisions?

Even in an age bent on suicidal weapons production, it is not unreasonable to want to curb further atomic assaults on our lives.

There are plans today for initiative drives and moratorium acts in many of our States: Oregon, Washington, Arizona, Nevada, Colorado, Iowa, Massachusetts, New Jersey, Maine, Florida. The task force against nuclear pollution now has more than 150,000 signatures on its clean energy petition.

May the leaders of the Congress follow their constituents.

Mr. President, I ask unanimous consent that there be printed in the RECORD the New York Times article, "Coast Group Seeks Nuclear Plant Curb;" the Newsweek article "Pulling the Plug on A-Power;" and the text of the California Nuclear Safeguards Initiative.

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

COAST GROUP SEEKS NUCLEAR PLANT CURB

(By Gladwin Hill)

LOS ANGELES, Jan. 25.—While President Ford has been calling for the development of nuclear energy, a California environmental coalition reported this week that it was well on the way to qualifying a ballot proposition, that could end atomic power generation in the state.

The proposal, an initiative measure, would prohibit state licensing of new nuclear plants until there was public "proof" of the safety of their operating and radioactive waste disposal systems.

Also, pending such proof, existing plants would be restricted to operating at 60 per cent of their design level, and this figure would be reduced by 10 per cent each year until such proof was forth coming.

The coalition, called the California Committee for Nuclear Safeguards, includes the Sierra Club, Friends of the Earth and Zero Population Growth, all national organizations. Its chairman is Richard B. Spohn, a lawyer who is the Los Angeles director of Ralph Nader's Citizen Action organization.

Mr. Spohn said the campaign's aim was not to halt nuclear power development, but simply to "shift to the nuclear power industry and the utility companies the burden of proving the claims of safety they have long been advancing."

Up to now, he said, citizens uncertain about the safety of the installations had the burden of trying to prove that the sponsors' claims were not valid.

The "Nuclear Safeguards Initiative" would make the state Legislature the final arbiter of whether safety aspects in a given case had been adequately demonstrated.

The measure calls for the creation of an advisory panel for the Legislature of at least 15 experts in fields ranging from nuclear engineering to geology and sabotage.

The advisory panel would hold public hearings and make recommendations to the Legislature, which would then hold its own hearings. A two-thirds vote of the Legislature would be required to approve a project.

A key provision of the measure is unlimited liability of nuclear plant operators for damages from accidents, instead of the $560-million limit under existing Federal law.

This requirement would be prohibitive, utility executives say, because of insurance costs.

However, Mr. Spohn commented: "If the proponents of nuclear plants can demonstrate that the dangers are as infinitesimal as they have been contending, they should be able to convince the insurance companies to adjust coverage rates commensurately."

The committee announced that it had already collected 216,000 of the 313,000 petition signatures needed by an April 7 deadline to qualify the initiative for the state's June, 1976, primary election ballot.

Mr. Spohn said that 31 full-time and 100 part-time signature collectors were at work throughout the state.

A campaign for a similar measure was mounted last April but was ended in October when it became evident it was going to fall short on signatures. Under the law, they have to be collected within a six-month period. Mr. Spohn was accompanied at a news conference here by two Nobel laureates, both of whom endorsed the initiative—Dr. Hannes Alfven, a Swedish-born physicist, and Dr. Harold G. Urey, a chemist. The scientists are on the faculty of the University of California.

The measure sets a deadline of one year after its passage for full liability responsibility as a condition of a construction permit; a five-year deadline for mandatory demonstration of the effectiveness of safety systems; a one-year deadline for imposition of the 60 per cent operating-level limit on existing plants, in the absence of demonstrated safety; and a five-year deadline on imposing the progressive annual power reduction.

There are now three nuclear power plants operating in California—at Humboldt Bay, Sacramento and San Clemente. A fourth is to go into operation at Diablo Canyon near San Luis Obispo next year, and the San Clemente plant is scheduled to be roughly triple in size by 1980. Several other plants are under discussion.

PULLING THE PLUG ON A-POWER

(To the village square we must carry the facts of atomic energy. From there must come America's voice.—Albert Einstein, 1946)

Three decades after the dawning of the Atomic Age, the United States is almost as much in the dark as ever on the question of nuclear power. The irony is painful. Just when it ought to be providing a comfortable cushion during the worldwide energy crunch, atomic power seems to be falling short—plagued by mammoth cost overruns, by uncertain operating and safety records and by mounting criticism from scientists, environmentalists and ordinary citizens. "This will be the showdown year for nuclear power,"

say David Freeman, an energy specialist on the Senate Commerce Committee. Indeed, important political decisions must soon be made on nuclear development—in Congress and in "village squares" around the country.

Safety is still a major concern for opponents of atomic power, although no deaths or significant property damage have yet been linked directly to accidents at nuclear plants. But 1,400 "abnormal occurrences" at such plants were reported last year alone, including four that the government considered serious and one—at a reactor in Zion, Ill.—in which a small amount of radioactive material escaped. Another release of radioactivity occurred just last month at a plant in Maryland.

THEFT

Beyond that is the unsolved problem of what to do with deadly nuclear waste products. "We would have to have fail-safe storage for lethal radioactive waste—with no social instability or earthquakes—for the next 500,000 years," warns David Dinsmore Comey, environmental director for an aggressive Chicago-based group called Business and Professional People for the Public Interest. Critics also worry about possible theft of nuclear material by criminals or revolutionaries and about the far-reaching—potentially oppressive—security measures that might be necessary to guard against such incidents. "If we decide that's not acceptable," says Terry Lash, staff scientist in Palo Alto, Calif., for the Natural Resources Defense Council, "we have no choice but to start de-emphasizing nuclear-fission power."

Despite bold promises by nuclear proponents over the years, atomic power still is barely beyond its infancy. The nation's 53 working atom generators provide just 7 per cent of all electrical energy. The vulnerability of the atomic system was demonstrated recently when the discovery of cracks in the emergency cooling system of one giant generator in Illinois forced the temporary shutdown of 23 others from coast to coast. Still, the need for something like nuclear power was further underscored last week by a National Academy of Sciences report suggesting that vital domestic supplies of gas and oil—including the controversial offshore oil deposits (page 68)—might run out far sooner than previously expected. But even scientists are divided over how much reliance should be placed on atomic energy; some find its risks easily acceptable, while others lean toward a moratorium on atomic development and redoubled research into alternatives, from solar energy (page 50) to the burning of common garbage.

President Ford displays few doubts about the atom. In his State of the Union message, Ford promised to "energize our nuclear power program," and to put 200 working reactors "on-line" by 1985. But White House officials concede privately that this goal may be hard to reach, given current economic cutbacks and growing environmental opposition. Even the Federal government's own watchdog, the new Nuclear Regulatory Commission, seems likely to take a tougher line than the old Atomic Energy Commission, which it replaced last month. The AEC had responsibility for promoting the industry as well as regulating it, a combination Congress finally decided was unwise. "I will be like an umpire in a football game," says NRC chairman William Anders, a former Apollo astronaut.

Congress may throw up even bigger roadblocks to nuclear development. Old allies of the industry have left the Hill and influential Senate Democrats such as Connecticut's Abraham Ribicoff, Rhode Island's John Pastore and Washington's Henry Jackson have begun to ask hard questions about the cost and safety of atomic energy. On the House side, Judiciary Committee chairman Peter Rodino was among 30 legislators who last week asked the nation's broadcasters to make free time available for a variety of anti-nuclear spot advertisements.

POISONED

Those ads could frighten many Americans. One, from the Public Media Center of San Francisco, intones: "Seventeen billion dollars' property damage . . . 100,000 square miles of land poisoned by radioactivity . . . 100,000 injured . . . 50,000 dead. That's what could result from a serious accident at just one nuclear power plant, according to an Atomic Energy Commission report."

The Atomic Industrial Forum, which advocates nuclear power, is already gearing up for a $1.2 million publicity counter-counteroffensive to face what it fears will be "several imminent showdowns" on legislation. Congress will soon be debating bills that could restrict new atom-plant locations and reduce funding for development of a liquid-metal fast breeder reactor (intended to produce fuel for other reactors, but already $6 billion to $9 billion over budget). There also will be a battle over renewing the Price-Anderson bill, which mandates government subsidies for the insurance costs of atomic generators. "If nuclear power is so safe, why won't the insurance industry issue it?" asks consumer advocate Ralph Nader, a leader in the anti-nuclear forces.

But Washington is not the only battleground in the nuclear debate these days—nor even the hottest. Environmental groups in California want to limit the output of atomic plants until the industry can show nearly absolute safety; with the help of stars such as Robert Redford and Nobel scientist Harold Urey, the anti-nuclear forces are already well on their way to collecting enough signatures to win a place for their proposal on next year's ballot. In the state's fertile San Joaquin Valley, farmers have joined a fight to delay a planned $4.5 billion facility because they fear it may use up vital water, change the atmosphere or—at the very least—give their crops a bad public image. Former California Gov. Pat Brown is leading the pro-nuclear forces in the state, but his son Jerry, the current governor, says that the atomic plants raise "a very serious question."

CRASH

Stronger stands against nuclear expansion have been taken by Govs. Hugh Carey of New York, Robert Straub of Oregon and Philip Noel of Rhode Island. In Oklahoma, the Oil, Chemical and Atomic Workers Union warned of widespread safety violations at a plutonium plant operated by the Kerr-McGee Corp., and Federal experts recently substantiated twenty of the 39 charges. (The FBI also is investigating the mysterious death in a car crash of Karen Silkwood, a plant employee who raised the safety issue.) And a spirited fight is under way against the $500 million Barnwell, S.C., fuel reprocessing plant. Opposition spread over the border last month when outgoing Gov. Jimmy Carter was persuaded to bring Georgia into hearings on Barnwell.

In the end, however, serious economic problems within the industry itself may prove to be the major stumbling block to rapid nuclear development. Proponents argue that the operating costs of an atomic plant may be less than for an equivalent coal-burning facility, but the start-up costs are undeniably greater. At the Diablo Canyon project near San Francisco, for example, the estimate has more than doubled, from $435 million to $900 million. And cost-conscious utilities last year canceled or delayed about 60 per cent of the 230 atomic plants on their drawing boards, mostly for economic reasons. "This is an indication that things are moving in the direction we would like to see them go," says MIT Prof. Henry W. Kendall, a director of the Union of Concerned Scientists, which believes more work should be done to develop other energy sources.

Whatever happens in the months ahead may well set a pattern for decades and perhaps generations to come. Advocates and opponents alike agree that the pace of development for atomic plants over the next two years will determine the degree to which the U.S. becomes a truly nuclear-powered nation.

NUCLEAR SAFEGUARDS INITIATIVE

The People of the State of California Do Enact as Follows:

SEC. 1. Title 7.8 (commencing with Section 67500) is added to the Government Code, to read:

TITLE 7.8 LAND USE, NUCLEAR POWER LIABILITY & SAFEGUARDS ACT

67500. This title shall be known and may be cited as the Nuclear Safeguards Act.

67501. The people and the State of California hereby find and declare that nuclear power plants can have a profound effect on the planning for, and the use of large areas of the State, as do related facilities connected with the manufacture, transportation, and storage of nuclear fuel, and the transportation, reprocessing, storage, and disposal of radioactive materials from nuclear fission power plants.

67502. The people further find and declare that substantial questions have been raised concerning the effect of nuclear fission power plants on land use and land use planning, as well as on public health and safety. Such questions include, but are not limited to: (a) the reliability of the performance of such plants, with serious economic, security, health, and safety consequences; (b) the reliability of the emergency safety systems for such plants; (c) the security of such plants, and of systems of transportation, reprocessing and disposal or storage of wastes from such plants from earthquakes, other acts of God, theft, sabotage, and the like; (d) the state of knowledge regarding ways to store safely or adequately dispose of the radioactive waste products from nuclear fission power plants and related facilities; and (e) the creation by one generation of potentially catastrophic hazards for future generations.

67503. A nuclear fission power plant and related facilities may be a permitted land use in the State of California and its waters and considered to be reasonably safe and susceptible to rational land use planning, and may be licensed by state or local agencies, and may be constructed in the State only if all of the following conditions are met:

(a) after one year from the date of the passage of this measure the liability limits imposed by the federal government have been removed and full compensation assured, either by law or waiver, as determined by a California court of competent jurisdiction and subject to the normal rights of appeal, for the people and businesses of California in the event of personal injury, property damage, or economic losses resulting from escape or diversion of radioactivity or radioactive materials from a nuclear fission power plant, and from escape or diversion of radioactivity or radioactive materials in the preparation, transportation, reprocessing, and storage or disposal of such materials associated with such a plant; and

(b) after five years from the date of the passage of this measure

(1) the effectiveness of all safety systems, including but not limited to the emergency core cooling system, of any nuclear fission power plant operating or to be operated in the State of California is demonstrated, by comprehensively testing in actual operation substantially similar physical systems, to the satisfaction of the Legislature, subject to the procedures specified in Section 67507; and

(2) the radioactive wastes from such a plant can be stored or disposed of, with no reasonable chance, as determined by the Legislature, subject to the procedures specified in Section 67507, of intentional or unintentional escape of such wastes or radioactivity into the natural environment which will eventually adversely affect the land or the people of the State of California, whether due to imperfect storage technologies, earthquakes or other acts of God, theft, sabotage, acts of war, governmental or social instabilities, or whatever other sources the Legislature may deem to be reasonably possible.

67504. (a) If within one year from the date of the passage of this measure the provisions of subsection 67503(a) have not been met, then each existing nuclear fission power plant and such plants under construction failed to meet the conditions specified in subsection 67503(a) shall not be operated at any time at more than sixty percent of the original licensed core power level of such plant.

(b) Beginning five years from the date of the passage of this measure, each existing nuclear fission power plant and each such plant under construction shall not be operated at any time at more than sixty per cent of the licensed core power level of such plant and shall thereafter be derated at a rate of ten per cent per year of the licensed core power level of such plant, and shall not be operated at any time in excess of such reduced core power level, unless all of the conditions enumerated in Section 67503 are met.

67505. The provisions of Section 67503 and 67504 shall not apply to small-scale nuclear fission reactors used exclusively for medical or experimental purposes.

67506. One year from the date of the passage of this measure, the Legislature shall initiate the hearing process specified in Section 67507, and, within three years from the date of the passage of this measure, determine whether it is reasonable to expect that the conditions specified in Section 67503(b) will be met. Unless the Legislature determines that it is reasonable to expect that the conditions of Section 67503(b) will be met, then nuclear fission power plants shall be a permitted land use in California only if such existing plants and such plants under construction are operated at no more than sixty per cent of their licensed core power level. Unless the determinations specified in this section are made in the affirmative, then neither the siting nor the construction of nuclear fission power plants or related facilities shall be permitted land use in California.

67507. The determinations of the Legislature made pursuant to subsection 67503(b) and Section 67506 shall be made only after sufficient findings and only by a two-thirds vote of each house.

(a) To advise it in these determinations, the Legislature shall appoint an advisory group of at least fifteen (15) persons, comprised of distinguished experts in the fields of nuclear engineering, nuclear weaponry, land use planning, cancer research, sabotage techniques, security systems, public health, geology, seismology, energy resources, liability insurance, transportation security, and environmental sciences; as well as concerned citizens. The membership of this advisory group shall represent the full range of opinion on the relevant questions. The group shall solicit opinions and information from responsible interested parties, and hold widely publicized public hearings, after adequate notice, in various parts of the State prior to preparing its final report. At such hearings an opportunity to testify shall be given to all persons and an opportunity to cross-examine witnesses shall be given to all interested parties, within reasonable limits of time. The advisory group shall make public a final report, including minority reports if necessary, containing its findings, conclusions, and recommendations. Such report shall be summarized in plain language and made available to the general public at no more than the cost of reproduction.

(b) To ensure full public participation in the determinations specified in subsection 67503(b) and Section 67506, the Legislature shall also hold open and public hearings, within a reasonable time after the publication of the report specified in subsection (a) of this section, and before making its findings, giving full and adequate notice, and an opportunity to testify to all persons and the right to cross-examine witnesses to all interested parties, within reasonable limits of time.

(c) All documents, records, studies, analyses, testimony, and the like submitted to the Legislature in conjunction with its determinations specified in subsection 67503 (b) and Section 67506, or to the advisory group described in subsection (a) of this section, shall be made available to the general public at no more than the cost of reproduction.

(d) No more than one-third of the members of the advisory group specified in this section shall have, during the two years prior to their appointment to the group, received any substantial portion of their income directly or indirectly from any individual, association, corporation, or governmental agency engaged in the research, development, promotion, manufacture, construction, sale, utilization, or regulation of nuclear fission power plants or their components.

(e) The members of the advisory groups shall serve without compensation, but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement is not otherwise provided by another public agency. Members who are not employees of other public agencies shall receive fifty dollars ($50) for each full day of attending meetings of the advisory group.

(f) The advisory group may:

(1) Accept grants, contributions, and appropriations;

(2) Create a staff as it deems necessary;

(3) Contract for any professional services if such work or services cannot satisfactorily be performed by its employees;

(4) Be sued and sue to obtain any remedy to restrain violations of this title. Upon request of the advisory group, the State Attorney General shall provide necessary legal representation.

(5) Take any action it deems reasonable and necessary to carry out the provisions of this title.

(g) The advisory group and all members of the advisory group shall comply with the provisions of Sections 87100 through 87312 inclusive, of Title 9 of the California Government Code.

(h) Any person who violates any provision of this section shall be subject to a fine of not more than ten thousand dollars ($10,000), and shall be prohibited from serving on the advisory group.

67508. (a) The Governor shall annually publish, publicize, and release to the news media and to the appropriate officials of affected communities the entire evacuation plans specified in the licensing of each nuclear fission power plant. Copies of such plans shall be made available to the public upon request, at no more than the cost of reproduction.

(b) The Governor shall propose procedures for annual review by State and local officials of established evacuation plans, with regard for, but not limited to such factors as changes in traffic patterns, population densities, and new construction of schools, hospitals, industrial facilities, and the like. Opportunity for full public participation in such reviews shall be provided.

SEC. 2. There is hereby appropriated from the General Fund in the State Treasury to the legislative advisory group created by Section 67507 of the Government Code the sum of eight hundred thousand dollars ($800,000) for the expenditures necessary in carrying out the responsibilities and duties set forth in Section 67507 of the Government Code.

SEC. 3. Amendments to this measure shall be made only by a two-thirds affirmative vote of each house of the Legislature, and may be made only to achieve the objectives of this measure.

SEC. 4. If any provision of this measure or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the measure which can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

POLITICS, GET LOST

Mr. GOLDWATER. Mr. President, strange as it may seem to some people, it is beginning to sink in on many Members of Congress and Government officials that the American people want some unity and teamwork in the affairs of the National Government.

I am sure I do not have to remind my colleagues that there are times when the problems confronting the majority of our people become so critical that they overshadow political considerations and call loudly for a moratorium on what we know as "politics-as-usual."

And, Mr. President, this is one of those times. If anyone present wants to challenge that statement let him go out and talk to the man on the street, to the elderly person living on a fixed income—let him talk to any wage earner who is struggling to make ends meet in this critical time.

Believe me, I know what I am talking about, and not just for having talked to people in various parts of the country where I have traveled. My mail is loaded with a cry for action from our officials and our Congressmen. The American people—at least at this point in our history—do not want arguments, they do not want fault-finding, they do not want procrastination. They want action and they want it right now. For my part, I believe it is time to give them exactly that.

Mr. President, because of its timeliness and importance, I ask that the editorial written by Mr. Howard Flieger in the March 10th issue of U.S. News and World Report and entitled "Politics, Get Lost" be printed in the RECORD.

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

POLITICS, GET LOST!

(By Howard Flieger)

In times such as these can any of us afford the antic diversion of politics-as-usual?

The answer should be obvious.

With the exception of World War II years, it has been more than four decades since the country has had such an urgent need for nonpartisan unity and team leadership. Today's problems tower far above politics.

You'd never guess it in Washington.

We have a divided Government—a Republican Executive Administration and a Congress controlled by Democrats. We have a

presidential election coming up in 1976. Normally, this is the flowering season for big league politics, and it is burgeoning this year.

But these aren't normal times. These are days of crisis. Nobody can doubt for a minute that the vast majority of Americans are eager for action and yearning for solutions.

What are they getting? Nothing.

When you hear talk of a "showdown" in Washington, nine times out of 10 it means a political showdown. But to most people, partisan politics is out of style right now.

You would think that professional politicians—those who are supposed to be exquisitely sensitive to the mood of the public—would sense that. Well, if they do they are keeping their sensitivity well hidden.

The winter crisis of 1975 is now more than two months old. Solutions are just as far beyond the horizon as they were at the first dawn of January. Some in both parties seem to approach such wrenching problems as inflation, recession, energy and unemployment with an eye on the partisan ballots of 1976. Each one of them acts as though the most important thing in today's world is to try to make certain that the other gets no political profit out of the present sad state of affairs.

Under the circumstances, it is timely to recall 1933 and the first 100 days of the Administration of Franklin D. Roosevelt.

That, too, was an era of anxiety. But Government moved. The White House and Congress united to do a job. Whether they did the right job has been a matter of debate ever since—but the point is that things got done.

True, we did not have a divided Government in those days. A Democratic President and a Democratic Congress worked as one. So the parallel with the present is not precise.

But the point is that Washington responded to the Great Depression with confrontation, unity and action. What we are getting now is evasion, disunity and inaction.

Possibly a divided Government wouldn't have worked in 1933. Who knows? Be that as it may, it certainly isn't working in 1975.

The other day the syndicated columnist, Roscoe Drummond, recalled the Washington of Roosevelt's first 100 days, and it prompted him to look in comparison on today's scene with foreboding and horror. He is now urging both parties to declare a moratorium on politics for the sake of us all. He wants politicians to put party considerations in deep freeze for the next nine months and to join forces in this four-point program:

"1. No partisan speeches by Congressmen attacking the President or by the President or his aides attacking Congress.

"2. Uninterrupted conferences between the President and legislative leaders of both parties until an agreed economic-energy program is worked out and accepted.

"3. Then—and only then—a joint television report to the nation by the President and the legislative leaders announcing what is going to be done.

"4. And then doing it promptly."

Is Mr. Drummond's a voice in the wilderness, beseeching the impossible? Certainly not, if you go by the rules of common sense.

But those rules seem to curdle when they are mixed with politics-as-usual. So he probably is unrealistic. What a pity.

TAXPAYERS UNION OPPOSES B–1

Mr. McGOVERN. Mr. President, the National Taxpayers Union, a nonpartisan organization which is deeply concerned about the growth in Federal spending, has taken a very strong position on the question of moving ahead with the B–1 bomber.

Specifically, the NTU urges that we, . . . delete all funds for B–1 procurement ($108 million) and research and development ($840.5 million) from the budgets . . . for fiscal 1976, and for the transition period.

This is a very significant recommendation, coming from a group which does not limit its attention to spending in the military sector, but which instead takes a very tough position on waste in all parts of the national budget.

Based on its analysis of costs and the B–1 operating environment, the NTU concludes that:

Continued funding of the B–1 bomber will damage, rather than enhance, U.S. security. Indeed, B–1 production would consume so much defense procurement money that meeting a true threat might prove unaffordable.

The NTU statement also underscores another critical point—that while the research, development, test and evaluation program on the B–1 is not yet fully completed, we should certainly be able to make a decision this year on whether or not to proceed. Indeed, we are being forced to that decision by the Air Force, which has included some $108 million in procurement money in the 1976 and transition budgets, with the argument that those long lead costs will escalate dramatically if we postpone them until the research program is finished.

The truth is that there is nothing in the remainder of the test program that should have any bearing at all on our decision to buy the B–1. We know what its likely costs will be. We know as much now as we will know next year about the likely threat our strategic forces will have to face. We have seen the prototype fly, and we know its capabilities. And there are no technological breakthroughs associated with the B–1 which would make continued R. & D. useful even if we decide not to go ahead with procurement.

So I agree with the National Taxpayers Union that the only way to justify a vote in favor of any of the nearly $1 billion requested for the B–1 is to decide now to support the full $18.6 billion program. That is the question before us this year, and we cannot avoid it any longer. If this program is to be ended, then we ought to end it now.

Mr. President, because it is such a concise and helpful analysis of the issues involved with the B–1, I ask unanimous consent that the National Taxpayers Union statement to which I have referred be printed in the RECORD.

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

B–1 BOMBER

(By National Taxpayers Union)

The B–1 Bomber is one of the most questionable programs in the Fiscal Year 1976 and Transition budgets. National Taxpayers Union urges Congress to delete all funds for B–1 procurement ($108 million) and research and development ($840.5 million) from the budgets for the following reasons:

1. The B–1 is not needed. U.S. strategic security is insured by the present bomber force, which is three and a half times as large as the Soviet force. In the past few years, over $6 billion has been spent to equip B–52 "G" and "H" models with new engines, new wings, new weapons, and the most advanced electronic equipment. By Secretary Schlesinger's own admission (2–18–75), these planes will remain viable until at least 1990, ten years after the B–1 is to be introduced. The B–1's slight technological advantages over B–52s could be easily countered by enemy improvements in air defenses for a fraction of the B–1's cost.

2. The B–1 is too expensive. In 1969, the Air Force estimated that the B–1 would cost $8.8 billion. That estimate has now risen to over $20 billion, making B–1 overruns the worst in military history. Yet even these estimates account for only half of the B–1's cost. In its presentations to Congress, the Air Force has counted only the cost of producing 244 "stripped" planes, leaving out the costs of arming and operating the B–1. The cost of arming each B–1 with twenty-four Short Range Attack Missiles, decoys, or the like adds $5.16 billion to program costs. Ten-year operation and maintenance costs add another $12.6 billion. Thus the B–1 will cost at least $38.25 billion, more than four times the original estimate. ($20.49 billion for 244 stripped planes at $84 million each, plus $5.16 billion for armaments, plus $12.6 billion in operating costs = $38.25 billion).

3. The B–1 is a serious threat to the environment. Like the SST, the B–1's supersonic high altitude flight will degrade the earth's ozone layer. Military secrecy has obscured the issue and prevented full knowledge of the B–1's impact on the environment.

Continued funding of the B–1 Bomber will damage, rather than enhance, U.S. security. Indeed, B–1 production would consume so much defense procurement money that meeting a true threat might prove unaffordable.

The B–1, if continued, will cost the average taxpayer nearly $1,000 in the next ten years. Forty-three states will lose more money in tax contributions to the B–1 than they will gain in B–1 contracts. Congress should terminate the project immediately.

CONSUMER PRICE INDEX

Mr. BROCK. Mr. President, it is amazing to me how we in Government sometimes ignore commonsense solutions. It borders on being ridiculous. Sylvia Porter recently took a look at the Consumer Price Index and reported some interesting finds. I would like to share those findings and I ask unanimous consent that her column be printed in the RECORD.

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

OUTDATED CONSUMER PRICE INDEX

(By Syvia Porter)

Item: In the Consumer Price Index—the closest measure we have of fluctuations in our living costs across-the-board and probably the most important single index the U.S. government publishes—the only cosmetic product priced is pressed face powder.

Fluctuations in this one product are supposed to reflect price changes in shampoo, suntan lotion, other makeup, on which we spend billions of dollars a year. Omitted from the "personal care" category are hair dryers, water picks and other such products, sanitary supplies.

Item: To represent all the small appliances in the home on which we also spend billions a year are carpet sweepers! Not priced are such far more important products as toasters, blenders, rotisseries, irons, electric frying pans.

Item: Among foods, "pasta" is represented by a can of spaghetti—that's all. Not in-

cluded are any of the dry pastas crowding supermarket shelves today. Also not included among foods are imported cheeses, peanut butter, meat extenders, snacks, frozen TV dinners, tonic and other mixers, bottled water, diet beverages, cat food, organic foods, artificial sweeteners, dessert mixes, spices, sauces or condiments (except salad dressing).

Not since 1961–62—a full 13 years ago—has the official "marketbasket" of the Bureau of Labor Statistics through which we trace changes in our cost of living been updated. The 396 different types of goods and services chosen to represent the then-current spending patterns of U.S. city families are now startlingly out-of-date. With the incomes of an estimated one-half of the U.S. population already tied to this index, a reconstruction is badly needed.

This reconstruction is now under way—and it tells the fascinating tale of how much our spending patterns have changed over the years. To suggest a few astounding omissions:

Despite the fantastic explosion in the whole field of "convenience" foods, the only prepared foods in today's index are canned bean and chicken soups, spaghetti and tomato sauce, instant mashed and frozen french-fried potatoes, baby food, sweet pickle relish and pretzels.

Vodka is not even counted among alcoholic beverages, although vodka sales have soared 320 percent in the past 15 years and vodka is now running neck and neck with bourbon as the top selling alcoholic drink.

Conspicuously omitted from the list of household supplies and services are heavy duty cleaners, floor wax, baggies and aluminum foil, most of today's home plastic products, diaper service, landscaping and home security products and services.

Of course hospital care is counted—but among major factors in today's zooming health care costs not priced by the index are emergency room care, nursing home care, convalescent care. Not included among outpatient medical laboratory tests are Pap smears, electrocardiograms, chest X-rays and blood tests. In today's CPI index, a "routine urinalysis" speaks for a long list of costly lab tests now also routine to millions.

To represent the category of "postage, stationery, school and office supplies," an adding machine is priced. Ignored are products ranging from ballpoint pens to typewriters, copying services and minicalculators.

So it goes. As I went down the 396 goods and services supposed to chart our cost of living, I couldn't help noticing how many items you might consider commonplace or next to commonplace are not included—luggage, stereo sets or phonographs, tape decks, musical instruments, auto rental, sewing machines, home study courses. And among astonishing omissions: mobile homes, boats, motorcycles.

Nor could I miss how drastically underplayed are the phenomenal booms we have been experiencing in leisure time, travel and education, do-it-yourself, convenience products, pet ownership.

The new CPI, reflecting the "marketbasket" of our times and tracing new trends of the 1970s, won't be ready until spring 1977. The world we live in—according to statistics charting our cost of living—won't be ours at all. It will be the early 1960s, an era that well may seem ancient history to you.

P.S. You can do your own guessing as to whether the updating will accelerate or decelerate our living cost rise. The authorities won't say—but it's not too tough to guess. Try.

CHILD AND FAMILY SERVICES HEARINGS

Mr. MONDALE. Mr. President, on February 21, 1975, we held our second joint hearing of the Subcommittee on Children and Youth, the House Select Subcommittee on Education and the Senate Subcommittee on Employment, Poverty, and Migratory Labor on the Child and Family Services Acts of 1975, S. 626 and H.R. 2966.

We were fortunate to have a highly impressive and respected group of witnesses at this hearing including: Joseph Reid, executive director of the Child Welfare League in New York; Mrs. Jeanne H. Ellis, executive director of the Child Care Center, Stamford, Conn.; Hon. ANDREW JACOBS, JR., Member of Congress from Indiana; a panel on the handicapped comprised of Fred Weintraub, assistant executive director of the Council on Exceptional Children; Hal Benson, director of governmental affairs of United Cerebral Palsy; Paul Marchand, director of governmental affairs of the National Association of Retarded Persons; Richard Dowling, director of governmental affairs for the American Speech and Hearing Association; and Dr. Samuel Ornstein, president of the National Association of Coordinators of State Programs for the Mentally Retarded; Ms. Judith S. Helms, executive director of the National Council of Organizations for Children and Youth; and Dr. Frederick Green, associate director of Children's Hospital and Mr. John Sharon, president of Children's Hospital.

Their testimony provided an eloquent and compelling case for the need for this kind of legislation.

Because of the large number of requests our subcommittees have already received for copies of these statements, I ask unanimous consent that a copy of each submitted statement be printed in the RECORD.

I urge my colleagues and members of the public to review carefully the testimony we received.

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

STATEMENT OF JOSEPH H. REID, EXECUTIVE DIRECTOR, CHILD WELFARE LEAGUE OF AMERICA, INC., ACCOMPANIED BY MRS. JEANNE H. ELLIS, EXECUTIVE DIRECTOR, THE CHILD CARE CENTER OF STAMFORD, CONN., MEMBER AGENCY, CHILD WELFARE LEAGUE OF AMERICA, INC.

INTRODUCTION

My name is Joseph H. Reid. I am the Executive Director of the Child Welfare League of America at 67 Irving Place, New York, New York. I am authorized to testify on the Child and Family Services bills, S. 626 and H.R. 2966, on behalf of the Board of Directors of the Child Welfare League of America. We are primarily concerned with how this legislation would affect children and their families.

Established in 1920, the League is the national voluntary accrediting organization for child welfare agencies in the United States. It is a privately supported organization devoting its efforts completely to the improvement of care and services for children. There are nearly 400 child welfare agencies affiliated with the League. Represented in this group are voluntary agencies of all religious groups as well as non-sectarian public and private non-profit agencies. Mrs. Jeanne H. Ellis, who joins in this statement and who is authorized to testify on behalf of her Board of Directors, is involved with three Stamford, Connecticut, early childhood educational programs, and her agency is one of our members. Her programs are the Child Care Center of Stamford, Inc., the Stamford Day Care Program, and the Stamford Head Start Program, 64 Palmer's Hill Road, Stamford, Connecticut. We will also be presenting data prepared for these hearings and intended to be submitted in person by Sally Provence, M.D., Professor of Pediatrics and Director of The Child Development Unit, Yale Child Study Center, New Haven, Connecticut.

The League's primary concern has always been the welfare of all children regardless of their race, creed, or economic circumstances. The League's special interest and expertise is in the area of child welfare services and other programs which affect the well-being of the nation's children and their families. The League's prime functions include setting standards for child welfare services, providing consultation services to local agencies and communities, conducting research, issuing child welfare publications, and sponsoring annual regional conferences.

During the League's many appearances before the Congress in the past, we have commented on the need for the kinds of services authorized in these bills. We are pleased, therefore, to respond to the invitation to testify on the general need for these services and to offer some specific suggestions regarding the legislative proposals.

THE NEED FOR CHILD CARE SERVICES

At the outset, we concur with Elizabeth Waldman and Robert Whitmore, authors of "Children of working mothers, March 1973," which appeared in the May 1974 *Monthly Labor Review*. They were speaking from the vantage point of the Bureau of Labor Statistics and we speak from the vantage point of one of the largest collections of data available in the U.S. Together, we agree that ". . . little is known about the current supply of and demand for child care services and facilities."

In a nation that spends millions on surveys, it is regrettable that our most recent comprehensive survey is based on 11-year-old data published in 1968. We join Waldman and Whitmore in calling for a new study; the study should be at least as comprehensive as the last survey.

Child care arrangements of working mothers in the United States

The fact is that no one knows what the situation of America's children is. We do have some data, however, and, if we may be permitted to extrapolate from what data we have, we believe that we can arrive at some indications of the scope of need.

The 1974 estimate

The League's 1974 estimate of need is attached as an Appendix to this statement.[1] At that time, based on available data, we estimated that 32,852,000 children under 18 years needed child care. We arrived at the estimate as follows:

Children with mother in labor force	26,189,000
Children with father (the single parent) in labor force	721,000
Children with handicapping conditions (computed at 10 percent of the remaining child population of 39,393,000)	3,939,000
Children in families where father is in the home and not in the labor force (usually because he is aged, blind, or disabled and unable to provide care and supervision)	1,209,000
Children in families not previously listed, with incomes below $8,069, who could presumably benefit from services	794,000

Of the total 32,852,000 children we estimated as requiring care for all reasons, we

Footnotes at end of article.

estimated that 7,002,000 were under six years of age.

Our estimate, based on data available as of June 1974, listed the total licensed or approved capacity of child care arrangements at 774,021. In October 1974, a publication of the Senate Finance Committee [2] listed the total as 1,021,202—about 250,000 more. Assuming that all those 250,000 spaces were newly created, and that the quality of the facilities, regardless of auspices, was the same as existing licensed and approved facilities, at least 62.5 percent of the facilities were so inferior in quality that they need to be replaced.[3] In other words, 156,250 of those spaces are "unusable" for our definition and cannot be counted in capacity.

Updating our 1974 estimate in this way, we find that the entire capacity—licensed, approved, and *unlicensed*—is 4,270,284 at most. Of those current spaces, 3,334,344 are so low-quality that they cannot be used. This leaves us with about 945,940 spaces of a quality that is acceptable for use.

The need for child care, obviously, is immense—given an estimate of about one million usable child care spaces and nearly 33 million children that require care and supervision. Since most licensed spaces are designed for and utilized by preschool children, the greatest relative need is for school-age child care. Still, if every space somehow were fully utilized and given over to the care of the younger, more obviously vulnerable segment of the child population—those under age six—the need would still be for six million new spaces at once. Counting only those children under six whose parents cannot provide adequate care and supervision for them because they are in the work force, the need is still over five million.

A later source of data

About the time the Senate Finance Committee publication appeared, "Findings of the 1973 AFDC Study, Part III, Services to Families" [4] was released. Various studies have found that the child care practices of AFDC mothers do not significantly differ from that of the rest of the mothers in the work force. Once we looked more closely at the data, we decided that the stated arrangements and the large numbers of children for whom arrangements are "unknown" is also indicative of "need." We presume, for instance, that "arrangements unknown" is unreliable if not hazardous.

Here's the state of child care arrangements for AFDC children.[5]

Children under three

58,164 children, or 28.4%, are in "arrangements unknown."

2,334 children, or 1.1%, apparently are left in the home without care—"caretaker looks after child while away from home."

Were we to extrapolate these data to the entire population of 3,220,000 children under three with mothers in the work force, the picture would look like this.

914,480 children are in "arrangements unknown."

35,420 children are in "caretaker looks after child while away from home."

Children 3–5

71,485 children, or 29.7%, are in "arrangements unknown."

3,423 children, or 1.4%, are in "caretaker looks after child while away from home."

Extrapolated to the 2,126,000 children of working mothers in this same age group, here's how the percentages translate.

631,422 children are in "arrangements unknown."

29,764 children are in "caretaker looks after child while away from home."

"CHILD LOOKS AFTER SELF"

One of the more startling statistics is the incidence of publicly reported "self-care" by children aged 3–5: 1,043 children, or 0.4%, looked after themselves. Extrapolated, 8,504 children nationally could potentially be officially recognized as being in "self-care."

Given any evidence to the contrary, the facts would appear to be that 1½ million children under six are in "arrangements unknown." More frightening, more than 73,000 preschool children—35,420 of whom are under three—apparently have no child care other than what the mother can arrange while separated from the child. We grant that the mothers may be attempting to care for their child by telephone or while actually working on the job; we doubt that the care is acceptable to either the parents or the children. Such arrangements should certainly not be acceptable to public policy makers—they are not to the Child Welfare League.

Children 6–11

The statistics grow more troubling as the children of working mothers grow older. By the time they have reached the 6–11 stage, 36.1% are in "arrangements unknown," 2.2% are in "caretaker looks after child while away from home," and 9.6% look after themselves.

Extrapolating these statistics for the approximately 625,000 children of each age—about 3,750,000 children—we come up with these estimates:

More than one and one-third million are in "arrangements unknown."

About 82,500 children are in "caretaker looks after child while away from home."

About 375,000 children aged 6–11 care for themselves.

Children 12–14

The AFDC statistics stop with age 14. We believe they should not stop at this age, since many children, as evidenced in various juvenile delinquency and other statistics, require care and supervision until they are of legal age, 18. Nonetheless, the AFDC computations stop at this age, but by this age the child care arrangements have deteriorated to the point where more than two-thirds of the children are in no formal child care arrangement:

37.5% are in "arrangements unknown."

1.9% are in "caretaker looks after child while away from home."

4.1% are in "other."

25.9% of the children care for themselves.

Extrapolated to the estimated 1,875,000 children of working mothers of these ages, 469,000 children look after themselves.

Recapitulation

Approximately 852,000 children of working parents currently look after themselves. They are "latch-key" children.

Approximately 184,000 children of working parents currently are looked after by the caretaker while the caretaker is away from home. They either accompany the caretaker to work or in some other fashion are "looked after."

About one-fourth of all children of working parents—some four million children—are in "arrangement unknown."

Need on the State level—Connecticut and Stamford

According to data provided by Mrs. Ellis, here is the way "need" expresses itself in Connecticut, and particularly in Stamford.

In 1973, there were approximately 225,895 children ages 0–5 in Connecticut. (About 6,000 additional children are now in this category in 1975.) Of these 31,000 were AFDC recipients.

There are licensed spaces for about 18,800 children in the state. As of January 1, 1975, there were 825 licensed day care centers (including nursery schools, Head Start centers, and profit-making centers) with a capacity of about 13,300 children (excluding basis). There are currently about 2,000 family day care homes, accommodating about 5,500 children. New family day care homes are being licensed by the State Welfare Department at the rate of 100–200 per month.

nursery schools and Head Start programs serving preschool children on a part-day

Stamford has 46 centers, enrolling approximately 1,600 preschoolers.

Ten are publicly funded, by the State Department of Community Affairs.

Two are funded in part by United Way.

Five are Head Start centers.

Seventeen are nursery schools.

Eleven are profit-making centers.

One is an infant day care center.

Mrs. Ellis is responsible for the operation of eleven day care centers and five Head Start centers serving approximately 500 children aged three through five. The need for additional spaces is evident from the requests for service and waiting list of Mrs. Ellis's agency, the Stamford Day Nursery. Ten to twenty requests for day care service are received daily, mostly for three's and four's. The agency currently has a waiting list of 162. The need is even greater for five-year-old children. In Stamford, as in many communities, the two-and-one-half-hour kindergarten is inadequate to meet the needs of working or training mothers. A real hardship is created, particularly for the one-parent family. Sixty percent of the families are one-parent families. The Stamford Day Nursery kindergarten program can accommodate 50 five-year-olds. To date, there are 138 requests for this service for September 1975 enrollment.

Need in terms of appropriations

Working with somewhat modest "need" figures, the League estimates these immediate appropriations are required to serve those children most obviously at risk.

Eight hundred twenty-five thousand children in "latch-key" situations need care. About 10,000 are under six, and their care is estimated to cost $26 million ($2,600 x N).[6] The remaining 842,000 are of school age; their care is estimated to cost $1.094 billion ($1,300 x N). In sum, care needed by latch-key children will require $1.120 billion per year.

There are 184,000 children looked after by the caretaker while at work—at the work site or otherwise—who need care. Of these, 65,000 are preschool children, and their care is estimated to cost $169 million. The remaining 119,000 need before- and after-school and summer and vacation care, and their care is estimated to cost $154 million. In sum, care needed by children now on the work site or in other arrangements will require appropriations of $323 million.

If we add to these needs those of the remaining preschool children requiring care whose parents are in the work force, we would need care for 4,925,000 children (the 5 million estimate from page 4 of text minus the 75,000 accounted for above). Appropriations to fund care for those children would be $12.8 billion.[7]

New appropriations needed to provide decent child care for the segments of the child population most at risk is, therefore, $14.243 billion per year. Costs for purely custodial care, a self-defeating, damaging expenditure, would be about half that amount, or something on the order of $7 billion plus per year.

Having discussed the scope of the need, here are our suggestions regarding the particular legislative proposals put forth to begin meeting this need.

THE CHILD AND FAMILY SERVICES ACTS

The League's *Newsletter*, Vol. 4, No. 2, Summer-Fall 1974, contained a comparison of the Senate and House versions of the Child and Family Services Acts and is attached as an Appendix to this statement.[8] In general,

Footnotes at end of article.

we continue to find the Senate version preferable for reasons outlined in our article last year and as specified below. For that reason, please consider these suggestions as pertaining to the Senate version—it is S. 626 that we would prefer to see enacted, with substantial changes.

Title

We do not wish to quibble over labeling. We recognize the importance of stressing that day care and child development services benefit families as well as children. But they also "benefit" society, industry, etc. We also recognize that certain kinds of family services, especially those discussed in the bill, are especially complementary to child care services. So long as the bill's scope is limited to the clearly-linked child and family services and does not move into very important but peripheral areas (such as marriage counseling, substance abuse counseling, job counseling, etc.), we would be supportive. We do believe there is some potential for misunderstanding in the current title.

Authorization

We are distressed by the difficulty in obtaining authorizations for existing legislation and the even more difficult task of obtaining and spending appropriations. In particular, the example of funding for Title IV–B of the Social Security Act comes to mind.

Therefore, we would suggest that authorizations for this bill be set either at a level at least twice as high as that required or that an open-ended appropriation be voted.

Specifically, we would favor first-year authorization of at least $1 billion, with expansion at the rate of at least $1 billion per year until the children with the greatest needs are served.

We recognize, of course, that the level of real spending (not imputed value) we estimated earlier—in the $14 billion area—would be at least a decade away. Still, we believe it is important to authorize and appropriate realistically and humanely.

Since the Head Start program has been extended in other legislation, we would suggest that the tie-in of Head Start funding in the authorization section be eliminated. We favor Head Start and all the other quality children's services programs but would not want any failure to fund for one of these programs to endanger funding for this program.

We are extremely hesitant to recommend spending for training, planning, and technical assistance only—even for the first year. What is so desperately needed is immediate new operating funds. At the same time, proportionate and appropriate expenditures for training, planning, and technical assistance should be expended—but as new operating funds flow, not in lieu of direct spending for services to children. We agree with Mrs. Ellis when she says: "I would like some safeguards to assure that less money is spent at the top and more in actual services to the people."

The Office of Child and Family Services

The League is increasingly troubled by the lack of a focused effort at the Federal level which is both a watchdog and an advocate for children. We question whether the new Office of Child Family Services can perform these functions, and at the same time administer large programs, any more effectively than the well-meaning current agencies, Social and Rehabilitation Service (SRS) and the Office of Child Development (OCD).

We have worked for many years to arrive at a sensible solution to the administrative tangle. This culminated within the League in 1971 with the publication of *A National Program for Comprehensive Child Welfare Services*. Our 1971 position recommended that "a unit should be designated in the federal government in which responsibility is centralized for the surveillance and advocacy of children's rights and for the social services designed to implement those rights." [9]

Unfortunately, a glaring example exists of failure to watchdog day care quality and to advocate decent (if expensive) day care. The evidence suggests that neither SRS nor OCD can fit our 1971 description.

The nation now knows what many parents and public officials have known for a long time now that the HEW audit of Federally funded day care in nine states has been made public. Child-staff ratios were not met. Health and safety requirements were not met. The cause, which might well have been predictable, was that neither Federal agency could bring surveillance and advocacy to bear against practices that were in the short-term financial and policy interests of the government. Shoddy day care is cheaper and easier to set up. Day care that meets *requirements* is more expensive. When it is imperative to hold down costs and at the same time keep spaces open in order to encourage welfare recipients to take jobs or training, surveillance and advocacy suffer.

The failure to close down poor day care is similar to the failure to close down poor nursing homes for the aged. As the HEW failed to close down programs because they didn't want to lose the day care "slots."

This failure of surveillance and advocacy at the Federal level has also been mirrored by a failure to help make social services work. In the May 1974 issue of *Child Welfare*, Winford Oliphant wrote about the sad, disorganized state of children's services in the states.[10] From the other angle, viewing "disorganization of public child welfare services in the states," he suggsted that "what the states need is the kind of leadership formerly provided by the U.S. Children's Bureau." [11]

Faced, therefore, with the recommendation in this new legislation for creation of a Federal agency which appears destined to repeat the failures of SRS and OCD (at least in respect to surveillance, advocacy, and technical assistance of the Children's Bureau sort), we must hesitate.

We grant the need for an administrative home for this new, hopefully massive program. However, we cannot abandon what we think is another administrative necessity—the creation (or re-creation) of an agency that can do the three jobs we feel are so vital and that must be done if this new money is not to go down the same kinds of ratholes as HEW discovered past money has gone.

We applaud such reorganization as will achieve these twin, complementary goals: 1) setting up an agency to operate large programs offering comprehensive services to children; 2) setting up another agency which has a rather different mission than seeing that the "slots" stay open or that the costs stay down.

For now, we leave it to the inventiveness of the Congress to accomplish both goals.

Earmarked funds

We have no objection to the allocation of funds in the bill's Section 103. We enthusiastically endorse the 5% set-aside for monitoring and enforcement of standards. This is precisely the kind of surveillance we discussed above. It represents the most genuine commitment to quality we can imagine. At the same time, it offers part of the financial base for the kind of separate agency we discussed.

We have always endorsed a priority for the economically disadvantaged, but we query the seemingly overweighted allocation on the basis of economically disadvantaged status. As we noted in our discussion of needs, the need is to serve more than the children of the poor. The working poor, the so-called middle class, and children with handicapping emotional and physical conditions require these services too.

Prime sponsors

The League's "Child Care Principles," which is attached as an Appendix to this statement, has long called for "a flexibility of administration to permit adaptation of programs to meet local needs." That position was reaffirmed at the most recent meeting of our Board of Directors. The Board of Directors said that ". . . there should be no presumed prime sponsor, and that the prime sponsor best able to provide quality services should be chosen." [12] This means the League cannot endorse legislation which writes in any presumed prime sponsor.

Mrs. Ellis, from her vantage point as an operator, says essentially the same thing:

"With reference to prime sponsors, we feel that the definitions of prime sponsor should not be limited to state or municipal governments. In many cases, a municipality or a board of education should not become involved in child care. Prime sponsorship should be varied and open to municipalities, private non-profit agencies, boards of education, departments of health or welfare and others as the area and community may dictate. I do feel the necessity for strict requirements of program sponsors, but specific restrictions as to who may serve as sponsors may prevent funds from reaching geographical areas and people where the need is greatest."

Child and Family Service Councils

One of the League's principles is that "there should be provision for parental involvement in all child care programs." [13] Our Stamford agency says it like this:

"Quality day care which includes parents as partners and a professional staff is expensive. But we believe that American children deserve this financial expenditure. Stamford enjoys active and viable parent involvement. Our work with parents is an enriching experience. We work closely with parents as team members, to assure that parents are actually involved in policy decisions which affect their children and to see that parent gains are carried forth into the larger community, beyond the day care experience. We advocate programs that educate, respect and involve parents."

Try as we may with parental involvement, however, there are problems that we believe you should examine prior to mandating what may be parental involvement that isn't what they want or have the time, energy, or money for.

First, a finding from a recent Illinois survey on the amount of time parents spent in their child's day care center (including bringing the child in and taking the child home): [14]

44% spent less than 15 minutes a week (1½ minutes, morning & evening);
25% spent 15 to 30 minutes;
11% spent 30 to 45 minutes;
11% spent 45 to 60 minutes;
5% spent 1 to 2 hours;
3% spent more than 2 hours.

Findings from a survey of parents in San Francisco also help provide some guidance as to what sorts of parental involvement they may wish.[15]

First, about 30% of parents didn't visit the program before they enrolled their child.

Second, only about 34% of parents enrolled their child in a particular center because it had a good program—the more pressing reasons, in sum, were convenience, no choice, and cost.

Third, the problems that keep parents from being involved are other demands at home, no additional time, physical exhaustion, and lack of transportation.

Finally, here's what parents say they want for "involvement:"

34.9%—spend time with children;
19.8%—planning program;

Footnotes at end of article.

14.0%—obtaining instruction or information;
14.0%—spending time with staff;
9.3%—helping care for children;
5.8%—spending time with parents;
2.3%—deciding on budget.

We think, therefore, that the Congress ought to carefully consider ways to build in the kinds of involvement parents say they want. Perhaps program requirements ought to include provision for and funds for time for parental involvement in the child's program, etc.

The precise politics of "control" and "representation" may be less important to parents than they are to those that design or implement programs designed to meet the needs of parents and children.

Child and family service plans

We repeat our concern that the set-aside for economically disadvantaged may be excessive. There is an increasing number of single parents noted by our agencies and others. It can be claimed that the single parent without child care who must work or take training may have a greater need than the economically disadvantaged two-parent family, especially if one of those parents is in the home and able and willing to provide care and supervision for the child or children.

The whole question of priorities is fraught with problems, in that it reinforces our insistence on the availability of such quality services as all children may require, regardless of economic status. As George Hoshino, writing in the Summer 1974 *Public Welfare*, suggests. ". . . if social services were social utilities, we could get away from the need to individually select users of services. . . ." Hoshino says service workers and professionals could then avoid the dilemma they now face: the essence of fairness and justice is procedural regularity but the essence of professionalism is the capacity to exercise judgment without undue limits imposed by procedural constraints.[16]

We especially favor the specific wording of the fee schedule language in Sec. 106, and the provision for monitoring and evaluation in that Section.

Project applications

The League's Board of Directors, after careful and lengthy consideration, took the following position regarding funding for any for-profit operations through such legislation as is proposed here at its last meeting: ". . . enough is known about the poor performance of most for-profit children's services to recommend that no public money be provided to for-profit organizations through child and family services legislation."[17]

We should point out that this position was arrived at only after careful examination not only of evidence gathered by researchers outside the League, such as the National Council of Jewish Women's national survey, Windows on Day Care, an intensive study of profit-making operations in New England,[18] but also individual research and investigations by a variety of persons.

In addition, the League carried out an extensive Study of the Expansion of Day Care in the U.S. which was aimed at evaluating the role to be played by the for-profit operations. The results of that Study, funded by the League and five foundations over more than a three-year period, in the form of selected publications reflecting our findings, are attached as Appendices.

In brief, we found the same patterns of low-quality, questionable care that have emerged in nearly every instance where for-profit interests have gone into the human services area. Whether in blood banking, methadone maintenance clinics, nursing homes for the aged, hospitals, correspondence schools, child care institutions or group homes, or day care, it has been the same.

We commend the Appendices to you. Perhaps at a subsequent hearing you would want us to discuss at greater length our findings and recommendations. For now, we can only repeat our Board's position: no public money should be provided to for-profit organizations through child and family services legislation.

Our comments on parental involvement, fees, and the like are noted above.

Federal share

We would like to see Federal funding remain at 90%. As in the President's Budget, we have noted an increasing tendency to shift the spending from the Federal level. We believe that the Federal share should increase.

Federal standards for child care

We believe that the Federal standards should be uniform for every program receiving Federal funds, whether through tax deductions, income disregard, or vendor payments. The 1968 Requirements should govern, with additional language to assure that in-home care meets appropriate standards, such as those of the Child Welfare League or the National Council of Homemaker-Home Health Aide Services. In addition, specific requirements for the group care of children under three should be stipulated by the Congress in the legislation.

Staff-child ratios for infant care

The League is well aware of the controversy surrounding the matter of infant day care. We vigorously support any infant day care that not only helps infants but does them no harm. In taking this position, we are aware that there are many well-intentioned people who disagree with us. We are pleased, however, that the Congress has repeatedly recognized the need for infant care to be of high quality. Despite the unfortunate provisions in this regard contained in the recently enacted Social Services legislation, the new Title XX of the Social Security Act, we believe that the outstanding leadership on behalf of decent day care standards will eventually carry the day for children.

We recall the outstanding bipartisan leadership in the Senate in 1972 which resulted in the passage of a child development bill with a decent child-staff ratio for children under two mandated. We must commend, among others, Sen. Walter F. Mondale of Minnesota for his leadership on that occasion.

More recently, despite substantial problems in wording caused by the legislative gremlins which led to national confusion, the House passed legislation which required decent child-staff ratios for infant care.

On both occasions, the League research and experience was utilized to support high-quality care. Today, we once again call for the following ratios and group size requirements to be written into law:

On page 42 (House print), line 10, after the date "1968," insert the following:

"Provided, however, that in the case of group care facilities, the ratio of caregivers to children under two shall not be more than one to two, such care to be provided for in groups of not more than four."

That is the language which passed the Senate on June 20, 1972. Subsequently, because there was no specific language pertaining to group care of children ages 24 months through 35 months, the League decided after substantial investigation into research and other data to stipulate requirements for children 24 through 35 months of age. The Board of Directors voted to recommend in regard to this legislation and the 1968 *Federal Interagency Day Care Requirements* that the ratio of caregivers to children two but under three shall not be more than two to five, such care to be provided for in groups of not more than five.

Consistent with that position, we ask that the new language proposed above be supplemented by adding the following phrase: "groups of not more than four, *and that the ratio of caregivers to children age two but under three shall not be more than two to five, such care to be provided for in groups of not more than five.*"

We purposefully do not attempt to derive fractional ratios; a ratio of one adult to every 2½ children in this age range could be widely misinterpreted.

The rationale for the ratios in group care of infants

The one person best equipped to discuss the rationale for our position, at least from the professional, research viewpoint is Sally Provence, M.D., Professor of Pediatrics and Director of the Child Development Unit, Yale Child Study Center, New Haven, Connecticut. Dr. Provence planned to present her statement with us, but scheduling conflicts made it impossible for her to be with us today. She asked me to present her testimony for her, along with a number of extremely important Appendices, and to express her regrets to the Committee. Her testimony follows.

"The testimony to follow is based upon clinical and research experience in regard to the development of young children over a period of many years. Most immediately relevant to the present testimony is the last period of seven years during which I have been responsible with help from colleagues for conducting early intervention programs, including a day care program for children from the early months of life through age five years. My involvement has been not as an occasional visitor but as a planner, observer, and evaluator of the programs and as the person responsible for solving problems that came up in the daily work with children, parents, and staff.

I heartily subscribe to the Child Welfare League's position in regard to the ratio of adults to children. Infants not yet walking are dependent upon adults to provide what they need. First of all they require care from persons who not only know what is important or necessary for their well-being but also can respond appropriately to the signals from the infants about their discomforts and immediate needs. In the beginning many of the emotional and social needs of babies are taken care of along with their being fed, bathed, dressed, changed, lifted, and put to sleep. As they grow during the first year, while these bodily needs are still central to their well-being, they are ready for and benefit from a larger number and variety of experiences as long as these experiences are anchored in a solid relationship with the maternal figure. If a large part of this experience as well as the physical care and protection of the infant is provided outside the home in family or center day care by persons other than the child's own parents, it is incumbent upon the system to insure that the care is adequate and beneficial, not harmful.

It is difficult enough for one caregiver to respond to the developmental and bodily needs of two infants who, indeed may need to be fed or changed or made comfortable or talked to or provided a play time at the same time. To have the responsibility for more than two places an impossible burden on the caregiver and guarantees that some child is going to be shortchanged. When this goes on day after day, a situation of chronic stress occurs in which even the sturdiest of infants is regularly taxed beyond his limited capacities for coping with stress, and his development is interfered with in one way or another.

As infants enter the second year and become toddlers, what they need from adults differs in some respects from their needs in the first year, but adult presence and involvement are not less vital. The toddler's

Footnote at end of article.

increased activity and striving for independence and competence, his necessity to achieve control over his sphincters, to gradually modify his egocentricity and to begin the long task of controlling and channeling his impulses, require adult support and guidance. Similarly, his personal and social relationships as well as his curiosity and eagerness to learn about and deal with the world cannot be accomplished without substantial help from understanding adults. One adult, no matter how talented and durable, cannot provide those important ingredients for more than a few minutes' time with three or four or five or more such young children.

Feelings are intense, needs are immediate, capacities for hurting oneself or others are expanding. In such a situation it is not only that support for good development is not adequate. More than that, the nursery becomes a confusing and frightening jungle. Such a scene is a disservice to young children, to their parents and ultimately to their community, for not only does such a situation interfere with the child's realization of the individual and unique potentials with which he was born. His participation as a well-functioning member of a family and of a larger society is markedly hampered by such experiences. The second and third years of a child's life, while delightful, rewarding and expansive in many respects, are tempestuous and stressful even under good conditions. If he is ill cared for, if his environment is not geared to his most important developmental needs, at the very least he will be unable to realize his potential and at worst he will be programmed for failure either in his cognitive or in his emotional life and/or in his social adaptation.

In our present society when stresses upon families are greater than ever before, and the supports provided by extended families, neighborhoods and social groups are fragmented and unsustained, the tasks of rearing children well are indeed enormous. The widespread need for parents to be assisted with tasks of childrearing is a fact, not a theory. Nowhere is that need more crucial and urgent and long-term implications more relevant for the society than during the early years of the child's life and during the early phases of the development of parenthood. Families and young children at unusual risk (e.g., one-parent families, poor families, families with one or both parents mentally disturbed or physically handicapped, children with biological vulnerabilities) are traditionally and unquestionably in need of services and supports. However, the important services for young children and young families are by no means limited to the high-risk groups. Many families in which both parents are self-supporting, well-functioning individuals and whose children are healthy also need not only sound advice for childrearing but tangible services as well. While the needs of the children of well-functioning families may be a long-range rather than immediate goal, the need exists and will one day have to be acknowledged and planned for. Varied and individualized services delivered directly for infants and young children and both tangible and psychological supports for parents in the multiple and important tasks of parenthood are essential.

The attached documents contain material relevant to the care and nurturance of the very young. They are not written from the point of view of what the country is ready to afford economically nor what might be realizable social policy at the present time. They also are not written, however, from what might be theoretically ideal in order to optimize the child's development. They speak to the rationale, principles and problems involved in creating substitute care programs for the very young and their parents, bearing in mind that the intent not only is to help but to do no harm. For us as individuals and for our government to fail to act in accordance with our best current knowledge about what improves the development of children and the quality of their lives is a copout that can only damage them further. Equally serious is to set up, institutionalize, and ossify programs for children which, again according to the best current knowledge, are likely to be harmful. If necessity forces us to start programs we know to be far from adequate for children, this is excusable and tolerable only if tied to that beginning is a plan for continuous monitoring and improvement that moves us toward experience, program, and situations for the very young which do indeed support their development.

Peter Neubauer's paper on Issues in Early Day Care is a succinct summary of the major reasons why many of us in the field are concerned about inadequate care. Audrey Naylor's *Position Paper on Day Care* (not yet published) is a chapter from a forthcoming book on day care which reports on our work at Yale. I heartily support the statements and position she presents. Two of my own papers include details and recommendations derived from years of work. All four items are attached as Appendices to this statement."

Operators' views of day care standards

Our agencies also have a very clear idea of what they want in terms of quality. As Mrs. Ellis says:

"We in Stamford are concerned with the maintenance of a high-quality educational component within the day care environs which challenges and stimulates the young mind. The idea of a 'mind-numbing' custodial program is abhorrent to us. As a result, we have striven to retain a teacher-child ratio of 1–7 for four's and five's and a ratio of 1–5 for three's in order to promote a closer relationship between teacher and child, vitally essential in a caring environment. Less than this number of qualified staff in our opinion cannot provide even good custodial care. With today's active youngsters, who are all over in a flash, there must be enough staff to assure the safety and well-being of every child at all times. It is well to note that today's preschoolers function under excessive pressures, which in some cases prove to be beyond their coping ability. Thus, we have early intervention. Quality day care which includes parents as partners and a professional staff is expensive. But we believe that American children deserve this financial expenditure. Stamford enjoys active and viable parent involvement. Our work with parents is an enriching experience.

"Feedback from public and private schools indicates that the children who have had day care or Head Start experiences progress rapidly in academic, social, and communication skills. They have an enthusiasm for learning. We note mounting requests for infant day care services and after-school programs.

"One of the real needs in the field is for people who are capable administrators. The profession needs persons who understand fiscal management; who have the mental ability, experience, and emotional stamina to work with committees, within the governmental framework of their particular program; to work closely with parents as team members, to assure that parents are actually involved in policy decisions which affect their children, and to see that parent gains are carried forth into the larger community, beyond the day care experience. They must be able to work with staff so as to assure that they are responsibly carrying out written and unwritten job assignments, to assure that staff is responsive to individual as well as group needs. As they plan and implement exciting preschool programs which include a potpourri of day-to-day activities, staff must gain and maintain community respect and support."

We question stipulating at this time, another extensive and expensive process of writing Federal Standards, given the experience with the OCD project that culminated in the publication of *Guides for Day Care Licensing*. A more usable and sounder guide to day care licensing was developed with no public funding of any kind under the auspices of the Day Care Alliance of the National Council of Organizations for Children and Youth. That product, inserted in the *Congressional Record* for May 6, 1974, by Sen. Walter F. Mondale, is attached as an Appendix to this statement.

We vigorously applaud the requirement that Congressional committees have approval power for any new Standards which would replace the 1968 *Requirements*.

Uniform code for facilities

We believe this to be a difficult project at best, given the confusing welter of local land use, zoning, and building codes. We recommend that a closer look be given to this Section before enacting it.

Program monitoring and enforcement

As noted above, we find this to be one of the finest features of this bill.

Criteria for fee schedule

As noted above, we heartily approve of this provision.

Title III

We prefer the Senate version, because we believe mortgage insurance would largely benefit for-profit operators. We caution against experimentation with vouchers under either version of Title III. We also remind the Congress that despite large research expenditures our opening paragraphs dealt with the lack of basic data regarding child care arrangements.

Title IV

The League views the House language, with its specific mention of the Child Development Associate approach, with concern. HEW plan for the program have been monitored from the outset by the League. Still we—along with major national groups from the fields of education, home economics, and child psychiatry—remain unconvinced of the worth of the approach.

Our enthusiasm for training, technical assistance, and planning expenditures is somewhat limited. As our member agency executive remarked above, we want "to assure that less money is spent at the top and more in actual services to the people." We believe that generally research utilization has not been adequate and that better use of what we already know with minimal new expenditures will have better results.

Definitions

We would prefer to see "child" defined in such a way as to assure that there can be no break in services. Some persons under 18 require services from 15 through 17, particularly those with emotional and physical disabilities.

Additional clarifying definitions should include a definition for "non-profit" and "family day care home" which does not inappropriately limit participation.

Conclusion

We would like to close by voicing our hope that our sincere concerns for decent child care programs will assist you in arriving at your final legislative decisions. You will affect the lives of millions of young children and their parents. The need for additional child and family services—especially group, family, home-based, infant, and school-age day care—is well-documented. Large numbers of mothers *are* in the labor force or training to enter the work force. We also need to work for programs that do not limit human services based on family economics—need for these services knows no financial boundaries. People of varying ethnic, socioeconomic and religious groups must live,

work and play together. Business and industry also gain in productivity and performance when parents are content with their child care arrangements.

It is our hope that a new kind of accounting—based on needs and human priorities—will begin to come forth. All of us need to remember that communities will survive healthily only if people, especially our youngest people, survive and develop healthily.

In calling these hearings and continuing the fight for the kind of comprehensive child and family services so many millions need, we know that you realize that survival is the issue. We commend your continuing efforts on behalf of decent legislation and pledge our support for your work.

We thank you for inviting us to present our Statement and to continue, with you, the task of forging legislative remedies to meet the needs of all the Nation's children and families.

APPENDICES*

Appendix I—"Child Care Arrangements in the United States in 1974": a "Guess-timate," by William L. Pierce.

Appendix II—"Child and Family Services Act—1974," by William L. Pierce.

Appendix III—"Child Care Principles" (of the Child Welfare League of American, Inc.).

Appendix IV—"Power, Profits, and the Preschool 'Market,'" by William L. Pierce.

Appendix V—"Day Care Services: A 'No-Quality' Future?", by William L. Pierce.

Appendix VI—The League's Study of the Expansion of Day Care in the United States: Summary of the Final Report, by William L. Pierce.

Appendix VII—"Early Intervention: Experience in a Service-Centered Research Program," by Sally Provence, M.D.

Appendix VIII—"A Program of Group Day Care for Young Children," by Sally Provence, M.D.

Appendix IX—"Issues in Early Day Care," by Peter B. Neubauer.

Appendix X—"A Position Paper on Day Care," by Audrey K. Naylor, M.S.W.

Appendix XI—"Model State Day Care Facility Licensing Act," Sen. Walter F. Mondale."

FOOTNOTES

*Because of the length of the Appendices, copies have not been attached to each copy of the League's Statement. One copy of each Appendix has been provided to the Committee staff. Persons wishing to obtain Appendices should contact the League.

[1] *Child Care Arrangements in the United States in 1974: A "Guess-timate,"* William L. Pierce. (Child Welfare League of America, New York, N.Y.: June 17, 1974, 8 pp.)

[2] We assume that the same "replacement factor" will hold for these arrangements as we did in our 1974 estimate, *op. cit.*, p. 7.

[3] See *Child Care Data and Materials*, a Committee print prepared by the staff for the use of the Committee on Finance, dated October 1974. It is a compendium of statistics on child care, reports of child care studies, relevant statutory language, and regulations on child care.

[4] DHEW Pub. No. (SRS) 75-03766, NCSS Report AFDC-3(73), October 1974.

[5] All base data are from the 1973 AFDC study, especially pp. 23-31.

[6] We "conservatively" estimate the 1975 cost to be $2,600 per year for full-day (10-12 hours), full-year (250 days) care for preschool children. The cost for before- and after-school care and care during holidays and vacations of children six and older we estimate at $1,300 per year.

[7] It is beyond the scope of this statement to fully explicate our position on the problem of recognizing the imputed value of child care provided by parents in the home and the implications that we believe this has for public policy makers. Various studies have placed the value of housewives' services in the U.S. at 21% of the gross national product (GNP) and volunteer services at 2% of the GNP.

This "current, uncomputed" cost of child care needs to be kept in mind when viewing the funding requests in our estimate. We are essentially converting uncompensated but real work into compensated work in our society, and it is vitally important that all policy makers remember that one of the real costs of earning income and of putting persons into the work force are child care expenditures.

Useful material on this subject is available, and one of the better sources is the 1970 *Report of the Royal Commission on the Status of Women in Canada*. We would hope that these issues could be examined by the tax-writing committees in some detail.

[8] "Child and Family Services Act—1974," William L. Pierce, p. 3.

[9] *A National Program . . .*, p. 28.

[10] "Observations on Administration of Social Services in the States," *Child Welfare*, May, 1974, by Winford Oliphant.

[11] *Op. cit.*, pp. 284 and 285.

[12] Minutes of the Dec. 5, 1974, meeting of the Board of Directors of the Child Welfare League of America, Inc., in New York City.

[13] "Child Care Principles," Appendix III, item (5).

[14] *Day Care Licensing and Regulation: A Program Evaluation*, Ill. Economic & Fiscal Commission. (Springfield, Ill.; October 1974.) Appendix I-1, p. 12.

[15] *Parents and Child Care*, by Stevanne Auerbach Fink, Ph.D. (San Francisco: 1974.) Pages 41 and 43 provided the data but this book contains a good deal of other useful material about parental attitudes.

[16] "The Pursuit of Justice in the Social Service State," Hoshino. See especially pages 65 and 66.

[17] Minutes of Dec. 5, 1974, CWLA Board of Directors meeting.

[18] *Corporations and Child Care: Profit-Making Day Care, Workplace Day Care, and a Look at the Alternatives*, published by the Women's Research Action Project, Box 119, Porter Square Station, Cambridge, MA 02140. This 74-page publication found that profit-making centers provided mediocre care for children, charged high prices to parents, and paid low wages to staff. It may be obtained by contacting the address above or by writing the Child Welfare League.

STATEMENT OF THE COUNCIL FOR EXCEPTIONAL CHILDREN, UNITED CEREBRAL PALSY ASSOCIATION, INC., AMERICAN SPEECH AND HEARING ASSOCIATION, NATIONAL ASSOCIATION OF COORDINATORS OF STATE PROGRAMS FOR THE MENTALLY RETARDED, AND NATIONAL ASSOCIATION FOR RETARDED CITIZENS

Mr. Chairman and Members of the Subcommittees: I am Fred Weintraub, Assistant Executive Director of The Council for Exceptional Children. I am here, along with Mr. Harold Benson, Director of Governmental Affairs of the United Cerebral Palsy Association, Mr. Richard Dowling, Director of Governmental Affairs of the American Speech and Hearing Association, Mr. Robert Gettings, Executive Director of the National Association of Coordinators of State Programs for the Mentally Retarded, and Mr. Paul Marchand, Director of Governmental Affairs of the National Association for Retarded Citizens, to present the joint views of our respective organizations on H.R. 2966, The Child and Family Services Act.

On February 26, 1970, The Council for Exceptional Children brought the House Subcommittee its basic endorsement of increased federal assistance to stimulate and support comprehensive daycare, health and educational services for young children. It is saddening that five years later we find ourselves again before the Congress seeking the same opportunities for children.

While we understand the broad implications of H.R. 2966 for all children we will focus our remarks on its implications to handicapped children.

Persons concerned about handicapped children have long agreed as to the importance of early developmental programs for such children. In 1967 the United Cerebral Palsy Association, Inc. noted:

"School entrance is not the beginning of a child's learning experience, nor is 'readiness' only a formal training program to be initiated around the time of school entrance. Development must be considered as a continuous process throughout life. From the cradle on, children will be 'ready' for experiences on an individual basis. The child with cerebral palsy is essentially like other children. However, the limitations imposed on him by his disabilities may deprive, or at least impoverish the learning experience inherent in the environmental explorations of children without such disabilities. For some children, such deprivations may result in a permanent barrier to learning which then becomes a secondary disability."

At the Fifth Congress of the World Federation of the Deaf in 1967 in Warsaw, Poland, Grace Margaret Harris, Supervisor of Preschool Services for the Deaf, Society for Crippled Children and Adults in Winnipeg, Canada stated:

"Today the guidance of hearing-impaired children begins, on a much broader scale than ever before, in infancy and the early preschool years. For children with sensory-neural or 'nerve' deafness, the only avenue to integration into the hearing world so far is through skilled guidance in the home and in the more structured environments of the preschool clinic and nursery school."

At the 1966 meeting of the American Association of Instructors of the Blind, Lawrence E. Blaha of California State College at Los Angeles pointed out that:

"Current practice in education implies that both sighted persons and blind persons have common basic needs and developmental tasks to be satisfied. The difference between the blind and the sighted, however, lies in the manner in which each relates to and gains information about his surrounding and thereby orients himself.

"The more meaningful the basic orientation to the environment, in terms of training, variety and quality of experience, the better will be the total development of the individual and his command of his environment."

In a study by Robert Chamberlin and Phillip Nader, published in the American Journal of Orthopsychiatry, the disfunctions of nursery school children were found to be "significantly related to later school function" and clearly, "early intervention appeared warranted" to prevent those disfunctions from irreversible development.

What the evidence clearly shows is that with appropriate early intervention some handicapping conditions are reversible some handicapping conditions are susceptible to a high degree of amelioration and in some instances the multiplying consequences of a disability can be sharply curtailed.

As the recent HEW-funded study by the Rand Corporation entitled, "Services for Handicapped Youth: A Program Overview," observes: "for handicapped children, age 6 is past the optimal time to start the child" in programs designed to reverse the disability.

It is conservatively estimated that there are one million handicapped children of preschool age. Approximately 350,000 are receiving some form of early childhood developmental services from either public and/or private sources. This leaves approximately 65% of the preschool handicapped children without needed services.

Over the past decade government at all levels has been increasingly attending to this

issue. At the federal level The Handicapped Children's Early Education Assistance Act (EHA, Part C) has funded over 100 model programs in every state in the nation. This year the program will provide direct services to 7,000 children, screening services to 15,000 children, and counseling to 14,000 parents. An additional 30,000 children will be served in programs set up to replicate these centers.

Through what might be characterized as the parent of the legislation before us, Headstart, approximately 38,000 handicapped children will receive some special services. It should be noted that this opportunity came about because of the 10% enrollment setaside provided by your parent Committees.

We have cited these two major programs because of their positive impact and because they represent the commitment your Committees have already expressed relative to early intervention for handicapped children.

We are also pleased that there has been significant change in the posture of the states since we last testified. Forty-five of the states have now provided some form of legal commitment to extend education services to preschool age handicapped children. Five legal mechanisms are used (with some states using more than one mechanism):

1. All exceptional children are eligible for services in the following states:

From birth—Idaho, Maryland, Mississippi, New Hampshire, North Carolina, Vermont

From 3 years of age—Alaska, Illinois, Louisiana, Massachusetts, Texas, Wisconsin

From 4 years of age—Tennessee

Under 5 years of age—Arizona

Under 6 years of age—Montana

2. Preschool education must be provided to handicapped children if it is provided to other children in the public schools—Pennsylvania.

3. Preschool programs *may* be provided strictly as a local option with no state aid to children below age 5—Utah.

4. Preschool programs may be provided for all handicapped children beginning:

At age 3—Florida, Georgia, West Virginia, Rhode Island, Indiana, New York

At age 3 for specified disabilities—Colorado (physically handicaped), Nevada (physically handicapped, mentally retarded), Ohio (deaf, blind), California (physically handicapped, mentally retarded), Connecticut (hearing handicapped)

At age 4—Tennessee, Connecticut (except hearing handicapped), Delaware (except hearing handicapped), Oklahoma

At age 4 for specific disabilities—Minnesota (deaf, blind, physically handicapped, speech defective), Nevada (academically talented), North Dakota (deaf), South Carolina (hearing impaired)

At age 2—Oklahoma (hearing handicapped, visually handicapped), Virginia

At birth—Vermont, Virginia, Washington, Wisconsin, South Dakota, Nebraska, New Jersey, Idaho, Iowa, North Carolina, Oregon (except educable mentally retarded), Mississippi, Michigan, Kentucky, Maryland.

At birth for specific disabilities—Nevada (aurally handicapped), Delaware (deaf or hard of hearing), Florida (deaf, blind, severely physically handicapped, trainable mentally retarded), Indiana (deaf, beginning at 6 months), Nebraska (multihandicapped), New York (deaf), Maine (speech impaired)

Under age 5—Colorado, Hawaii, Kansas, Missouri, Nevada (for aurally and visually handicapped), New Jersey, Pennsylvania, Washington.

5. The remaining 5 states have no provision for preschool education for handicapped children: Alabama, Arkansas, District of Columbia, New Mexico, and Wyoming.

It is our belief that first, there exists a body of research and other professional literature to support the critical importance of early childhood educational services to the handicapped child, his family, and his community; and second, all levels of government have taken some steps to develop programs in this area, however, such programs are sparse and often overlook many children in dire need.

Therefore, the basic concept of the Child and Family Services Act is the next logical step for the federal government to take to assure that all children, particularly handicapped children, equitably receive the services they so desperately need.

SPECIFIC COMMENTS ON THE LEGISLATION

There are particular features of H.R. 2966 which we would cite for special commendation as absolutely vital provisions for handicapped children and their parents. These features appear in Title I, Section 102 and Section 103, where the potential and required uses of federal funds are laid out.

PREVENTION

Provision is made for programs of prenatal and other medical care to expectant and post-partum mothers to reduce both infant and maternal mortality as well as the incidence of mental retardation and other handicapping conditions. Such authority is aimed squarely at the eventual reduction of the overall incidence of handicapping conditions in the American population and we most heartily endorse, as we have so often in the past, such preventive authority.

EARLY DIAGNOSIS

As already cited in our testimony, identification of a handicapping or potentially handcapping condition in a child at the earliest possible moment in that child's life can make a critical difference in the potentials for outright alleviation or the highest possible level of amelioration. We are, therefore, most enthusiastic with respect to the programmatic prescription of diagnosis, identification, and treatment of visual, speech, medical, dental, nutritional, and other physical, mental, psychological, and emotional barriers to "full participation in child service programs."

EARLY AMELIORATION

Correspondingly, we are pleased that *special* emphasis has been given to the creation of effective programs toward the earliest possible amelioration of handicapping or potentially handicapping conditions once they have been identified. Through such provision, the Congress will insure maintenance and, hopefully, most considerable expansion of that thrust already well underway on behalf of *handicapped preschoolers* in the existing Headstart program.

PARENT INVOLVEMENT

What might be characterized as nothing short of *total* parent involvement is a major theme of the legislation before us, and specific provisions to achieve that objective are laced throughout the bill. From our standpoint, particular acknowledgement must be given to those mandates of Subsection (c) of Section 102 of Title I which:

(a) order regular dissemination of information with respect to program activities to parents;

(b) order regular consultation with parents relative to all aspects of the child's development;

(c) order regular observation and participation by parents in their children's activity within particular programs.

Parent involvement in every conceivable aspect of their child's development is of course most desirable for all children; total parent involvement with handicapped children is absolutely *crucial*. It can be safely asserted that without appropriate joint development of the handicapped child and his or her parents with all service delivery systems, the handicapped child can produce a significantly handicapped family.

Parenthetically, one of the gratifying by-products of the development of early childhood programs nationwide has been the *early* introduction of the parents of handicapped children to the universe of needs, rights, and potentials of their offspring, which enhances the prospects that they will be truly sophisticated advocates in the fullest sense in responding to that "world beyond the home" when their children embark upon the traditional educational program.

TEN PERCENT SETASIDE

In prior testimony before the Congress with respect to an earlier version of this legislation, we strongly urged that a certain portion of funds under the Act be clearly earmarked for handicapped children. We were impelled to that proposal for at least two reasons:

(a) For handicapped children—the deaf, blind, retarded, disturbed, or physically handicapped—early development opportunities are not simply a support, such opportunities may be the critical determinant as to whether they will be able to compete in the mainstream of education.

(b) As both Subcommittees well know, handicapped children traditionally are too often excluded if earmarks do not exist. That is why earmarks are not new (ESEA Titles I and III, Vocational Education Act, Headstart).

We congratulate both Subcommittees for their commitment to a ten percent setaside for special activities relating to handicapped children, such funds presumably to be utilized at the discretion of the Secretary of HEW.

We would like, at this point, to strongly urge that these setaside funds be more precisely targeted to meet the overall objective of the earmark itself. We urge that these funds be targeted for use against the genuine, legitimate excess costs in providing development services within regular projects provided for under this Act, i.e. costs incurred in providing services beyond and in addition to those costs for providing minimal standards of service for all children served under the aegis of this Act, handicapped and nonhandicapped.

Such an excess cost target will assist in achieving two objectives:

(a) assist in guaranteeing that handicapped children are in fact participating in programs authorized under this Act on a ratio which corresponds to their general incidence within the population of all children;

(b) provide those additional services needed to guarantee that handicapped children, especially the more severely handicapped, will enjoy that full participation enjoyed by nonhandicapped children.

FULL ACCESS

Past history has taught us and has certainly taught this joint panel that there will always be the potential that handicapped children will be discriminated against in programs not established for them alone—and, we would hasten to add, with no malice necessarily involved. Certainly our experience with Headstart is evidence of this reality.

Section 106 of H.R. 2966 lays out those assurances sought from the prime sponsors; correspondingly, Section 107 lays out those assurances sought from the actual project applicants. We would most strongly recommend that a required assurance be placed in both sections that *full access* to handicapped children be guaranteed in each and every project funded under this legislation, at least commensurate with the demographic incidence for such children in the eligible target population of each project.

We would further recommend that those vital assurances now sought from the states as essential guarantees for handicapped children which are contained in the recently-passed Education Amendments of 1974 (P.L. 93-380, Title VI, Part B) now be more clearly

extended to preschool handicapped children through their inclusion in this legislation.

These are:

Provision of specific due process guarantees for the handicapped children served and their parents in all matters relevant to identification, evaluation, and placement;

Provision that all handicapped children be served in the least restrictive environment;

Prohibition against the classification of children to promote racial or cultural discrimination.

COORDINATION

Permit us one final, brief recommendation. The General Provisions (Title V, Section 506) of the Child and Family Services Act provide for coordination of services under this Act with other Federal assistance for child development, child care, and related programs. Specific Federal legislative authorities are then cited, such as Title I of ESEA. We observe that ESEA Title VI B, Education of the Handicapped, Aid to the States, and ESEA Title VI Part C, the Handicapped Children's Early Education Assistance Act, are not included in that listing. We would respectfully recommend that they be included in Section 506.

In closing, may we again express our thanks to the Chairmen of this joint panel for the opportunity to testify on a matter of such vital concern for the futures of children. May we also say that we stand ready to make the resources of our organizations available whenever they may be of assistance to you as you continue your deliberations on this worthy legislation.

TESTIMONY OF JUDITH S. HELMS

Chairman Brademas, Chairman Mondale and Members of the Subcommittees— I am Judith Helms, Executive Director of the National Council of Organizations for Children and Youth, a coalition of over 200 national, state, and local organizations which have as their common goal the improvement of the quality of life of our Nation's children.

I greatly appreciate your invitation to testify on the great need for comprehensive quality child care. At the outset, I would like to commend Senator Mondale and Congressman Brademas for their continued leadership over the years in the effort to achieve needed services for children and their families and for their leadership in convening these hearings.

I am here today, as Director of a broad coalition of organizations with a wide variety of interests, a wide variety of constituencies and a wide variety of views on, and approaches to, the problems confronting our Nation's children. But, within this coalition, there is a broad agreement on the need for child care services. Many of our member organizations which have never taken an active interest in this issue, have become spokesmen for child care. Specifically, over 80 of our member organizations have joined an informal coalition to work together on the need for child care.

As the director of an umbrella group, I, of course, cannot always speak on a specific piece of legislation on behalf of all our members. With regard to the Child and Family Services Act, many important and controversial issues must be resolved before legislation can be passed. These issues include:

(1) the level of funding;
(2) the role of the states and localities;
(3) the role of public schools;
(4) the role of profit-makers;
(5) the relationship of new legislation to existing programs, such as Title XX; and
(6) eligibility.

As director of NCOCY, I cannot attempt to deal with these questions here. But, I do know that many of our member organizations have opinions and expertise on these issues and I urge you in the hearings which follow to call upon these organizations to testify so that we may reach a concensus and move forward with a program.

The subject I would like to address—and on which we can all agree—is the overwhelming unmet need.

America prides itself on being a child-loving society. In reality, we pay only lip service to this ideal. A simple examination of the status of children today painfully illustrates this fact:

America has the distinct honor of lagging behind 14 other countries in the rate of infant mortality.

In a land of plenty, millions of children go to bed hungry each night.

29% of all children in our inner cities do not see a doctor during a given year.

One out of 9 youths will be in juvenile court by age 18.

There are hundreds of thousands of handicapped children in America receiving no services.

Suicide is the second leading cause of death for young Americans between the ages of 15 and 24.

Teenage alcoholism and drug abuse are growing problems.

And what leadership role has the Federal government taken to help alleviate this growing crisis?

HEW is currently spending about 14% of its total budget on children.

Children represent 40% of our population and receive only 10% out of every health service dollar.

The costs of neglect are enormous. For the children, neglect means limited opportunities to develop, poor health and limited opportunities to lead a happy and fruitful life. For society, neglect means expensive compensatory social and income assistance programs.

For years now, we have been going at these problems backwards. We intervene after the damage is done, at huge social and economic cost.

But, there is another answer.

We now know with a great deal of certainty that the first 5 years of life are a most important period for the intellectual, emotional, social, and physical development of a child. We used to think that 0–5 were years to mark time before children were ready to learn. We now know with a great deal of certainty that if a child does not learn many very important things during this critical period, the child will be seriously handicapped in acquiring these skills. We also know with great certainty that pre-natal nutrition and early intervention are crucial to the healthy development of young children. To argue that it is still possible to intervene later makes no sense when we know that it is easier and better to begin early.

To ignore these facts and to deprive millions of children of a healthy and stimulating early development is simply crazy if we care anything about our future generation.

What is quality child care?

1. Quality child care is early intervention, diagnosis, and treatment of disease and disability before treatment becomes impossible or expensive.

2. Quality child care is insuring a balanced diet for children where malnourishment can cause permanent physical and mental damage.

3. Quality child care is nutritional counseling for mothers to prevent a host of birth defects through proper diet.

4. Quality child care provides an educational experience during crucial learning years.

5. Quality child care provides the assurance that a child is being well cared for.

6. Quality child care is the assurance to a family that needs help that help is available.

7. Quality child care is preventive, and, from a purely economic standpoint, prevention is the best medicine against inflation.

The need for child care is greater today than it has ever been. Why? Much of the answer lies in the fact that growing numbers of women have to work and are being forced to leave their child without the support and attention they so desperately need. A day care crisis exists in this country for women who must work and have nowhere to place their children and women on public assistance who desire to work but cannot find adequate child care.

The statistics clearly support the growing nature of the crisis:

From 1948 to 1973, there was an increase in the percentage of mothers working from 18% to 44%.

26 million children in this country have working mothers—6 million are under 6 years old.

12 million children live in female-headed households where the median income is $6,195 if the mother works and $3,760 if she doesn't.

In addition, during a time of rising unemployment and spiraling inflation, the percentage of employed women continues to grow and the number of children with working mothers continues to increase. The simple reason is that as a family's real dollar shrinks and as husbands become unemployed, women have to supplement or even replace the income of their husbands.

All these facts point to the conclusion that more and more mothers are finding it necessary to enter the work force.

And what about the statistics we don't have? Statistics on the number of children whose mothers need to and want to work, but cannot find child care?

And what about the disadvantaged child whose mother is home but who could benefit from child care services? In fact, there are five million children under 6 just in poor and near-poor families in this category.

Poor, working poor, lower-middle class, and middle-class women all face the same problem. In increasing numbers, they must work. With only a small percentage of good, licensed care available, the rest are forced to face the never ending nightmare of making arrangements with a changing group of sitters or with relatives, or leaving their children in custodial parking lots—or worse.

Some parents are fortunate and their child is safe and in a few luckier instances, is well cared for. But too often, parents are not so fortunate and the child is forced to spend the entire day in an unsafe, unhealthy environment with little or no attention.

In some families, parents work different shifts and the parent home sleeping cares for the child.

In some cases, women bring their children to work because no arrangements can be found. A recent Women's Bureau Study indicated that as high as 15% of children under 6 went to work with their mothers.

In some families, siblings are kept home to care for younger family members.

In some families, children are left home alone. We don't know how many of these children exist, but conservative estimates are that there are thousands of very young children left completely alone. This situation no matter how small a percentage of the total picture, simply should not exist in this country.

Other families find group arrangements through day care homes and centers. But here, the situation is not always better. Only a small percentage of group day care homes are licensed. Many are overcrowded and understaffed. A much smaller percentage of children have access to center care. Here again, the quality ranges from excellent to injurious—and in too many instances is merely the mass warehousing of children.

At this point, some would argue that all this information on poor quality care only proves that day care is bad for children and that the federal government is wise to not involve itself.

Nothing could be further from the truth.

Women will go on working regardless of what actions are taken by this Congress. The lack of access to quality child care will not eliminate the economic necessity of supporting a family. Rather, failure to provide quality child care to those who need it will simply force families to settle for custodial care. And, it will be the children who suffer as a result of this ostrich-like approach we often hear advocated. The problem will not go away by ignoring it. It is not a question of encouraging women to leave home. Rather, women working and leaving the home are facts which have existed and which continue to increase in spite of rising unemployment and in spite of decreases in family size.

President Ford has announced that he will veto any new social programs this year, arguing that the country cannot afford it. In addition, he proposes seriously cutting back on the Federal government's commitment to health, education, nutrition, and a whole host of service and programs which benefit children.

What is it that this country cannot afford?

Is it true that we simply cannot afford to provide health care to pregnant women and children who do not have access to this care?

Is it true that we simply cannot afford social services to disadvantaged and handicapped children to give them a chance in life?

Is it true that we simply cannot afford to assure that no American child goes to bed hungry at night?

These "cannot affords" add up to an incredibly costly legacy to our society—a legacy of poor health, costly services, institutionalization, crime, and social alienation.

And what about the cost to a child in lost opportunity to grow up healthy and whole? Who can measure that cost?

Now, in a time of economic recession, child care services are needed more than ever. The family's available income continues to decrease and families are finding it more and more difficult to pay for basic necessities, much less the "luxury" of things such as preventive health care. Families need assistance now more than ever.

And let me say too, that all of us who care about children oppose the use of custodial rather than high quality child care in a time of economic emergency as an expedient to move parents into the job market. This economic scheme does nothing for children and indeed will be more costly in the long run.

In fact, as an example of the broad interest in the highest quality child care, I am attaching a copy of The State Day Care Facility Licensing Act drafted and endorsed by 35 member organizations of NCOCY.

In closing, I would respond to President Ford's statement that we cannot afford new social programs. I say that we cannot sacrifice our children for the sake of cutting government budget costs. I say quite emphatically that we cannot afford *not* to provide child care services for our nation's most valuable resource—our children.

STATEMENT OF FREDERICK C. GREEN, M.D., F.A.A.P.

Mr. Chairman and Members of the House Subcommittee on Select Education and the Senate Subcommittee on Children and Youth, I am pleased to have this opportunity to testify in support of S. 626 and H.R. 2968—Child and Family Services Act.

As an active participant and workshop leader in Forum 10 of the White House Conference on Children, I enthusiastically supported the number one Overriding Concern; namely, the need for "Comprehensive family oriented child development programs including health services, day care and early childhood education."

As the Associate Chief of the Children's Bureau, OCD, HEW, from 1971–1973, my elation over your passage of S. 2007—the Economic Opportunity Amendments of 1971 was converted to bitter dismay over the unjustified vehemence of veto message by former President Nixon.

Today, as a pediatric practitioner and educator, I feel an obligation to speak to the needs of our 25 million citizens under the age of 6 years and specifically to the needs of our 6 million preschool children who require full or part-time care outside of their homes because their mothers must work.

The dismal state of our country's economy notwithstanding, those of us working in the fields of Maternal and Child Health, Child Development and Child Welfare are legitimately dismayed by the apparent low priority placed on programs that may be critical determinants in enhancing the developmental potential of our children.

We have seen few if any of the 16 Overriding Concerns and 25 specific recommendations of the 1970 W.H.C.C. implemented. We have seen Title V, Maternal and Child Health Projects (C&Y and M&I) that have proven their effectiveness in reducing fetal wastage and infant mortality; in the early identification and correction of physical and mental deficits; and in the prevention of disease, significantly emasculated bureaucratically. We have seen the EPSDT provision of Medicaid—the law since 1967—ineffectually implemented. In essence, we have seen these and many other programs, with great potential for enhancing the quality of life of our children, simply not brought to fruition. All of this, against a background of steady increasing needs.

I believe this bill to be consonant with a principal declaring that if, in the best interest of a child, society has a right to intervene when the child's well-being is jeopardized by parental failure, then surely society has an obligation to be *supportive* to parents in order to prevent such failure. Supportive is the key word rather than programs that essentially displace the parent.

Although there is little that I can disagree with in this bill, I would like to make the 8 following observations.

1. Title I; Sec. 101—Establishment of the Office of Child and Family Services.

Experience has shown that attempts to coordinate disparate programs without bureaucratic clout is futile. Therefore, hopefully the Director of the Office of Child and Family Services, although appointed by the President and located in the Office of the Secretary, HEW, will hold the rank of an Assistant Secretary. This will be the first step toward implementing Recommendation 12 of the 1970 W.H.C.C. that requests the establishment of a "Department of Family and Children with Cabinet status: state and local councils, all adequately funded."

2. Title I; Sec. 102(b)(2)—(G&H)—Health Services.

In light of our presently unacceptable immunization completion rate and serious deficits in primary health care to preschool children, these programs should serve as an entry point for children and their families into a comprehensive health care system. Complete and ongoing health assessment as well as completion of the basic immunizations, in my opinion, should be obligatory.

3. Title I; Sec. 102 (b)(2)(D)—Maternal Health.

I agree that emphasis should be placed on prenatal and post partum care, however, if inter-conceptual care is also included, significant benefits may accrue.

4. Title I; Sec. 105—Child and Family Service Councils.

Emphasis is justifiably placed on meaningful parent participation on such councils; however, I am concerned that the bill does not specifically assure the participation of individuals knowledgeable in the fields of child health and welfare as non parent member of these policy formulating councils.

5. Title I; Sec. 103(a)—Handicapped Child.

Although services to handicapped children are identified as being essential, hopefully the thrust will be towards the integration of such individuals in the regular program setting. Clear guidelines should be available to avoid the inappropriate labeling of children as "handicapped" with its consequential counterproductive impact. Mr. John Sharon, the President of our Board of Directors at Children's Hospital National Medical Center here in the District of Columbia, can speak quite knowledgeable to this issue because he is a parent of a physically handicapped child.

6. Title I; Sec. 111 (a–e).

The communities in greatest need of these programs are consistently those that are economically most disadvantaged. Community groups in these areas may have serious difficulty in obtaining non federal matching funds even if in-kind services are acceptable. I would suggest that under certain well-defined circumstances, state formula grant funds (e.g., Title XIX) that may be generated by the program could be used for the non federal match, as was the case with Model Cities Funds.

There is another aspect to the site selection for such programs that must be considered. Consistently, the allocation of Demonstration Funds are dictated by grantsmanship expertise rather than by the areas of greatest need. This is best exemplified by the fact that approximately 50% of the M&I Projects are located outside of areas having the highest infant mortality. If grantsmanship sophistication is to be a determinant, then community groups should have available to them a well identified technical assistance resource.

7. Role of the Public and Parochial School.

It is my considered opinion that the Federal law should not mandate that preschool programs be exclusively sponsored by the school system; however, neither should they be denied the opportunity to participate. With all due respect to the competence and the dedication of our elementary and secondary school teachers, I personally do not believe that the school setting is always the most appropriate site. Different skills are required in dealing with the preschool child because different objectives should be operable.

In the school system, primary emphasis is appropriately placed on enhancing cognitive development; however, in the preschool programs it seems reasonable that the major emphasis should be placed on enhancing the motivational and experiential components of intelligence. I submit, therefore, that such programs may function quite effectively outside the school setting in neighborhood churches and community centers.

I feel that the appropriate role of the school as it relates to these programs, is to enhance their own capacity to assure a continuum of enriching experiences when the child leaves the preschool setting.

8. Integration of Programs.

All costs, preschool programs—as defined in this act—should be socially, ethnically and culturally integrated to assure the maximum total developmental progress of the child and certainly to lay the cornerstone of a far better society than the one in which we now live.

In summary, I sincerely hope that you will collectively use the powers of your good offices to see that this bill, with any reasonable modification, is passed and implemented.

I have recently spent three weeks on the continent of Africa observing and participating in the Maternal and Child Health Programs in Kenya, Algeria, Egypt, Tanzania and Mozambique. As a result of this trip, sponsored by the Phelps-Stokes Fund of New York City, I now realize that relatively, maternal and child health and family support

initiatives command a major priority at the national levels. I suggest that we would do well to learn from them.

Thank you for giving me this opportunity to share my thoughts and concerns with you.

NATIONAL NUTRITION WEEK

Mr. McGOVERN. Mr. President, March 2 through 8, 1975, marks the third year of observance of National Nutrition Week, which is identified as the first full week in March each year to focus attention and action on sound nutrition information and practices and its importance all year long.

Initiated by the American Dietetic Association, representing 26,000 dietitians, and supported and endorsed by national, State, and local organizations, National Nutrition Week provides the general public with the latest information about nutrition and food selections for health.

Jointly sponsored by the American Dietetic Association, and its State and local affiliates, National Nutrition Week is endorsed by the National Nutrition Consortium, with participation by State extension and public health agencies, local nutrition councils, and interested groups, to improve the nutrition of human beings, to advance the science of dietetics and nutrition, and to promote education of the public and professionals in these and allied areas.

As chairman of the Select Committee on Nutrition and Human Needs, I am acutely aware of the growing concern in America with nutrition related issues. National Nutrition Week provides a valuable focus for this concern, and I look forward to joining with millions of others in the continuing nutrition dialog.

DELAY ON RESCISSIONS BILL THREATENS LOSS OF SAVINGS

Mr. PROXMIRE. Mr. President, as of last Friday, February 28, the 45-day period for congressional action on the President's rescission bills expired. The practical consequences of this inaction by the Senate is the automatic obligation of $949 million in various Federal programs.

The following statement represents the views of my good friends and colleagues the Senator from Iowa (Mr. CULVER) and the Senator from Colorado (Mr. GARY HART) as well as my own:

By refusing to act on the President's request for rescission authority, the Senate has missed an opportunity—at least temporarily—to meet the President half-way and cut down on wasteful federal spending.

The $949 million rescission request by the President contains a number of controversial items. It is not likely that support for each rescission could be maintained nor is each one wise. But there were opportunities for multimillion dollar savings that could well be applied to more needed areas or simply saved.

Of particular interest to us was the requested rescission of three military procurement programs totaling $158.2 million. They are the purchase of 48 UH–1H helicopters, 24 A–7D's, and 12 F–111F's. These three programs have one common feature—namely that the President and the Secretary of Defense did not request funding for them in the fiscal year 1975 budget. They were placed in the budget by Congressional action. The helicopters were added on the floor of the Senate. The F–111's were added in Conference with the House, after being excluded in the Senate bill. The A–7D's were placed in the bill by both Houses though not contained in the annual Defense budget.

The President and the Secretary of Defense have stated that these items were not requested, "not included in the President's 1975 budget, and are considered marginal in light of present and projected aircraft inventories." They are not essential for national defense.

We deeply regret the lack of action on the budget rescission bill by the Senate. Default is inexcusable. These savings can be made without weakening our national defense. The President and the Secretary of Defense have clearly certified this fact.

We are prepared to offer an amendment cancelling these unneeded aircraft to an upcoming bill. But we hope a full rescissions bill will be passed quickly before the released funds are obligated. The time for action is now.

SUMMER YOUTH JOBS

Mr. HUMPHREY. Mr. President, while America is in the midst of a serious recession with extremely high unemployment rates, by this summer there will be over 3.1 million poor youths in the Nation looking for jobs. Present trends indicate the possibility of an unemployment rate of 50 percent or more among disadvantaged youth during June to September. This crisis situation demands that urgent preventive action be taken by Congress now.

Senator JAVITS, with whom I have worked jointly for several years, pressing home the case for supplemental appropriations to provide for urgently required summer jobs for youth, spelled out the harsh statistics of anticipated youth joblessness in America's cities in the summer of 1975, in a statement in the RECORD on February 3.

I want to state clearly my intention to support wholeheartedly a future legislative request for supplemental appropriations toward meeting the goal of the cities to effectively employ disadvantaged youth in some 1.1 million, 9-week job slots this summer, as reported by the National League of Cities.

In 1974, with $1.536 million in Federal assistance, Minneapolis and St. Paul were able to provide 2,870 critically needed job slots. These cities have reported that this year they can effectively provide jobs for 6,700 young people, out of some 9,200 disadvantaged youth who would be eligible for work.

I view the level of effective employment that can be provided by our cities, with a total Federal funding requirement of some $650 million, as the absolute minimum that can and must be achieved. I urge my colleagues in the Senate to give immediate attention to this serious need and to support a supplemental appropriations request when it comes before the Senate.

ADOPTION AND FOSTER CARE

Mr. MONDALE. Mr. President, as chairman of the Subcommittee on Children and Youth, I wish to announce our plans for hearings on adoption and foster care.

Right now, more than 300,000 children in this country are in foster care—living with families or in institutions with no guarantee that they will ever have a stable, permanent home before they grow up. At the same time, many thousands of American families are eager and qualified to adopt youngsters who need a home. Experts believe that many youngsters in foster care—even though some are handicapped or older than children who are traditionally adopted—could be placed with a family if the necessary guidance, support, and encouragement were provided.

For nearly a year the Subcommittee on Children and Youth has been looking into the broad questions of Federal policy relating to adoption and foster care in this country. Our study was prompted by the introduction in the last session of Congress of the "Opportunities for Adoption Act," by Senator CRANSTON, which was referred to our subcommittee. We have been impressed with the complexity of the issues relating to adoption and foster care and with the immense impact that they have on the lives of thousands of American children.

The subcommittee will soon be releasing a consultant's report entitled "Foster Care and Adoption: Some Key Policy Issues." This report is the result of a 6-month investigation by Paul Mott, who has been serving as a consultant to our subcommittee. It outlines recent trends in this area, including the reduction in the number of normal infants available for adoption and the new and successful attempts to place handicapped and older children in adoptive homes. It also analyzes the Federal laws which affect children in adoption and foster care, and proposes some possible solutions to current problems. The subcommittee intends to circulate this report widely and hopes that persons interested in and concerned about these matters will read the report and make their views on it available to us.

As I announced publicly last fall, we hope to be able to start hearings on these subjects later this spring. Among the issues we hope to examine in the hearings are: Whether existing Federal policy on adoption and foster care serves the best interests of children and families and if not, how the laws should be changed; the problem of independent adoptions—including black market activity in which children are in effect sold illegally; and effectiveness of current practices relating to adoption of children from other countries.

FOOD AID AND AGRICULTURAL POLICIES

Mr. HUMPHREY. Mr. President, I wish to point out a recent address before the National Association of Wheat Growers by Mr. Herbert J. Waters, who is president of the American Freedom From Hunger Foundation. Mr. Waters offered some thoughtful comments on the world hunger problem in this speech entitled, "Don't Kill the Goose."

The food issue is one which should concern us all. I agree with Mr. Waters'

assertion that the "world food problem is everyone's problem, not just the farmer's problem." We must provide farmers with improved incentives so that they can produce to their capacity.

The speaker focused considerable attention upon the need for the Government to commit itself to a target level of food assistance early each year. This commitment is essential for the producers so that they can program their efforts with optimum efficiency.

It is becoming increasingly obvious that one of the inadequacies of our Government food assistance program is its failure to plan ahead and share this information with farmers and producers. Considering the growing pressures upon critically needed food supplies, it is imperative that we make a concerted attempt to coordinate the allocation of these resources.

Mr. Waters enthusiastically relates that the world has awakened to the vital role of the agricultural producers. His warning to the association not to ruin their good fortune or "kill the goose" demonstrates the need for responsible action on the part of all involved in encouraging these producers. The speech by Mr. Waters is clear and direct in its approach to the economic realities which face our Nation's agricultural producers.

Mr. President, I ask unanimous consent that the text of his address be printed in the RECORD.

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

DON'T KILL THE GOOSE

(By Herbert J. Waters)

It is a privilege—and an opportunity—to participate in this significant convention, and on this significant panel. I feel surrounded by experts, and I don't profess to be an expert. I'm just a concerned citizen; perhaps my role is to prick your conscience—and take some advantage of my approaching senior citizenship to give you some of my observations about the past AND the future, as I see both.

I appear before you in my non-professional role as a volunteer President of the American Freedom from Hunger Foundation, which took the leadership in mobilizing public concern about world hunger prior to the recent UN World Food Conference in Rome—and now plans continuing that educational effort on an even broader scale. But I speak also as one who has devoted a lifetime of concern to farm producers, and as a small businessman who currently buys wheat and other farm products as an agent and who advises some governments on farm commodity procurement. My dual role in often-controversial food issues has compelled me to look at all sides of such issues.

Our assigned time is too short to further review world events helping to shape your destiny as producers. Perhaps I can best serve the purposes of this panel on food reserves by giving you some of my specific conclusions, with a few comments on each—in the hope they will spark some discussion and debate among you.

First, some system of world food reserve is going to be established, whether you like it or not, whether our country wants it or not. World conditions are going to require it; world demand is going to insist on it. The challenge you face is using the benefit of your combine experience to help make some such system workable, rather than wasting your time and talents and money fighting the inevitable.

Second, all-out production is going to be the order of the day for the forseeable future; for the rest of my lifetime, if not all of yours. Changing public attitudes will no longer tolerate or support governmental policies designed to deliberately curtail production to achieve unit price, as long as hunger exists in the world—whether people have the money to pay the costs of food or not. If you think a few big crop years and even some temporary surplus is going to change this, I think you are mistaken. The world has learned some valuable lessons, about the hazards of weather on agriculture; it will no longer sanction a turn on-turn off production policy for you that we seem to sanction for General Motors. Food resources have become too much of a public utility for the government to ignore consumer pressures, at home and abroad—to assure that we always have ample food supplies. If my premise is true on future production policies—and I think it is valid reasoning—a properly structured-and-operated food reserve becomes all the more necessary—for your protection as well as the public's.

Third, wheat and grain producers have a far more vital stake in food assistance programs than they sometimes seem to realize. While these programs involve but a tiny fraction of your production, they are and can continue to be a vital marketing cushion—a guaranteed market for at least some of your production. Furthermore, wheat and other grain producers should be taking a greater interest in the significantly growing acceptance around the world of "blended foods"—mixtures of cereals and oilseeds to upgrade protein content, and provide the highest possible nutritional value at lowest cost. For economic reasons alone, there are strong arguments for favoring processed product over raw agricultural commodities—keeping jobs and industry at home at a time when jobs are urgently needed, and retaining feed byproducts in this country at a time of shortages and high costs of domestic feed supplies. High shipping costs also argue in favor of moving the highest nutritional value per ton of products shipped. Congress is going to thoroughly review PL 480 programs this year; from what I find, there will be greater interest in the Title II phases of these programs involving American voluntary agencies and the World Food Program—food donations that require more planning for good programming, and food programs that can't be easily or quickly turned on and off. They really require some firm commitments over a crop-year's span, and Congress is likely to insist they get such commitments.

Fourth, most essential to you as producers is early information about the extent of the government's commitments for food aid. If the government is going to ask you to continue all-out production, then I think you have every right, in turn, to ask the government to tell you some minimum level of commitment that it intends taking off the commercial market and purchase for food assistance programs. You should know at planting time. The government asks you about your intentions to plant; why aren't you entitled to ask the government about its intentions to buy? Somehow, the government has always wanted to keep it a deep mystery about how much food it will commit to purchasing and sharing with the world until after most of the crop has left your hands. Oh, I know and understand all the bureaucratic arguments about need-to-know final production levels, final budget levels—there are always good arguments they can dredge up for delaying decision. But they know they are going to make *some* commitment to food assistance—for humanitarian programs, for emergency relief, for development needs, and, particularly in the last few years, international political deals. There is no reason why the Government shouldn't firmly determine at least minimum levels of firm commitment in advance of each crop year, then review additional requirements that may depend upon production availability. In all instances, however, the earlier the decision, the earlier it is announced, and firmness of the commitment is in everybody's best interest—the producer, the processor, the end user, including food aid beneficiaries. It makes for better programming of food assistance, and it makes better sense in not distorting commodity markets. It just means letting everybody know the same ground rules at the start of the crop year. As growers, you should insist upon it. You have a right to know.

Fifth, all of these conclusions I have suggested are public interest requirements, not just farm program requirements; and they should be public interest commitments, not thought of as farm program commitments. Maintenance of adequate reserves, continuing all-out food production, greater sharing of food aid, earlier and longer-term public commitments of the levels of government purchases of food assistance—all these are national commitments required to meet the needs of our times; they are the public's obligation, not just the farmer's obligation—and certainly the public, not the farmer, should pay the bill to achieve them.

I have said this everywhere I have talked, whether to housewives, consumer groups, or church groups—not just to producer groups. The world food problem is everybody's problem, not just the farmers problem—and everybody is going to have to share the bill.

Just last week I addressed a conclave of social workers in Baltimore. I told them, in part:

"We must produce enough food for every human being on earth—and we can. But we must learn new respect for our producers, and recognize their right to a fair reward for their production. "We must be willing to maintain a world food reserve to meet any emergency—and we can. But we have no right to ask farmers to maintain it, on their own, at their risk. It is everybody's problem."

Sixth, and last on my list of basic conclusions, is on the issue of export controls. I happen to be personally against them, because I feel they create more new problems in the long run than they provide solutions for even the short run. But most of my consumer friends wouldn't now agree with me on this one. Make no mistake about it—the pressure for some form of export control will continue unless and until mankind is rational enough, and compassionate enough, to devise some better system of assuring enough food for all—on the basis of human, nutritional need, not just on the basis of ability to pay. If you don't want export controls, the best way to avoid them is help implement some of my earlier conclusions on the need for adequate reserves against emergencies, and firmer advance commitments by our government on food assistance for people and countries in most severe need.

Perhaps you will note that in all of my comments I haven't specifically mentioned price. Aside from my continuing argument that the world can't meet its food needs without willingness to assure fair rewards for producers, and to provide them with some protection against the risk of overproducing and driving down farm prices, I haven't tried to second-guess anybody about where wheat prices should be, or where they are going. It's rather impossible to do because prices you receive have to be equated with the prices you must pay, and our economy as well as the world's economy is too out of kilter to make many valid judgments on what is really "reasonable" on wheat prices—from the standpoint of the producer or the consumer.

Some of you have gathered in some golden eggs after a lot of lean and uncertain years. Nobody should begrudge farmers getting back to a fairer share of national earnings. I just hope that none of us—producers or consumers—kills the goose that provided the golden eggs; producers by becoming too self-centered and greedy, or consumers by blindly ignoring the production costs farmers face.

The world has at long last awakened far mor to the vital importance of agriculture, and agricultural producers. Yet the world at the same time has become increasingly concerned over the imbalances in our society, over the mass hunger and starvation in some areas while arrogant affluence is flouted in others.

If we want to avoid killing the goose that laid these recent golden eggs, all of us must share in facing the responsibility of seeing that better answers are found for both problems: assuring adequate incentives to farmers, and assuring food made available within the reach and needs of all. If we can send men to the moon, we should be able to tackle these two twin social problems at the same time—together, not one against the other.

Farmers share moral concern just as much as city people do. They have long provided the moral fiber and backbone of our nation. It would be tragic now, when the country and the world that neglected them for so long suddenly realizes their importance, if farmers themselves walked away from sharing in helping to plan wiser answers to the world's food and hunger problems. Instead, farmers should be asserting their leadership, and influence—working hand and hand with other concerned groups—in seeing that the world's hunger problems ARE solved.

MOROCCO CELEBRATES NATIONAL HOLIDAY

Mr. HARTKE. Mr. President, one country with which we have had excellent relations over the years is the Kingdom of Morocco, which celebrated their national holiday on March 3, 1975.

Under King Hassan II, Morocco has proclaimed a policy of nonalinement and has made great steps in modernizing the social services of the country. Morocco spends about 20 percent of the annual budget on education; with over 1 million students currently enrolled in various schools.

His Majesty King Hassan II is regarded by the people of Morocco as a worthy successor to H.M. King Mohammed V. Having shared exile with his father in Madagascar, he came in contact with the responsibilities of power early in life. Morocco is a constitutional monarchy, and the new constitution of 1972 was promulgated in March of that year after being approved in a national referendum by an overwhelming majority.

The country is divided into 19 provinces and 2 urban prefectures, with a population of 15½ million. The gross national product is about $4.2 billion and Morocco has an annual budget of $1¾ million.

Morocco has begun a system of irrigation to reclaim most of the desert and through a system of dams produces 60 million kilowatts of electricity.

I take this opportunity to congratulate King Hassan II, the government, and the people of Morocco on their national holiday and as evidence of the long-standing friendship between our countries, I ask unanimous consent that a letter from President George Washington to Emperor Sidi Mohammed Ben Abdellah, dated December 1, 1789, be printed in the RECORD.

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

CITY OF NEW YORK,
December 1, 1789.

To the Emperor of Morocco,
His Majesty Sidi Mohammed Ben Abdellah.

GREAT AND MAGNANIMOUS FRIEND: Since the date of the letter which the late Congress, by their President, addressed to Your Imperial Majesty, the United States of America have thought proper to change their government and to institute a new one, agreeable to the Constitution, of which I have the honor of, herewith, enclosing a copy.

The time necessarily employed in the arduous task, and the derangements occasioned by so great, though peaceable revolution, will apologize and account for Your Majesty's not having received those regular advices and marks of attention from the United States which the friendship and magnanimity of your conduct toward them afforded reason to expect.

The United States having unanimously appointed me to the Supreme Executive authority in this Nation, Your Majesty's letter of the 17th of August 1788, which by reason of the dissolution of the late government remained unanswered, has been delivered to me. I have also received the letters which Your Imperial Majesty has been so kind as to write, in favor of the United States, to the Bashaws of Tunis and Tripoli, and I present to You the sincere acknowledgements and thanks of the United States for this important mark of your friendship for them.

We greatly regret that the hostile disposition of those regencies toward this Nation, who have never injured them, is not to be removed, on terms in our power to comply with. Within our territories there are no mines, either gold or silver, and this young nation, just recovering from the waste and desolation of a long war, have not, as yet, had time to acquire riches from agriculture and commerce. But our soil is bountiful and our people industrious, and we have reason to flatter ourselves that we shall gradually become useful to our friends.

The encouragement which Your Majesty has been pleased generously to give to our commerce with your dominions, the punctuality with which you have caused the Treaty with us to be observed, and that just and generous measures taken in the case of Captain Proctor make a deep impression on the United States and confirm their respect for, and attachment to, Your Imperial Majesty.

It gives me pleasure to have this opportunity of assuring Your Majesty that, while I remain at the head of this Nation, I shall not cease to promote every measure that may conduce to the friendship and harmony which so happily subsist between Your Empire and them, and shall esteem myself happy in every occasion of convincing Your Majesty of the high sense, which in common with the whole Nation, I entertain of the magnanimity, wisdom and benevolence of Your Majesty. In the course of the approaching winter, the National legislature which is called by the former name of Congress, will assemble, and I shall take care that nothing be omitted that may be necessary to cause the correspondence between our countries to be maintained and conducted in a manner agreeable to Your Majesty and giving satisfaction to all the parties concerned in it.

May the Almighty bless Your Imperial Majesty, our great and magnanimous friend, with His constant guidance and protection.

(signed) GEORGE WASHINGTON.

WORLD WAR I VETERANS' PENSIONS

Mr. McGOVERN. Mr. President, I ask unanimous consent that S. 880, my bill to provide guaranteed pensions for World War I veterans and their widows, be printed in the RECORD.

(Senator McGOVERN's introductory remarks appeared in an earlier RECORD.)

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

S. 880

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter II of chapter 15 of title 38, United States Code, is amended by adding immediately after section 512 the following new section:

"§ 513. Certain World War I veterans

"(a) For purposes of this section—

"(1) The pension and other benefits provided by this section shall be deemed, for all purposes, to be in payment of the debt owed by the Nation to the beneficiaries thereof for services rendered by them and shall not, for any reason, be considered to be a gratuity.

"(2) The term 'World War I' means the period beginning on April 5, 1917, and ending on July 2, 1921.

"(b) The Administrator shall pay to each veteran who served in the active military, naval, or air service at any time during World War I and who is not eligible for pension under section 521 of this title pension at the rate prescribed by this section.

"(c)(1) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, the monthly rate of pension shall be $150.

"(2) If the veteran is unmarried (or married but not living with reasonably contributing to the support of his spouse) and has no child, the monthly rate of pension shall be $135.

"(d) If the veteran is in need of regular aid and attendance, the monthly rate of pension payable to him under subsection (c) shall be increased by $125.

"(e) If the veteran has a disability by reason of which he is permanently housebound but does not qualify for the aid and attendance rate payable under subsection (d), the monthly rate payable to him under subsection (c) shall be increased by $50.

"(f)(1) Any veteran entitled to pension under this section is entitled to hospital, domiciliary, and medical care under chapter 17 of this title for any non-service-connected disability.

"(2) Notwithstanding any other provision of law, the Administrator shall pay on behalf of any veteran receiving pension under this section the cost of any medical services provided outside of Veterans' Administration facilities to such veteran by any physician if the Administrator finds that travel to and from a Veterans' Administration medical facility for such services would impose a medical or financial hardship on the veteran.

"(g) The pension, medical, and hospital benefits, and reimbursement for medical costs provided for by this section shall be paid, or provided, as the case may be, without regard to (1) any income of any kind or from any source payable to the veteran or his spouse, and (2) the corpus of the estate of the veteran or his spouse.

"(h) Any veteran who is eligible for pension under section 521 of this title shall, if he so elects, be paid pension, and provided the other benefits, prescribed by this section. If pension is paid pursuant to such an election, the election shall be irrevocable."

(b) The analysis of such chapter 15 is amended by adding immediately after

"512. Spanish-American War veterans."

the following:

"513. Certain World War I veterans.".

SEC. 2. (a) Subchapter III of chapter 15 of title 38, United States Code, is amended by adding immediately after section 537 the following new section:

"§ 538. Widows of certain World War I veterans

"(a) The Administrator shall pay to the widow of each veteran of World War I who at the time of his death was receiving pension under section 513 of this title pension at the rate prescribed by this section, if the widow is not eligible for widow's pension under any other provision of this subchapter.

"(b)(1) If there is a widow and one or more children, the monthly rate of pension shall be $150.

"(2) If there is no child, the monthly rate of pension shall be $135.

"(c) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

"(1) before December 14, 1944; or

"(2) for one year or more; or

"(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

"(d) The pension provided by this section shall be paid without regard to (1) any income of any kind or from any source payable to the widow, and (2) the corpus of the estate of the widow.

"(e) Any widow who is eligible for pension under section 541 of this title shall, if she so elects, be paid pension prescribed by this section. If pension is paid pursuant to such an election, the election shall be irrevocable."

(b) The analysis of such subchapter III is amended by inserting immediately after

"537. Children of Spanish-American War Veterans."

the following:

"538. Widows of certain World War I veterans.".

FORMER REPRESENTATIVE JOSEPH P. O'HARA

Mr. HUMPHREY. Mr. President, it is with deep sadness that I announce the death yesterday of the Honorable Joseph P. O'Hara, a former U.S. Representative from Minnesota. He served our State and Nation well and faithfully.

A candidate of the Republican Party, Joe O'Hara served in Congress for 18 years, from 1941 to 1959. Born in Tipton, Iowa, in 1895, he served in the Army during World War I, and subsequently attended the Inns of Court, London, and graduated from the law department of Notre Dame University in 1920. Congressman O'Hara began his law practice in Glencoe, Minn., and became well known as an attorney for several local jurisdictions and as county attorney of McLeod County, during 1934–38. He was a vigorous partisan, but above all, a dedicated public servant.

After completing his ninth term in Congress, Joseph O'Hara resumed the practice of law and resided in Washington, D.C. He had the singular blessing of being 32 times a grandfather.

I know my colleagues join me in extending sincere sympathy and warm condolences to Joe's wife, Lela, and their three sons.

THE CLEAN AIR ACT AND AUTOMOBILE EMISSIONS

Mr. RANDOLPH. Mr. President, the Administrator of the Environmental Protection Agency today announced his decision relative to the extension of deadlines for compliance with statutory requirements of the Clean Air Act for the reduction of automobile emissions.

My reaction to his announcement is contained in the following statement which I released to the press. I ask unanimous consent that the statement be printed in the RECORD.

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

STATEMENT OF SENATOR RANDOLPH

EPA Administrator Russell Train has made his recommendations on a future timetable for the reduction of automobile emissions. I believe that his decisions were made on a thorough examination of the extensive evidence presented at hearings conducted by his agency.

This morning, prior to his public announcement, Mr. Train met with Senators Muskie, Baker, Buckley and me to inform us of his decision. We thoroughly discussed the matter. I will consider his recommendations that require legislation very carefully. The Committee on Public Works will conduct hearings on these proposals this spring. All of their implications, both short and long range, will be examined.

PRIVATE INSURANCE TO SUPPLEMENT MEDICARE

Mr. CHURCH. Mr. President, the Special Committee on Aging recently issued a working paper called "Private Health Insurance Supplementary to Medicare."

Its purpose was to provide consumer information which would be helpful to older persons who have questions about so-called Medi-Gap insurance designed to protect against charges not covered by medicare.

As Senator MUSKIE and I said in our preface, such insurance is no small matter:

Approximately 11.2 million of the 21 million of age 65 and up have at least one private health insurance policy . . . the author of this paper . . . has arrived at the conclusion that the elderly spend, at the very minimum over a half billion dollars on premiums for private health insurance each year, in addition to the $1.6 billion they are paying for Medicare's Part B premiums.

The working paper, prepared by economist Gladys Ellenbogen, was based largely on consultations with commissioners of insurance in five States. It pointed out that many policies provide protection against important costs that can arise when a person uses medicare. But it also described sales practices and shortcomings which make other policies far less useful than consumers may realize.

Theodore Schuchat, whose well-read column on aging appears regularly in many of the Nation's newspapers, dealt recently with the Ellenbogen report. He provides a useful summary of the paper, 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:

INSURANCE—ENIGMA FOR THE ELDERLY

(By Theodor Schuchat)

"Age 65 is not a magic age at which one is likely to become suddenly expert on the technicalities and legalities of insurance policies," the Senate Special Committee on Aging warned in a recent report.

"Many persons do not understand Medicare's provisions or private policy provisions," commented the committee report on "Medi-Gap" insurance. These are private policies dovetailed with Medicare coverage.

The committee was told of unscrupulous selling tactics of some insurance agents preying on older people. The information came from state insurance departments with the power to revoke insurance selling licenses for shady practices.

"The sale of several policies to the same individual to cover the same risk results in a waste of the money spent for the premiums," the Senate committee advised. "Benefits are coordinated so that overpayments to policyholders are avoided."

Suppose you buy three policies, each promising to pay the Medicare hospital deductible, now $92. If you go to the hospital, you might expect one policy to pay the deductible and the others to pay you $184.

"Only one policy will pay the deductible. This is referred to as coordination of benefits," the committee report explained.

"Cancellation and sale of a new policy is another unfortunate tactic which has resulted in revocations of an agent's license. For example, a policy is sold and some months later the insured elderly person is advised by the agent to cancel the policy and purchase a new one."

"The major advantage for the agent is the commission he receives on selling each policy," the Senate committee report continued. "The major disadvantage to the elderly person is the beginning of a new prior exclusion clause."

This is a fine-print provision that delays your eligibility for collecting health insurance benefits. Otherwise, one could buy a policy soon after hospitalization was recommended.

Switching from one policy to another could mean that neither would pay benefits when you need them. That would be good for the insurance company but bad for you.

The Senate committee reported "the duplication of benefits and the replacement of one policy with the other were the most frequently cited by the investigations divisions of the state insurance departments as adversely affecting the elderly. . . .

"These are only two unfair practices. There are others, of course, particularly the refusal of an agent to show the policy in advance."

The committee warned, also, that some salesmen show one policy and deliver another.

Much has been accomplished by state insurance departments, the Senate committee declared. "More needs to be done and the insurance departments are aware of the continuing problems."

"A decision to purchase Medi-Gap insurance is sometimes a very difficult one for older persons to make," noted Sens. Frank Church, D.-Idaho, and Edmund Muskie, D.-Maine.

"They want protection—particularly the assurance that they can meet the Medicare coinsurance and deductible payments that are likely to arise if illness strikes—and yet they are caught in an inflationary squeeze which is relentlessly driving up the cost of essential items."

"Their difficulties provide ample reason for improving Medicare by closing several of its major gaps," the two senators stated.

"Coverage of some out-of-hospital prescription drugs, for example, would reduce the overall health care expenditures of the elderly."

THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974

Mr. HUMPHREY. Mr. President, the importance of our forest and rangeland resources has become increasingly apparent during recent months. The growing need for more effective utilization of our Nation's natural resources has focused particular attention upon forests and rangelands because of their potential for increased output through improved management.

The Forest and Rangeland Renewable Resources Planning Act, which was enacted into law by Congress in August 1974, addresses itself to these concerns. As the initiator of that bill and a member of the Agriculture and Forestry Committee, I would like to bring to the attention of this body the developments which have resulted since its passage.

One of the major purposes of this legislation was to develop a longrange strategy for the Forest Service in improving the management of these resources. Careful planning can insure that the United States will derive maximum benefit from its forest and rangeland resources in the future while simultaneously maintaining the quality of the environment.

The Resources Planning Act requires the Forest Service to submit periodically a renewable resource assessment to Congress. In response to this task, two meetings have been held to outline the steps being taken. I addressed the September meeting to launch this effort, and on January 29 the Forest Service reported on its timetable to develop the assessment.

The objective of the Forest Service in the preparation of the Assessment Document is to develop:

First, an analysis of present and anticipated uses, demand for, and supply of the renewable resources of the forest, range and other associated lands with consideration of the international resource situation, and an emphasis on pertinent supply and demand and price relationship trends;

Second, an inventory, based on information developed by the Forest Service and other Federal agencies, of present and potential renewable resources, and an evaluation of opportunities for improving their yield of tangible and intangible goods and services.

It is important that public participation in this process continue in order to preserve the spirit of the act. I actively support these efforts and hope that the Forest Service will continue to work with interested groups, organizations, and individuals in the development of the assessment.

The Forest Service recently released for public comment a package of outline materials relating to developing the Assessment Document. These materials extensively illustrate the proposed scope, direction, and planned content of the initial agency report which is due for completion on December 31, 1975.

I am encouraged by the events which have transpired since the passage of this Act. It is necessary that we attack our resource needs pragmatically via long range planning, and I would like to direct my colleagues' attention to the proposed outline for the Assessment Document which the Forest Service has released.

Mr. President, I ask unanimous consent that the section of the report, entitled "Outline of Assessment Document," be printed in the RECORD.

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

OUTLINE OF ASSESSMENT DOCUMENT

(By U.S. Department of Agriculture Forest Service)

PREFACE

This assessment has been prepared in response to the provisions of Section 2 of the "Forest and Rangeland Renewable Resources Planning Act of 1974" which directs the Secretary of Agriculture to

. . . prepare a Renewable Resource Assessment . . . the Assessment shall be prepared not later than December 31, 1975, and shall be updated during 1979 and each tenth year thereafter, and shall include but not be limited to:

(1) an analysis of present and anticipated uses, demand for, and supply of the renewable resources of the forest, range and other associated lands with consideration of the international resource sit- ation, and an emphasis of pertinent supply and demand and price relationship trends;

(2) an inventory, based on information developed by the Forest Service and other Federal agencies, of present and potential renewable resources, and an evaluation of opportunities for improving their yield of tangible and intangible goods and services,

In accordance with these provisions, this study provides an analysis of the present situation and the outlook for (1) outdoor recreation and wilderness, (2) fish and wildlife, (3) rangeland grazing, (4) timber, and (5) water. It includes statistical data on the ownership and condition of the Nation's 1.5 billion acres of forest and range lands; recent changes in forest and range resources; trends in the consumption and prices of major products; the prospective demand, supply, price outlook to 2020; and opportunities for increasing supplies of the products growing economically scarce. Data are also presented on international trade in forest and range products and the forest resources of important trading countries. The last section of the study discusses the kinds of data and scientific information needed to provide an adequate quantitative basis for future assessments of this kind.

The analyses of prospective economic scarcity are based primarily on projections of demands and supplies of renewable resource products. The projections of demand indicate the amount of the products likely to be consumed or used under a range of assumptions on population, economic activity, prices, and other determinants. The supply projections show the amount of the products that will be available for consumption or use if recent levels of management and utilization continue through the projection period.

A comparison of these projections provides a measure of future imbalances between demands and supplies, given the underlying assumptions, and an indication of the kinds and sizes of programs needed to bring about an improved resource situation. These comparisons, along with the current and historical statistical data, also provide a basis for appraising ongoing forestry and range programs and an indication of opportunities for economic development of forest and range resources.

In recent years, many and rapid changes have taken place in the use of American forests and ranges. Demands for all renewable resources have been rising rapidly, and there has been increasing emphasis on the management of lands for mutiple purposes. But perhaps most important of all has been the growing concern about the forest and range environment and the need to preserve and enhance scenic and esthetic values.

In this study, an effort has been made to recognize the changes that have been taking place and likely impacts on future supplies of renewable resources. For example, multiple use management and the protection of the environment have been taken into account in projection timber supplies for the National Forests. Projections for the private owerships recognize the importance of nontimber objectives and that timber harvests might be limited. Specific allowances for the continuing transfer of commercial timberlands to other uses were made on all ownerships.

The analysis in this study covers the next four and a half decades. For the longer run, with growing population pressure on the environment and nonrenewable stocks of ores and fuels, renewable resources could become of greater and greater importance. In appraising the needs for programs and the urgency for action, consideration must be give to the situation beyond the period covered in this report.

The concern about the environment, recent large increases in fosil fuel prices, and the ultimate depletion of stocks of energy materials and many ores emphasize in a striking way the long run role of renewable and expandable forest and range resources. Coal, petroleum, and natural gas, once used, are gone forever, and in time it seems probable that most ores can only be extracted at rising real costs. In contrast, with proper management, the output of products from forest and range lands can be increased and the higher levels of output maintained for future generations.

BASIC ASSUMPTIONS

This section presents the general basic assumptions used in making the demand and supply projections for outdoor recreation, fish and wildlife, rangeland grazing, timber, and water presented below. In partial recognition of the uncertainty about future changes, three alternative assumptions are presented for population, economic activity and income. The alternatives cover the range over which growth in these major determinants could reasonably be expected to vary.

In making these assumptions, it is recognized that the outlook during the next few decades is much more dark and uncertain than it seemed a few years ago. The long run effects of large increases in the price of fossil fuels and other raw materials, world wide inflation and recession, and the unchecked growth in population and famine in many regions of the world are still unclear. However, it seems reasonable to expect that population, economic activity, and income in the United States—and most countries of the world—will continue to grow and do so much in line with recent trends.

Population assumptions

Changes in population have an important effect on the demand for timber, forage, water, and the other renewable resources. They also influence the size of the labor force, a major determinant of the level of economic activity and related materials usage.

In the five decades between the early 1920's and the early 1970's, the population of the United States increased by about 100 million people, rising at an average annual rate of 1.3 percent per year (table 1). The most

recent projections of the Bureau of the Census[1] indicate that population is likely to continue to grow fairly rapidly through the projection period. The Census Series E projection, for example, the medium projection of this study, shows population rising by another 86 million by 2020. In line with recent trends however, the annual rate of growth declines from about 1 percent in the late 1960's and early 1970's to 0.5 percent in the decade 2010–20.

The decline in the rate of population growth reflects Bureau of the Census assumptions about fertility rates.[2] There have been large fluctuations in the fertility rates in recent decades but since the late 1950's, the trend has fallen sharply. The medium projection is based on an assumed fertility rate of 2.1—a level close to birth expectations of American women. The current rate is somewhat below this figure, but, of course, it could rise again in the future, as it has in the past.

[1] U.S. Department of Commerce, Bureau of the Census. Projections of the population of the United States, by age and sex: 1972 to 2020. Cur. Pop. Reps. Ser. P–25, No. 493, 26 p. 1972.

[2] Fertility rates indicate the number of births per 1000 women during their child bearing years. For a more detailed technical definition, see U.S. Department of Health, Education, and Welfare; Public Health Service, Natality Statistics Analysis, United States, 1965–67. National Center for Health Statistics, Ser. 21, No. 19, 39 p. 1970.

TABLE 1.—MEASURES OF POPULATION AND ECONOMIC GROWTH, SELECTED YEARS 1920–74, WITH PROJECTIONS TO 2020

Year	Population		Gross national product[1]		Per capita gross national product		Disposable personal income[1]		Per capita disposable personal income	
	Millions	Annual rate of increase	Billions of 1967 dollars	Annual rate of increase	1967 dollars	Annual rate of increase	Billions of 1967 dollars	Annual rate of increase	1967 dollars	Annual rate of increase
1920	106.5		160.5		1,507					
1925	115.8	1.7	201.8	3.2	1,743	3.0				
1930	123.2	1.2	215.8	1.4	1,752	.1	159.1		1,391	
1935	127.4	.7	199.3	—1.6	1,564	—2.3	150.8	—1.1	1,184	—1.7
1940	132.6	.8	267.1	3.3	2,014	5.2	190.3	4.8	1,435	3.9
1945	140.5	1.2	417.6	3.5	2,972	8.1	262.8	6.7	1,870	5.4
1950	152.3	1.6	417.8	.1	2,743	—1.6	285.6	1.7	1,875	.1
1955	165.9	1.7	515.0	4.3	3,104	2.5	339.4	3.5	2,046	1.8
1960	180.7	1.7	573.4	2.2	3,173	.4	389.2	2.8	2,154	1.0
1965	194.3	1.5	726.4	4.8	3,739	3.3	497.7	5.0	2,562	3.5
1966	196.6	1.2	773.8	6.5	3,936	5.3	525.0	5.5	2,670	4.3
1967	198.7	1.1	793.9	2.6	3,995	1.5	546.3	4.0	2,749	3.0
1968	200.7	1.0	830.8	4.7	4,140	3.6	570.8	4.5	2,844	3.4
1969	202.7	1.0	853.2	2.7	4,209	1.7	587.6	2.9	2,899	1.9
1970	204.9	1.1	849.0	—.5	4,143	—1.5	610.0	3.8	2,977	2.7
1971	207.0	1.1	872.1	2.7	4,213	1.6	634.6	4.0	3,066	2.9
1972	208.8	.9	929.7	6.6	4,446	5.5	661.1	4.3	3,170	3.4
1973	210.4	.8	984.5	5.9	4,679	5.2	695.7	5.2	3,307	4.3
1974										
Low projections:										
1980	222	.9	1,240	3.5	5,610	2.7	870	3.6	3,920	2.8
1990	239	.7	1,670	3.0	6,990	2.2	1,170	3.0	4,900	2.3
2000	251	.5	2,250	3.0	8,960	2.5	1,570	3.0	6,260	2.5
2010	259	.3	3,020	3.0	11,640	2.6	2,110	3.0	8,150	2.7
2020	264	.2	3,870	2.5	14,610	2.3	2,710	2.5	10,270	2.3
Medium projections:										
1980	224	.9	1,300	4.0	5,830	3.1	910	4.1	4,060	3.2
1990	247	1.0	1,840	3.5	7,470	2.5	1,290	3.6	5,220	2.5
2000	264	.7	2,600	3.5	9,820	2.8	1,820	3.5	6,890	2.8
2010	282	.7	3,660	3.5	12,990	2.8	2,560	3.5	9,080	2.8
2020	298	.5	4,920	3.0	16,540	2.4	3,450	3.0	11,580	2.5
High projections:										
1980	229	1.1	1,370	4.5	5,990	3.4	960	4.6	4,190	3.5
1990	259	1.2	2,030	4.0	7,840	2.7	1,420	4.0	5,480	2.7
2000	286	1.0	3,000	4.0	10,490	3.0	2,100	4.0	7,340	3.0
2010	318	1.1	4,440	4.0	13,960	2.9	3,110	4.0	9,780	2.9
2020	351	1.0	6,270	3.5	17,840	2.5	4,390	3.5	12,510	2.5

[1] The 1970 trend level for the gross national product ($882 billion) and disposable personal income ($500 billion) were used as the base for calculating the projected values.

Note: Annual rates of increase are calculated for 5-yr periods from 1920 through 1965, for 1-yr periods 1965 through 1974, and for 10-yr periods 1970 through 2020.

Sources: Population, U.S. Department of Commerce, Bureau of the Census. 1920–45—"Population estimates and projections." Cur. Pop. Reps. Ser. P–25, No. 442, 1970; 1950–70—"Estimates of the population of the United States to December 1, 1971." Cur Pop. Reps. Ser. P–25, No. 474, 1972; 1971–72—"Estimates of the Population of the United States to January 1, 1973." Cur. Pop. Reps. Ser. P–25, No. 496, 1973. 1980–2000—"Projections of the population of the United States, by age and sex (interim revisions): 1972 to 2020." Cur. Pop. Reps. Ser. P–25, No. 493, 1972. Gross national product and per capita gross national product derived from data published in the following sources: 1920–25—U.S. Congress, Joint Committee on the Economic Report. "Potential economic growth of the United States during the next decade." 83d Cong. 2d sess. 1954; 1930–74—Council of Economic Advisers. "Economic report of the President." January 1975. Disposable personal income and per capita disposable personal income derived from data published in the following source: 1930–74—Council of Economic Advisers. "Economic report of the President." January 1975.

Immigration accounts for a significant part of population growth and the estimates shown in table 1 include 400,000 net immigrants per year. There has been some decline in immigration recently. Some future reduction could result from mounting national concern about unemployment and population pressure on resources and the environment.

The age distribution of the population is important in estimating demands for recreation and housing—an important determinant of the demand for timber products. The Bureau of the Census projections of age classes associated with the population projections shown in table 1 have been used in this study. These projections indicate that an increasing proportion of the population will be in the older age classes—the classes that have the highest income levels and the largest demands for many goods and services.

As a part of the general assumptions on population, it was assumed that the labor force would grow more rapidly than the total population. This reflects the shift in population toward the older age classes and increasing participation in the labor force, chiefly on the part of women. Hours per year are expected to continue to drop fairly rapidly to a level 15 to 20 percent below the present by 2020.

Gross national product assumptions

In recent decades, changes in the consumption of water and many timber products have been closely associated with changes in the Nation's gross national product, i.e., the value of all the goods and services produced in the economy.

Between 1920 and 1970, the gross national product, measured in constant 1967 dollars, increased more than five times—rising at an average annual rate of 3:4 percent (table 1). Annual changes have fluctuated widely, from as much as +16.1 percent to —14.8 percent. The highest sustained rates of growth in gross national product occurred in the 1960's, when growth averaged 4.5 percent per year.

Decade	Annual rates of growth		
	Low	Medium	High
1970 to 1979	3.5	4.0	4.5
1980 to 1989	3.0	3.5	4.0
1990 to 1999	3.0	3.5	4.0
2000 to 2009	3.0	3.5	4.0
2010 to 2019	2.5	3.0	3.5

The wide fluctuations in annual rates of growth in the gross national product have reflected such factors as differences in the rates of change in labor force, rates of unemployment, hours worked per year, and productivity. These factors will presumably continue to cause fluctuations in gross national product in the years ahead. But for this study only trends in growth were considered, and projections were based on the following assumed rates of increase. The differences in assumed growth rates partly reflect the different assumptions on population growth and the related size of the labor force. Thus, the highest rate of growth in gross national product is associated with the high projection of population. However, most of the difference in projected rates is due to underlying assumptions on trends in productivity of the labor force.

The declines in the rates over the projection period reflect in part the assumptions on population growth. They also reflect the assumptions on the age distribution of the population, hours worked per year, and productivity.

The medium assumed rate of growth would result in a gross national product of $2,600 billion in 2000—some percent above that of

1974 (table 1). By 2020 this projection would reach $4,920 billion—some times that of 974. The associated projection of per capita gross national product in 2020 rises to times the 1974 average.

Obviously, such projections rest on the assumption that the U.S. economy will continue to be oriented largely to production of economic goods, and that adequate supplies of raw materials and energy will be available to support such sustained growth over the projection period.

Both of these assumptions are being increasingly challenged,[4] and for the long run it is difficult to conceive of an indefinite continuation of high geometric growth rates. Also, concern for the environment could affect the types of goods produced, rates of productivity, and rates of increase in gross national product. For the projection period used in this study, however, it was assumed that the economic growth assumptions adopted provide an acceptable basis for evaluation of potential demands for renewable forest and range resources.

Disposable personal income

This measure of income available for spending or saving by the Nation's population has been another important determinant of the demand for certain products, such as recreation and various grades of paper and board. It also has a significant influence on household formation, size of dwellings and furniture consumption—all important determinants of the demand for lumber and other timber products.

Since 1929, disposable personal income has equaled about 70 percent of the gross national product. This historical and rather constant relationship was assumed to continue through the projection period (table 1).

The resulting estimates (medium level) show per capita disposable personal income nearly quadrupling by 2020. This means, of course, that the Nation is faced not only with the task of meeting the resource demands of an additional 86 million people, but the demands of 298 million people with a much higher standard of living.

Technological and institutional assumptions

Institutional and technological changes in the U.S. economy have substantially influenced use of renewable resources. Increasing urbanization, for example, has led to increased demand for some types of outdoor recreation, and has been an important source of the intensifying concern about the environment. It has also been the cause of important shifts in the use of raw materials including the partial displacement of timber products by steel, concrete, and other materials suitable for use in high rise buildings and other large urban structures.

Technological changes have also profoundly affected the demand for some resources. For example, recent developments in the pulp industry have substantially reduced the amount of water required to produce a ton of wood pulp. Innovations in the metals and plastics industries have resulted in the displacement of lumber and plywood in products such as furniture and containers. On the other hand, new technology has simultaneously led to large increases in the use of lumber in pallets, greater use of plywood in construction, and use of pulp and paper, plywood, hardboard, and particleboard in a wide assortment of end uses.

In the following sections of this study, projections of demand for renewable resources have been adjusted for specific technological and institutional changes that appear to be in prospect. The use of historical data as a base for projections implicitly assumes a continuing stream of technological and institutional changes such as have occurred in the past, as well as the continuation of recent trends in other variables such as educational levels, tastes, capital availability, and military activities.

Energy assumptions

The recent and large increases in energy costs, and the prospects for continuing limitations on supplies, have created great concern about prospective impacts on economic growth and the demand for outdoor recreation, rangeland grazing and timber. In this study, it has been assumed . . . material being prepared . . .

Mineral development assumptions

Prospective development of the coal and oil shale resources of the West have raised questions about the prospective impacts on renewable forest and range resources. An analysis of the situation indicates . . . material being prepared . . .

Price assumptions

For the purposes of this study, it was assumed that there would be no change in prices, or costs to consumers, relative to the general price level of water and wildlife. In recognition of the likelihood of increased costs to consumers of many types of outdoor recreation resulting from the rise in transportation costs associated with the recent upward shift in energy prices, the medium projections of demand for certain types of outdoor recreation have been prepared under two cost assumptions. Because of past increases in the relative prices of stumpage and most timber products, and the high probability of continued increases, the medium projections of demand for, and supply of, timber have been developed using three alternative price assumptions. It was also recognized that increased fertilizer costs, associated with the jump in energy prices, could significantly affect the demand for rangeland grazing. The specific price and cost assumptions are described in the following section dealing with recreation, timber, and grazing.

Other assumptions

In addition to the general assumptions outlined above, the projections of demands and supplies for the resources included in this study rest on a variety of other specified and implied assumptions. The most important of these, such as the assumptions on changes in commercial timberland and range areas, management intensities, the continuation of past relationships between variables, and constraints on the supplies of renewable resources associated with multiple-use management and the protection of the forest and range environment are described in the following sections.

I. SUMMARY

A. Projected growth in population, economic activity and income.
B. Outdoor recreation and wilderness.
1. The outdoor recreation resource situation.
2. Projected demand/supply relationships.
3. Opportunities for increasing and improving outdoor recreation resources.
C. Fish and wildlife.
1. The fish and wildlife resource situation.
2. Projected demand/supply relationships.
3. Opportunities for increasing supplies of fish and wildlife and improved habitats.
D. Rangeland grazing.
1. The range resource situation.
2. Projected demand/supply relationships.
3. Opportunities for increasing and improving range grazing.
E. Timber
1. The timber resource situation.
2. Projected demand/supply relationships.
3. Opportunities for increasing and extending timber supplies.
F. Water.
1. The water resource situation.
2. Projected demand/supply relationships.
3. Opportunities for increasing and improving water supplies.
G. Data and scientific information needed for the preparation of future assessments.

II. THE FOREST AND RANGELAND BASE

The section presents information on the area, location, ownership, characteristics, and major uses of the Nation's forest and range lands.

A. Introduction.
B. Definition of forest lands.
C. Definition of rangelands.
D. Land inventory.
1. Forest.
2. Range.
E. Geographic distribution.
1. Forest lands.
2. Rangelands.
F. Ownership.
1. Forest lands.
2. Rangelands.
G. Forest land characteristics.
1. Noncommercial.
2. Commercial.
3. Major cover types.
H. Rangeland characteristics.
1. Major cover types.
I. Major uses of forest and rangeland.
1. Wildlife.
2. Grazing.
3. Outdoor recreation.
4. Timber.
5. Water.
6. Wilderness.
7. Other uses—parks, scenic rivers, historical and archeological sites, etc.
8. Minerals—impacts of development on forest and rangelands.

III. AN ASSESSMENT OF THE OUTDOOR RECREATION AND WILDERNESS SITUATION

This section presents information on (1) trends in the use of forest and range lands for developed site and dispersed outdoor recreation with projections of demand to 2020, (2) recent and prospective changes in supply of outdoor recreational facilities, and (3) opportunities for improving forest and range lands for outdoor recreation activities. It also includes a discussion of the use of forest and range land as wilderness.

A. Introduction.
1. Participation in outdoor recreation.
a. As described in the 1972 National Outdoor Recreation Study (BOR).
b. As described by National Forest System statistics by activities and sites (RIM).
2. Prospective demographic changes and potential effects on demand for outdoor recreation.
3. Other influences on recreation activities.
B. Developed site activities.
1. The demand and supply situation for developed camping.
a. Recent trends in camping.
b. The characteristics of campers.
c. Projected demand for camping.
d. Supply of camping facilities.
e. Opportunities for providing camping facilities.
2. The demand and supply situation for picnicking (Outline similar to camping).
3. The demand and supply situation for skiing (Outline similar to camping).
4. The demand and supply situation for visitor information.
C. Dispersed area activities.
1. The demand and supply situation for dispersed camping (Outline similar to camping).
2. The demand and supply situation for recreation vehicle travel (Outline similar to camping).
3. The demand and supply situation for trail uses including hiking and horseback riding.
(Outline similar to camping).

[4] See, for example: Commoner, Barry. The closing circle. Alfred A. Knopf, 1971; Meadows, Donella H., Dennis L. Meadows, Jorgen Randus, and William W. Behrens. The limits of growth. Universe Books, New York. 1972.

4. The demand and supply situation for boating and canoeing (tentative).
(Outline similar to camping).
D. Wilderness and primitive areas.
1. Use of wilderness areas.
a. Recreation.
b. Scientific and other uses.
2. Recent trends in recreation use of wilderness areas.
3. User characteristics.
4. Present status.
5. Areas under review.
E. Specially designated areas.
1. Scenic rivers.
2. National trails.
3. Other special areas.

IV. AN ASSESSMENT OF THE FISH AND WILDLIFE SITUATION

This section presents information on (1) trends in wildlife and fish-oriented recreation activities on forest and range lands; (2) recent and prospective changes in supplies of fish and wildlife; and (3) opportunities for improving forest and range lands for fish and wildlife. This discussion covers four types of activities: hunting, fishing, trapping, and nonconsumptive uses.
A. Introduction.
B. Consumptive activities.
1. The demand and supply situation for big game, upland game and waterfowl.
a. Recent trends in hunting.
b. The characteristics of hunters.
c. Projected demand for hunting.
d. Supply of game.
(1) Trends in harvest
(2) Population estimates
e. Opportunities for improving habitats and increasing supplies of game.
(Discussion under each heading will cover big game, upland game, and waterfowl.)
2. The demand and supply situation for fish—coldwater, warmwater, and anadromous.
(Outline similar to hunting)
3. The demand and supply situation for trapping.
(Outline similar to hunting)
C. Nonconsumptive activities.
1. The demand and supply situation for fish and wildlife enjoyment—nature walks, photographs, birdwatching, etc.
a. Recent trends.
b. The characteristics of users.
c. Projected demand for fish and wildlife enjoyment.
d. Supply of fish and wildlife.
e. Opportunities for improving habitats and increasing supplies of fish and wildlife.
(Discussion under each heading will cover the major types of activities.)
2. The situation and outlook for endangered species.
3. Opportunities for protecting and increasing endangered species.

V. AN ASSESSMENT OF THE RANGELAND GRAZING SITUATION

The sections present (1) estimates of expected demand for rangeland as a source of livestock grazing, (2) a description of the Nation's rangeland resource base and its current use and productivity, and (3) a summary evaluation of opportunities for rangeland development and management.
A. Introduction.
1. Traditional role of rangeland.
2. International aspects.
B. Demand for rangeland grazing.
1. Issues and factors affecting USA range demands.
a. Economic outlook (agricultural prices).
b. Political-social factors (agricultural policies, foreign trade, etc.).
c. Changing price relationship (among alternative livestock feed and forage sources).
d. World markets for grain, vegetable proteins, and meat.
e. Fossil fuel energy (trade-offs between feed and range).
f. Scientific breakthrough (animal, meat substitutes, fiber, range and agronomic technologies).
g. Optional uses for range.
2. Range demand concept (targets for management alternatives).
3. Demand for meat.
a. Overall trends in production and consumption.
b. Alternative sources of protein.
c. Preferences by kind and type of meat.
d. Import and export of meats.
4. Demand for livestock feed and forages.
a. Feed and forage supplies and rations (by type of livestock production system).
b. Impact of changes in demand for kind and type of meat on feed needs.
c. Import and export of feeds.
5. Demand for grazing.
a. Distribution by kind of grazing (nonrange) and type of farming-ranching area.
b. Influences of changing production costs (fuel prices, fertilizer, labor, etc.).
6. Demand for range grazing.
a. Geographic area, season, and range type.
b. Major ownership (federal, non-federal).
7. Demand for national forest system grazing (as a function of supply potential).
8. Demand for nonlivestock grazing range outputs.
C. The rangeland resource situation.
1. Rangeland base (by ecosystem and ownership).
a. Area.
b. Occurrence.
c. Present status.
2. Current management.
a. Levels of management.
b. Interdependence of NFS, other Federal and non-Federal lands.
3. Resource outputs.
a. Outputs with direct economic value.
b. Other outputs with direct economic value.
c. Qualitative outputs with indirect economic value.
D. Opportunities for rangeland development and management.
1. Productivity under alternative management strategies.
2. Opportunities for increasing and improving range grazing.

VI. AN ASSESSMENT OF THE TIMBER SITUATION

This section presents information on: (1) Recent trends in consumption of timber products and projections of demand to 2020; (2) imports and exports of timber products and the timber demand and supply situation in the major importing and exporting countries; (3) recent changes in the area and condition of timber resources with projections of timber supplies to 2020; (4) comparisons of projected timber demands with supplies and the economic and social implications of prospective imbalances; and (5) opportunities for increasing and extending timber supplies.
A. The demand for timber.
1. Trends in the major markets for lumber and panel products.
2. Projected demand for lumber and panel products.
3. The demand for pulpwood.
4. The demand for miscellaneous roundwood products.
5. The demand for fuelwood.
6. Log imports and exports.
7. Summary of demand for timber.
B. World timber demands and supplies.
1. World timber demands.
2. World forest land and timber resources.
3. Summary of prospective trends in U.S. trade in timber products.
C. Commercial timberland and timber resources.
1. Commercial timberland characteristics.
2. Timber volumes.
3. Timber growth.
4. Mortality.
5. Timber removals.
6. Net growth in relation to removals.
D. Projections of timber supplies with recent levels of management.
1. Basic assumptions.
2. Projected supplies by species group and section.
E. Timber demand/supply relationships.
1. Softwood timber demand/supply balances with recent levels of forest management.
2. Hardwood timber demand/supply balances with recent levels of forest management.
3. Economic implications of timber demand/supply imbalances.
a. Prices.
b. Timber industries.
4. Social and environmental implications of timber demand/supply imbalances.
F. Opportunities for increasing timber supplies through intensified management and improved utilization.
1. General opportunities for management intensification.
2. The importance of forest ownerships.
3. Environmental factors relating to intensification of forest management.
4. An example of potentials for increasing softwood sawtimber supplies.
5. Potential increases in timber supplies from improved utilization.
6. The potential contribution of research.

VII. AN ASSESSMENT OF THE WATER SITUATION

This section presents an appraisal of (1) the current water situation, (2) a nationally consistent set of projections of water demands and supplies, which will identify existing and potential water supply problems at the national and regional level, and (3) opportunities for increasing water supplies and improving water quality. Much of this material will be abstraced from the "1974 Assessment of Water and Related Land Resources" being prepared under the overall direction of the U.S. Water Resources Council.
A. Basic assumptions.
1. Agricultural and forestry production.
2. Water quality (including assumptions about meeting requirements of P.L. 92-500).
3. Water use.
4. Electric power.
5. Flood damages.
6. Navigation.
7. Fish and wildlife.
8. Recreation.
9. Energy.
B. The demand for water.
1. Trends in water consumption by region and major uses.
a. Manufacturing.
b. Mineral (fuels, metallic, nonmetallic).
c. Electric power.
d. Domestic use—central system.
e. Domestic noncentral system.
f. Agricultural (irrigation and livestock).
g. Public lands (including Indian reservation).
h. Fish hatcheries and wildlife refuges.
2. Projected demands for water by region and major uses.
Same as above.
C. The supply of water.
1. Assumptions.
2. Estimates of current water supplies by region (surface and groundwater).
3. Estimates of water imported and exported by region, as controlled by legal commitments.
D. Water/demand supply relationships.
1. Identifications of water short areas with prospective deficits.
2. Identification of water surplus regions.
3. Identification of other water problems.
a. Flood damage.
b. Navigation.
c. Fish and wildlife.
d. Land and water preservation needs.
4. Opportunities for increasing water supplies and improving water quality by region.

VIII. AN ASSESSMENT OF DATA AND SCIENTIFIC INFORMATION NEEDS

This section of the study discusses the kinds of data and scientific information needed to provide an adequate quantative basis for the 1979 and following assessments of renewable forest and range resources. The discussion is primarily concerned with the need for (1) inventories of resources, (2) surveys of the use of forest and range products, (3) measures of increased yields of products resulting from management, utilization, and research programs, and (4) research on the techniques of collecting data and preparing future assessments.

A. Inventories of renewable resources.
1. Grazing.
a. Current inventory data.
b. Needed inventory data.
2. Outdoor recreation.
a. Current inventory data.
b. Needed inventory data.
3. Timber.
a. Current inventory data.
b. Needed inventory data.
4. Water.
a. Current inventory data.
b. Needed inventory data.
5. Wildlife.
a. Current inventory data.
b. Needed inventory data.
B. Surveys of renewable resources.
1. Grazing.
a. Current grazing use surveys.
b. Needed surveys.
2. Outdoor recreation.
a. Current recreation use surveys.
b. Needed surveys.
3. Timber.
a. Current timber products use surveys.
b. Needed surveys.
4. Water.
a. Current water use surveys.
b. Needed surveys.
5. Wildlife.
a. Current wildlife use surveys.
b. Needed surveys.
6. Surveys of unique features of forest and range lands, i.e., archeological and historical sites, endangered species, etc.
7. Surveys of prices of forest and range products.
8. Surveys of costs of management practices.
C. Measures of responses to alternative programs for increasing supplies.
1. Grazing.
2. Outdoor recreation.
3. Timber.
4. Water.
5. Wildlife.
D. Techniques research on collecting data and improving assessments.
1. Conducting renewable resource inventories.
2. Conducting surveys of use of renewable resources.
3. Projecting longrun trends in demands and supplies of renewable resources.
4. Measuring responses to management.
5. Measuring impacts of economic and sociological factors on demands and supplies.
6. Measuring economic, social, and environmental impacts of economic resource scarcity.
7. Impact interactions among renewable resources from changes in management practices.

IDLE CAPACITY GREATEST SINCE DEPRESSION MEANS VIGOROUS STIMULATION WITHOUT INFLATION

Mr. PROXMIRE. Mr. President, this country is now operating at the lowest level of capacity operation that we have at any time since the Great Depression. And there is every indication that in coming months our great industrial plant will be operating even farther below capacity.

This should remind us of one big central fact about how promptly and vigorously we stimulate the economy, it is this: We have a very, very long way to go before economic stimulation by cutting taxes or by getting the housing industry moving ahead vigorously, or any other effective program for putting Americans back to work provokes inflationary pressures in the economy.

As a matter of fact, if we can succeed in turning the economy around so that the slide in production stops and the unemployed go back to work, inflation is likely to be reduced, I repeat inflation will be reduced as we begin to recover.

No, this is not a contradiction. It is a well established fact. Repeatedly as we have moved out of recessions in the past, the rate of inflation has eased. Why?

Why, when there is a greater demand for goods and services and manpower and resources, do price pressures ease?

The answer is that as the volume of sales pick up employers can do two things to cut their costs. First, they begin to reduce their unit overhead costs because they spread their overhead over a larger quantity of sales.

Second, they can put their work force back to work full time and get a full day's work for a full day's pay. Right now with demand falling and production being cut back employers are getting less work out of their work force because the demand just is not there. Last year, for the first year in all American history, the average worker worked less than 37 hours a week. That is a lower use of our work force than we had during the depths of the depression. But in January—the most recent month for which we have statistics—the work week fell below 36 hours to only 35.7.

This is why productivity of American workers has fallen so sharply and why unit labor costs and inflationary pressures—the wage-cost push are shoving up prices while the economy is running downhill so fast.

But the big economic figure we should recognize today is the fact that we are operating at less than 70 percent of our factory capacity.

Mr. President, most Senators agree with President Ford that we should have a large and prompt tax cut. I think many will support a program that will put the depressed housing industry back to work.

But none of these recovery programs will have any substantial effect unless we are sure that the money supply, the credit available so that a recovering housing industry, for instance, does not run into rapidly rising interest rates that choke off recovery before it can provide the employment and the housing we so urgently need.

The seven Governors of the Federal Reserve Board should take a long, hard look at these capacity utilization figures. They should understand that they tell us very clearly it will take many months—extending into years of vigorous economic growth to get unemployment down below 6 percent, that meanwhile we need sustained monetary and credit growth, so interest rates will stay low. They should realize that such a policy is a responsible policy, a policy that can be modified as time goes on to prevent the kind of runaway explosion of credit that could result in an eventual inflation-recession pattern.

Mr. President, Tuesday's Wall Street Journal carries an excellent article by Alfred L. Malabre Jr. that details the deflationary effect of the present idle plant capacity. 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:

[From the Wall Street Journal, Mar. 4, 1975]

THE SLACK ECONOMY: IDLE CAPACITY REACHES POSTWAR HIGH, TENDING TO DAMPEN INFLATION

(By Alfred L. Malabre, Jr.)

If inflation in the U.S. eases substantially in coming months, as many forecasters now expect, a major reason won't be hard to pin down. It will be the giant gap that has opened up between the economy's capacity to produce and its actual output.

Idle economic capacity—unused people as well as unused plant facilities—has recently reached such proportions, many economists claim, that inflationary pressures are unlikely to rekindle anytime soon. This will be true, these analysts maintain, even if Washington's policymakers finally settle on recovery tactics that may appear, at least to some of those most fearful of inflation, to be dangerously stimulative.

"My desk is piled high with statistical data showing the enormous buildup of slack in the economy in recent months," declares George Wino, an economist at Lionel D. Edie & Co., an investment research concern owned by Merrill Lynch, Pierce, Fenner & Smith Inc.

BULGING INVENTORIES

Inflation tends to subside in a slack economy, analysts note, because many of the forces that traditionally tend to drive up prices—excessive demand for goods and services, labor shortages, production bottlenecks—are absent. Instead, pressures mount to trim prices to ease such costly burdens as bulging inventories and idle plant facilities.

Lionel Edie economists foresee a progressive easing of inflation as 1975 goes along, even though they also anticipate a sharp pickup in general economic activity after midyear. They estimate that prices in the current quarter will climb at an average annual rate of close to 8%, while economic activity, in "real" terms after adjustment for price changes, will decline at an annual rate of nearly 9%. By the fourth quarter, however, they expect that the price climb will ease to 4.7% annually, despite "real" economic growth of 8.4% annually.

Arthur Brickner, economist of Brown Brothers Harriman & Co., a New York investment firm, also is impressed by the amount of slack in the economy. "With substantial slack in the resources of labor, materials and productive capacity," Mr. Brickner declares, "there now is a chance of inflation gradually tapering off." By 1976, he sees prices generally rising on the order of 5% and a strong economic upturn in progress.

A similar view is expressed by Peter L. Bernstein, a New York-based economic consultant. "A yawning gap" has opened up, he says, "between what we actually are producing and what we could potentially produce at full output." As a result, he asserts, "fears of renewed inflation at the first sign of stimulus are groundless."

OPERATING AT ONLY 70 PERCENT

Evidence of the gap between potential and actual production shows up, among other places, in a government index that pinpoints the percentage of manufacturers' plant capacity actually in use. Analysts estimate that the index currently stands at about 70%, down from more than 80% as recently as mid-1974. The current plant operating rate is the lowest on record since the index was initiated in 1948. The previous record low occurred in the second quarter of 1958, when manufacturers used only 72.5% of their facilities.

An indication of the slack that has developed in the economy as a whole appears in other government figures that compare actual and potential gross national product.

As recently as mid-1969, actual GNP matched the potential figures, which is based on government estimates of the economy's theoretical ability to expand. Lately, however, the gap between actual and potential GNP has sharply widened, from about $6 billion annually in early 1973 to more than $100 billion annually in t..e current quarter, according to federal estimates. The GNP gap crossed the $50 billion mark for the first time in the second quarter of 1974. The series, which is based on "real" statistics, with inflation removed, goes back to 1952.

A buildup in unusued labor power can readily be seen in recent unemployment figures. In January, 8.2% of the labor force was jobless, the highest monthly rate in two dozen years. As recently as last April, only 5% of the labor force was jobless. In absolute terms, 7,529,000 persons wanted work but couldn't find any in January. Only during the worst years of the Great Depression were more Americans out of work.

OTHER SIGNS OF SLACK

Other signs of slack in the economy are noteworthy. The rate of home building in the country has fallen by more than 50% in two years, a decline indicating the vast amount of home-building capacity currently untapped in the nation. Other fields where capacity greatly exceeds demand range from office building to airline transportation. And, of course, the huge number of unsold automobiles is telling evidence of that industry's idleness.

A glance at the economic record book suggests why many forecasters anticipate—with so much excess capacity around—a substantial easing of inflation in coming months. It shows that, once it accumulates, idle capacity remains high for a considerable time after the economy begins to recover. At the pit of the last recession, which persisted from the end of 1969 to the end of 1970, manufacturers were operating at 74% of capacity, on the average. More than a year later, in the first quarter of 1972, the operating rate was only up to 75%, and it remained below the 80% level until the end of that year.

Similar patterns are evident in earlier postwar recovery periods. Often, plant operations remained at recession-type levels—well under 80%—for six months or more after business generally turned around.

By no coincidence, the record also shows that inflationary pressures have been slow to resume in recovery periods. The consumer price index, the most widely followed inflation gauge, actually rose more slowly during the first two years after the 1969–70 recession than during the recession itself. The slowdown was pronounced well before the Nixon administration's controversial decision to impose wage-price restraints in late 1971. The price rise remained below 1969–70 levels until the end of 1972, when plant operations finally crossed above the 80% mark.

The pattern is the same, analysts note, in other recovery periods. And this is so even if other price and capacity yardsticks are used. Economists at Boston Co., an investment research firm, put particular emphasis on the amount of slack apparent in the GNP statistics. These and other figures lead Richard C. Katz, Boston Co.'s senior vice president, to forecast that the country has "just entered a period with no prospect for the resumption of inflationary pressures before 1977 at the earliest."

It should be noted, parenthetically, that the likelihood of a slack economy in coming months, unstrained by inflationary pressures, suggests to Mr. Katz, as well as many other forecasters, that this may be a good time for investors to purchase common stocks. "Periods when slack capacity exists are good environments for favorable equity performance," Mr. Katz says.

One key reason that inflation is slow to rekindle in a slack economy, even long after business turns around, involves labor productivity. The first thing to happen when operating rates finally begin to edge higher during recovery periods, analysts explain, is normally a sharp pickup in workers' productivity. This is not because people suddenly begin to work harder. Rather, it reflects a fuller use of idled production facilities, without resort to extensive rehiring of furloughed employes. The effect, however, is to boost the hourly output of those on the job. This productivity climb, in turn, serves to reduce per-unit labor costs. And such costs, of course, can be a major source of inflationary pressure in the economy.

This pattern can be seen, for instance, during the recovery from the 1969–70 recession. Hourly output of workers employed in private businesses, after declining during the actual recession, rose for about two years, until plant operations leveled off near 85% of capacity. During the same two years, despite a series of big pay boosts in major contracts, per-unit labor costs remained about flat and then actually declined in 1972 when plant operations began to climb appreciably. The pattern is still more pronounced, economists note, in earlier postwar recoveries when pay boosts generally were smaller.

The prospect of continuing slack in the economy as a whole—and easing inflation as a result—does not erase the fact that price pressure could redevelop relatively soon in some industries. Although overall plant operations are at about 70% of capacity at present, a few industries continue to operate at much higher rates that could rise to inflationary levels relatively quickly in an economic turnaround. A recent survey by the American Machinist, a trade magazine, shows that instrument makers, for instance, continue to use about 85% of their capacity.

Some economists also question whether there is quite as much slack in today's overall economy as the various statistics suggest. It's noted, for example, that government estimates of potential GNP are based on the assumption that the country's labor force is fully activated, but not under inflationary strain, when the unemployment rate is at 4%. Many analysts, however, believe that theoretical "full" employment nowadays is closer to 5% than 4%. As a result, it's argued that the gap between actual and potential GNP isn't as huge as government estimates indicate.

Similarly, some analysts contend that plant capacity isn't growing as much as various surveys assume to be the case. They claim that estimates of plant expansion often rely too much on raw capital spending figures, which have been on the rise, and don't take into sufficient account the rising portion of such outlays aimed at curbing pollution rather than expanding capacity. More than 10% of manufacturers' outlays nowadays are for pollution abatement, up from about 2% as recently as 1967.

Other considerations prompting some analysts to question how much slack really exists in today's economy range from possible economic constraints caused by costlier and less certain supplies of imported oil to questions about the ability of the financial system to accommodate renewed business growth. A. Gilbert Heebner, economist of Philadelphia National Bank, says flatly that "after the strains encountered in 1974" the country's "financial system does not have the capacity to sustain a renewed period of rapid growth."

Such caveats, however, don't appear to alter the basic fact that a very great amount of economic slack does exist. Boston Co. economists reckon, for instance, that using 4.75% instead of 4% as the "full" employment level reduces the gap between actual and potential GNP this year by only $7 billion.

MASSACHUSETTS SELECTMEN'S ASSOCIATION

Mr. KENNEDY. Mr. President, yesterday, we in the Massachusetts delegation had the opportunity to visit with many of the selectmen, mayors, and town and city officials from the Commonwealth of Massachusetts. These local elected officials came to Washington to let us know first hand of the problems facing local communities during this period of economic distress for all our citizens.

I would like to call to the attention of my colleagues a distinguished organization, the Massachusetts Selectmen's Association. For 46 years the association has served municipal government in Massachusetts by assisting selectmen in performance of their duties. The Massachusetts Selectmen's Association acts as a legislative liaison and provides united and effective leadership in developing legislation which will benefit the citizens of the Commonwealth.

The numbers and size of our towns and cities has grown enormously since the Massachusetts Selectmen's Association was first organized; and this group has managed to develop efficient and human practices and procedures for municipal administration. In addition to assisting each town to promote good government administration, the association has encouraged cooperation among communities in solving the social, economic, and environmental problems that cut across municipal boundaries and call for joint action.

Mr. President, I would like to pay tribute to this outstanding organization and its officers: President, William Gerry Whitlock, Belchertown; first vice president, Richard T. Moore, Hopedale; second vice president, John E. Taft, Sudbury; Secretary, Eleanor N. Johnson, Walpole; and treasurer, Paul C. Barber, Duxbury.

I ask unanimous consent that two resolutions adopted at the legislative conference of the Massachusetts Selectmen's Association be printed in the RECORD.

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

MASSACHUSETTS SELECTMEN'S ASSOCIATION: FEDERAL REVENUE SHARING RESOLUTION

Whereas, the towns in the Commonwealth of Massachusetts have been annually receiving needed financial assistance through the allocation of federal dollars under the general revenue sharing programs; and

Whereas, these revenue sharing dollars

come to the communities without substantial bureaucratic interference thus enabling the towns of the Commonwealth to use these funds to meet locally determined needs of the communities, and

Whereas, the selectmen of the towns are viewed as the officials accountable for expenditure of these funds, and

Whereas, the general revenue sharing program is providing needed fiscal relief to the towns during this critical period of inflation, and

Whereas, the 94th Congress must deal with the extension of the general revenue sharing program before the termination in 1976;

Now therefore be it *resolved* that the Massachusetts Selectmen's Association unanimously endorses the continuation of the general revenue sharing program and calls upon the 94th Congress to reenact the general revenue sharing program to insure that this critically needed federal assistance will be provided to the towns of the Commonwealth of Massachusetts.

MASSACHUSETTS SELECTMEN'S ASSOCIATION: PRESIDENT FORD'S ENERGY PROGRAM RESOLUTION

Whereas, the energy program of President Gerald Ford will impose an unnecessary hardship on the citizens of the Commonwealth of Massachusetts and the municipalities of New England, and

Whereas, the New England region relies heavily on imported oil, and

Whereas, the towns of the Commonwealth of Massachusetts are major consumers with programs such as street lighting and maintenance of public buildings as well as substantial owners of motor vehicles, and

Whereas, the President's proposals will result in a substantial additional cost for both the fuel adjustment and fuel prices, and

Whereas, the tourist industry in Massachusetts would be severely hurt by increased motoring costs at a time when this area is a prime target for celebrations of the country's bicentennial, and

Whereas, the tariff on imported oil will result in an additional $38 million dollar cost to Massachusetts residential consumers for heating costs;

Now therefore be it *resolved* that the Massachusetts Selectmen's Association does hereby support the actions of the New England Congressional delegation and the New England's Governors Conference in their efforts to secure legal reversal of the President's proposal;

Be it further *resolved* that the Massachusetts Selectmen's Association urges President Gerald Ford to provide some mechanism to insure that consumers in the towns of Massachusetts will not be discriminated against in this difficult economic time.

(1) NAM. (2) HOME. (3) JOBLESS

Mr. McGOVERN. Mr. President, for a young veteran of the Vietnam era seeking employment today, the outlook is not very promising. One look at the most recent Bureau of Labor Statistics figures can empty his spirit, drain his enthusiasm, and erase his hopes for entering the Nation's working force. The report tells him that veterans in the 20 to 24 age bracket are facing an unemployment rate of 19.7 percent. But even more astonishing than this figure is the one that minority veterans of the same age must combat. The latest quarterly report shows these veterans with a jobless rate of over 22 percent.

But beyond the grim job and economic situation, there is another problem that hundreds of thousands of veterans must contend with—the problem of less-than-honorable discharges. Also referred to as "bad paper," these discharges are issued administratively, without the safeguards required at a court-martial, and have proven to be one of the major problems faced by veterans seeking employment. Even if they are able to find work, it is usually demeaning and falls into the category of unskilled labor with little hope of advancement. The only real hope these men have is to have their discharges reviewed and recharacterized. But that review system as it now exists is ineffective, slow, and expensive. Too often a veteran holding a less-than-honorable discharge is a veteran vexed by an inescapable stigma for life.

The situation is a dark one, and unfortunately not an easy one to solve. But I see one answer in the creation of regional boards with guidelines for reviewing and upgrading the dismissals of these men who have been branded by the less-than-honorable discharges. I am working on such legislation now and was therefore very interested in Robert L. Hill's article in the March 3 issue of the New York Times in which he makes a similar recommendation. It is important, I think, that the Congress and the public learn more about the "bad paper" dismissals—what they are, what they mean to veterans, and what can be done about them. I therefore ask unanimous consent that Robert Hill's article, "(1) Nam. (2) Home. (3) Jobless" be printed in the RECORD.

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

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

(1) NAM. (2) HOME. (3) JOBLESS.

(By Robert L. Hill)

WASHINGTON.—The figures tell the story. With an unemployment rate of 8.2 per cent for January, our nation is drifting further toward economic difficulties. In the case of the young minority Vietnam veteran those difficulties are compounded.

The rate of unemployment for young minority veterans aged 20 to 24 is now conservatively estimated at 25 per cent or more, up from 8.5 per cent in the final quarter of 1973. Finding work is undoubtedly the No. 1 problem confronting the black and other minority veteran.

But it is not the only one. Some 350,000 Vietnam-era veterans left the service with less-than-honorable discharges. Of this number, most have been black, brown, poor and undereducated. And less-than-honorable discharges and a veteran's opportunity for employment are directly related.

With a less-than-honorable discharge, a veteran's chances for employment are minuscule. The National Urban League, among others, has found that employers who would hire civilians who had been convicted of misdemeanors would not hire veterans with administrative discharges.

June Willenz, executive director of the American Veterans Committee, wrote in a recent issue of "The Crisis," the official publication of the National Association for the Advancement of Colored People, the blacks, Chicanos, and Puerto Ricans received other-than-honorable discharges far out of proportion to their numbers, just as their combat casualties in Vietnam were egregiously disproportionate.

The armed forces issue five types of discharges: honorable, general, undesirable, bad-conduct and dishonorable. The last three are less-than-honorable, and the last two are conferred by sentences of special and general courts-martial.

The general and undesirable discharges are given by administrative action, usually by a commanding officer (and sometimes personal animosities are involved), and these represent the vast majority of administrative discharges. Many individuals guilty of minor infractions have chosen quick release over a brief prison confinement. They fail to realize that a less-than-honorable discharge can carry with it a stigma for life.

In many cases the veteran with a less-than-honorable discharge will find as he reenters civilian life that he is ineligible for the benefits of the G.I. Bill, such as educational assistance, medical care, Veterans Administration loans, employment assistance, unemployment benefits and civil service point preferences. And upgrading of discharges is no easy matter.

The Discharge Review Board is in Washington, D.C., and the veteran must travel at his own expense for a hearing before it. He must assume his own legal fees in a procedure that is lengthy and cumbersome. Even then only about one out of every seven discharge review cases is acted upon favorably. Since at the most, only one out of every five veterans who receives a bad discharge ever appeals, only about 3 per cent have had their discharges upgraded.

The remedies for this deplorable situation would appear obvious. The creation of review boards at the Veterans Administration regional level would reduce the waiting time, now eight months to two years. Enlisted personnel and civilians appointed to the board might provide for more equitable reviews. The payment of the appellant's legal and other expenses would help since many of these individuals are poor minority members.

Consequently, more veterans with less-than-honorable discharges would be encouraged to upgrade their discharges and, simultaneously, the chances for employment, education and the better life.

But this is not enough. Much more can and must be done with regard to expanding the opportunities for the Vietnam veteran, particularly the blacks and those in other minorities.

There are Federal and other agencies working on the problem of finding jobs for veterans, but the bureaucracy frequently gets bogged down in its own efforts. The National Alliance of Businessmen has pledged to find jobs for 200,000 Vietnam-era veterans in 1975 and President Ford has ordered all Federal departments and agencies to find jobs for 70,000 veterans.

But there are more than 430,000 unemployed Vietnam-era veterans. Nearly 60,000 of them are black or in other minorities. Neither the Veterans Administration nor any other Federal agency supports a program aimed specifically at the black or minority veteran. Isn't it about time that they or someone else finally cared?

MULTINATIONAL OIL COMPANIES USED FOREIGN TAX CREDIT TO CUT 1972 U.S. TAX BILL BY 77 PERCENT, TREASURY REPORT SHOWS

Mr. MONDALE. Mr. President, a new Treasury Department report shows that U.S. multinational oil companies used foreign tax credits to cut their 1972 U.S. tax bill by almost 77 percent.

According to the Treasury report, the oil companies reduced their 1972 U.S. income tax bill from $3.8 billion to $893 million by subtracting from their U.S. taxes the amount they paid in taxes to foreign governments.

The foreign tax credit is generally a legitimate device to avoid double taxation. But the multinational oil companies have used it like an enormous tax eraser. The U.S. oil companies took

fully 47 percent of all foreign tax credits claimed by U.S. industry for 1972. And while the oil industry cut its taxes 77 percent by using the tax credit, all other industries combined cut theirs by only 8.5 percent.

The new "preliminary" Treasury report on 1972 corporation income tax returns shows that all U.S. industries claimed $6.264 billion in foreign tax credits against total 1972 income taxes of $42.798 billion. But the oil companies—listed in the Treasury report as "crude petroleum and natural gas" and "petroleum refining and related industries"—claimed $2.953 billion in foreign tax credits against total 1972 taxes of $3.846 billion, thereby reducing their U.S. taxes to $893 million.

The secret of this gargantuan oil industry tax avoidance is the arrangement which allows them to treat their payments to the OPEC oil cartel as income taxes—which can be credited dollar for dollar against U.S. taxes—rather than as royalties or excise taxes, which can reduce U.S. taxes by only about half as much. This technique—sometimes known as the golden gimmick—dates back to a highly controversial 1950 Treasury ruling which deemed these payments to be income taxes. The ruling—a combination of foreign aid for the Arab countries and welfare for the oil companies—has had the following effects:

Oil exploration and drilling has been encouraged in insecure and unreliable foreign areas rather than here at home;

The multinational oil companies have been encouraged to transfer other operations—refining, shipping, insurance, et cetera—abroad as well, so this income, too, can be sheltered by foreign tax credits; and

The OPEC oil cartel has been allowed to pick the pockets of the U.S. Treasury at the same time it is picking the pockets of U.S. consumers, since every extra dollar going to OPEC in taxes—that is, royalties—means $1 less for the U.S. Treasury.

As a result of this tax largesse, the 19 major U.S. oil companies ended up paying a total of 5.7 percent of their 1972 income in U.S. income taxes, less than a family making $8,000 a year. And some of the biggest companies paid the smallest percentage. Gulf paid 1.2 percent, Mobil 1.3 percent, Texaco 1.7 percent, Standard of California 2.1 percent, and Exxon 6.2 percent.

The tax bill passed by the House Ways and Means Committee last year made a modest start on limiting abuse of the foreign tax credit by the big multinational oil companies. Unfortunately, the bill died at the end of the year. Its revival must be one of the first orders of business in the new Congress.

EXPORT-IMPORT BANK FINANCING PRENOTIFICATION

Mr. PROXMIRE. Mr. President, I call the attention of my colleagues to a communication I have received from the Chairman of the Export-Import Bank, William J. Casey, notifying me of a pending credit transaction with the Republic of Korea. This is the first notice to be transmitted pursuant to section 2(b)(3) of the Export-Import Bank Act, as amended in the last Congress. That section requires prenotification to both Houses of Congress of any loan, financial guarantee, or combination thereof in an amount of $60 million or more at least 25 days of continuous session of Congress prior to the date of final approval. Upon the expiration of this period of time, the transaction goes through unless Congress takes action to deny the approval.

In this case, the Bank proposes to provide financing to Korea Electric Co.—KECO—to purchase U.S. goods and technical services for the construction and initial operation of a 600-megawatt, nuclear powerplant. Out of a transaction total of $263 million, Eximbank will supply $78.9 million, or 30 percent, in direct loans and an additional $105.2 million, or 40 percent, in loan guarantees to private financial institutions. The direct loan portion will bear interest at the rate of 8½ percent, and it will be repaid at the end of a 15-year repayment term beginning March 20, 1981.

Mr. President, I ask unanimous consent that Chairman Casey's letter and the attached statement be printed in full in the RECORD.

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

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., February 26, 1975.

Hon. WILLIAM PROXMIRE,
Chairman, Senate Committee on Banking, Housing, and Urban Affairs, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with section 2(b)(3) of the Export-Import Bank Act of 1945, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I respectfully furnish herewith a copy of this statement for your consideration.

Sincerely,

WILLIAM J. CASEY.

Enclosure.

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., February 25, 1975.

Hon. NELSON A. ROCKEFELLER,
President of the Senate, Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction.

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to extend a direct credit of $78,900,000 to Korea Electric Company (KECO) a public company which is the sole electric utility in the Republic of Korea, and to guarantee loans by private financial institutions to KECO in the amount of $105,200,000. The purpose of the Eximbank financing is to facilitate KECO's purchase from the United States of goods and services for the construction and initial operation of KoRi II, a 600 MW nuclear power plant to be located near Pusan on the southeast coast of the Republic of Korea. The power plant when completed will be incorporated into the transmission system of KECO. In August, 1969, Eximbank authorized a credit in the amount of $47,250,000 to finance 75 percent of the United States Costs of KoRi I, a sister nuclear power plant to KoRi II. KoRi I is now under construction.

The equipment and material for KoRi II which is to be financed by Eximbank and the private financial institutions participating with Eximbank will be manufactured in the United States and the related services will be performed by United States firms. The estimated total construction cost for KoRi II is $648,000,000 of which $263,000,000 represents purchases of United States goods and services, including the initial fuel core having an estimated cost of approximately $26 million.

Exports of the equipment and the fuel will be made within the framework of a cooperation agreement on atomic energy entered into in 1972, and amended in 1974, by the United States and the Republic of Korea. Contracts for purchase of fuel by KECO have been concluded with the Energy Research and Development Administration. In addition, prior to export, licenses must be obtained from the Nuclear Regulatory Commission with respect to individual sales of equipment and fuel.

2. Identity of the parties

(a) Korea Electric Co.

KECO was incorporated in 1961 and is Korea's sole supplier of central station electric power. The majority of KECO's stock is owned by the Government of the Republic of Korea.

(b) Korean Exchange Bank

The Korean Exchange Bank (KEB) will guarantee repayment of principal and interest by KECO to Eximbank and to the private financial institutions which are also guaranteed by Eximbank. KEB is wholly owned by the Republic of Korea and its guarantee is backed by the full faith and credit of the Republic.

3. Nature and use of goods and services

The principal goods to be exported from the United States for use in the construction and initial operation of KoRi II will consist of a nuclear steam supply system and components. In addition, United States firms will perform various related technical services in connection with the design, installation, and start-up operations of the nuclear power plant.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The proposed extension of $78,900,000 in credits by Eximbank and the guarantee of $105,200,000 of private credit will result in the export of $263,000,000 of United States goods and services. This will result not only in a favorable impact on the United States balance of payments, but also in employment for substantial numbers of United States workers at a time when business activity in the United States is slackening. Additional benefits from the transaction include sizeable follow-on export earnings from sales of future nuclear fuel loads. Furthermore, over the next 5 years Korea has a program of 6 nuclear power plants involving potential purchases of $1,500,000,000. Finally, a Canadian reactor is being offered to the Koreans supported by official financing which we understand to be on substantially the terms Eximbank proposes to offer.

In view of the magnitude of the transaction, the extent of the private financing that will be available, and the Canadian competition, Eximbank's loan and guarantee appear to be necessary to effectuate this sale for United States manufacturers.

No adverse impact upon the United States economy will be caused by the export of these goods and services. Due to current slow-downs and cancellations of previously planned power facilities by United States public utilities, United States manufacturers particularly welcome the opportunity to export such goods and services at this time and ample supplies will remain available for use in United States markets.

Accordingly, Eximbank's participation in this major export implements the Congres-

sional mandate to aid in financing and to facilitate United States exports.

2. The financing plan

The total cost of United States goods and services to be purchased by KECO is $263,000,000 for which KECO will make a 10 percent cash down payment. The balance of the United States costs will be financed by Eximbank and private financial institutions as follows:

[Dollar amounts in millions]

	Nuclear steam supply system	Initial fuel core	Total	Percentage of U.S costs
Cash payment	$23.72	$2.58	$26.3	10
Eximbank credit	71.16	7.74	78.9	30
Private credits with Eximbank guarantee	94.88	10.32	105.2	40
Private credits without Eximbank guarantee	47.44	5.16	52.6	20
Total	237.20	25.80	263.0	100

(a) EXIMBANK CHARGES

The Eximbank Credit will bear interest at the rate of 8.5 percent per annum, payable semiannually. A commitment fee of ½% per annum will also be charged on the undisbursed portion of the Eximbank Credit. In addition, the private financial institutions being guaranteed by Eximbank will pay a guarantee fee to Eximbank of 1 percent per annum on the amounts they have disbursed to KECO.

(b) REPAYMENT TERMS

The total financing of $213,480,000 for the purchase of the nuclear steam supply system will be repaid by KECO in 30 semiannual installments beginning March 20, 1981 (which is six months after the estimated completion of the nuclear power plant). The Eximbank Credit of $71,160,000 will be repaid by KECO from the final 10 installments. The total financing of $23,220,000 for the purchase of the initial fuel core will be repaid by KECO in 10 semiannual installments beginning March 20, 1981, with Eximbank's Credit of $7,740,000 being repaid from the final 4 installments.

A 15-year repayment term is offered for the nuclear steam supply system in order to enable KECO to generate sufficient revenues to service the indebtedness to Eximbank and the private financial institutions. It is the policy and the marketing practice of United States nuclear power manufacturers and their competitors in other countries to offer 15-year repayment terms because the economics of a nuclear plant justify and require it. If only 10- or 12-year terms were offered, it would make it substantially more difficult to buy nuclear power plants and would seriously retard programs to replace oil consumption with nuclear power and thus help moderate the world price of oil.

Sincerely,

WILLIAM J. CASEY.

THE LOYAL OPPOSITION

Mr. HUMPHREY. Mr. President, on Sunday evening the National Broadcasting Co. presented an excellent program on the views of Democrats in Congress. Entitled "The Loyal Opposition," this program assembled three panels of Democratic Members of Congress to discuss our alternative policies on the economy, energy and foreign affairs. In addition to conducting extensive interviews on these three issues, NBC conducted a nationwide poll for the program and released the results on the air.

I want to commend NBC for this program. I do so not only because the network allowed Democrats to express their point of view. But this type of programing is important to maintain the vitality of the two party system and provides the American people with new and different ideas on the significant problems facing the Nation.

The Democratic Party is the loyal opposition because we want to work with the President and the executive branch. We do not want to oppose for opposition's sake. We offer our proposals in the spirit of cooperation—not confrontation. Both Democrats and Republicans want to see the Nation recover from its economic maladies. We have different ways to approach the problems of economic recovery and energy conservation. The NBC program explored these alternatives and at the same time told viewers through poll data the way the American people felt these issues should be handled. I recommend that my colleagues on both sides of the aisle read the NBC poll and the transcript.

Mr. President, I ask unanimous consent that this poll and transcript be printed in the RECORD.

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

LOYAL OPPOSITION

ECONOMY PANEL

1. How much confidence do you have in President Ford's ability to improve the economy? Do you have complete confidence, a lot of confidence, not very much confidence, or do you have no confidence at all that he can improve the economy?

[In percent]

High confidence	30
Low confidence	68
Not sure	2
Average	42

2. How much confidence do you have in the ability of Congress to improve the economy? Do you have complete confidence, a lot of confidence, not very much confidence or do you have no confidence at all that Congress can improve the economy?

[In percent]

High confidence	35
Low confidence	62
Not sure	3
Average	45

3. During the next year, do you think the economy will get better, get worse or stay about the same?

[In percent]

February 27–28:	
Better	34
Same	37
Worse	26
Not sure	3
January 27–28:	
Better	30
Same	26
Worse	40
Not sure	4
September 10–11:	
Better	17
Same	35
Worse	42
Not sure	6
August 13–15:	
Better	53
Same	34
Worse	5
Not sure	8

4. The way things look now, the federal government will be 50 billion dollars in the red next year. Under the circumstances, do you think there should be a tax reduction?

[In percent]

Yes	55
No	37
Not sure	8

5. The President wants to refund twelve percent of your 1974 income tax, with richer people receiving up to one thousand dollars. The Democrats in Congress propose to refund ten percent of your 1974 tax, up to two hundred dollars, with the larger benefits going to poorer people. Which of these two tax cuts would you be more likely to favor?

[In percent]

President's tax cut	11
Democrats' tax cut	81
Not sure	8

6. President Ford says we have to find solutions to our economic problems at the same time that we take measures to conserve energy. On the other hand, Democrats in Congress say we should concentrate on the problems of recession and inflation first and put off energy programs until times are better. Which position is closer to your own, the President's or the Democrats'?

[In percent]

President's position	37
Democrats' position	55
Not sure	8

ENERGY PANEL

7. Which branch of the government do you think is more to blame for our present energy crisis . . . Congress or the White House?

[In percent]

Congress	36
White House	42
Not sure	22

8. One of the things President Ford wants to do is limit fuel consumption. His plan is to raise the price of fuel so that people will buy less. Would you favor or oppose such a plan?

[In percent]

Favor	22
Oppose	75
Not sure	3

9. Congress has passed a law limiting the President's power to raise fuel prices. President Ford says he is going to veto that law any day now. Do you think the Congress should override his veto, or not?

[In percent]

Should override veto	64
Should not override veto	29
Not sure	7

10. Another plan to conserve fuel is to issue ration stamps which would keep down the price but restrict everyone to a limited amount of fuel. How would you feel about rationing . . . would you favor or oppose it?

[In percent]

Favor	42
Oppose	55
Not sure	3

11. President Ford has proposed that Congress relax clean air standards for automobiles but require major auto companies to manufacture cars which get many more miles per gallon than they do now. Would you favor such a trade or would you oppose it?

[In percent]

Favor	71
Oppose	25
Not sure	4

FOREIGN AFFAIRS PANEL

12. President Ford says that the government of Cambodia will fall in a few weeks if it doesn't receive an additional 222 million dollars in military and economc aid from the United States. Do you think Congress

should grant the President's request of this aid to Cambodia, or not?

[In percent]

Yes	23
No	69
Not sure	8

13. Some people say that if we continue to support Israel, we risk being cut off from Arab oil. If we get to the point where we have to choose, which of the two would you think was more important . . . guaranteeing the security of Israel or guaranteeing our supplies of Arabian oil?

[In percent]

Guaranteeing Israeli security	40
Guaranteeing oil supplies	41
Not sure	19

14. The United States and the Soviet Union have already agreed to some reduction of nuclear weapons. Do you favor or oppose further strategic arms limitations?

[In percent]

Favor	69
Oppose	26
Not sure	5

15. Do you agree or disagree with the following statement: "As a gesture of friendship to Communist China, we should break off relations with Chiang Kai-shek and the Nationalist Chinese on Formosa."

[In percent]

Yes	16
No	67
Not sure	17

16. The President says that Democrats in Congress have interfered in our foreign policy. Do you agree?

[In percent]

Yes	39
No	44
Not sure	17

17. President Ford and the Democratic majority in Congress frequently disagree about how to solve the major problems that confront the nation. Do you think this disagreement is good for the country or bad for the country?

[In percent]

Good	41
Bad	51
Not sure	8

THE NATIONAL BROADCASTING COMPANY PRESENTS THE LOYAL OPPOSITION

10:00 o'clock p.m., EDST, Sunday, March 2, 1975.

Panel 1. The Economy: Senator Edmund Muskie (Me.); Representative Henry Reuss (Wis.); Representative Al Ullman (Ore.); Representative Brock Adams (Wash.).

Panel 2. Energy: Senator John Pastore (R.I.); Senator Herman Talmadge (Ga.); Representative James Wright (Tex.).

Panel 3. Foreign Policy: Senator George McGovern (S.D.); Senator Dick Clark (Iowa); Representative Clement Zablocki (Wis.).

Interviewed by: Douglas Kiker, Catherine Mackin, Ray Scherer, of NBC News.

ANNOUNCER: "A Shooting Gallery Called America" originally scheduled to be seen at this time will not be broadcast tonight. It has been rescheduled for the same hour on Sunday, April 27th. In its place tonight is this special program.

President FORD. What we need is a plan that the Democrats can agree on, if they can, and then we can sit down and hopefully negotiate. I am willing to cooperate, but we have to have something to cooperate with and so far they have not come up with anything where they are in agreement, so until they do we are going to pursue our plan which I think is fair and equitable—

Senator MONDALE. He says his plan is fair and equitable. It is neither.

Senator BAYH. It wasn't until the middle of January that the President recognized we had a recession.

Mr. MINETA. I think there is a lack of recognition on the part of the President that he has been there since the 9th of August. The Congress has only been there since the 14th of January.

Senator ABOUREZK. He is one man and we are 62 Democrats in the Senate.

Senator HART. I think it is nothing short of miraculous that the Democrats have been able to come up with a proposal.

Mr. BRADEMAS. This is my 17th year in Congress and never has a Congress been so productive in six weeks during that time.

Senator BURTON. The Democrats do have a program. We are going to pass it. We will put it on the President's desk. It will be a better program than President Ford's program. It is a blueprint for disaster.

Mr. KIKER. Good evening. What you have just seen is a familiar sight, that of the American two-party political system at work. In this case with a Republican President and members of a Democratic Congress going at each other.

Under our unique political system the party in power is the party which holds the White House. Whether or not that party commands a majority in the Congress. Ours is one of the few Democratic governments in which it is possible for the Chief Executive to belong to a minority party. Without a majority, any President has trouble getting his programs passed into law and if the opposition constitutes a huge overriding majority, the President is faced with the threat of a runaway Congress.

The party in power speaks with one voice, the President's, but the opposition has many voices—governors, party leaders, and especially members of Congress.

This is the Rayburn Room inside the United States House of Representatives, and it is here in this historic room at the Capitol that NBC News is bringing you another in a continuing series of programs we have presented periodically since 1962, programs designed to examine the views of the party which currently constitutes the opposition.

Here with us tonight are ten Democratic leaders of the 94th Congress. Here to talk about the major problems facing the nation, what they think should be done about those problems and how they size up the Republican Administration of President Ford.

In other words, the viewpoint of the Loyal Opposition.

We are going to start tonight with a discussion by these members of the loyal opposition of the problem most Americans believe to be the most important facing the nation today, the problem of a troubled economy which has produced both excessive inflation and soaring unemployment.

Later in the hour we will also be discussing the energy crisis and the conduct of American foreign policy. Here now to talk about the economy are Representative Henry Reuss, Chairman of the House Banking Committee; Representative Al Ullman, Chairman of the House Ways and Means Committee; Representative Brock Adams, Chairman of the new House Budget Committee, and Senator Edwin Muskie, Chairman of the new Senate Budget Committee, and joining me in the questioning, Catherine Mackin, who is the NBC News Correspondent in the Senate, and Ray Scherer of NBC News who covers the House of Representatives.

NBC has conducted a special poll for this program. It is a nationwide poll. It was conducted by telephone on February 27th and 28th. In other words, just a few days ago. 1576 adults were interviewed and before we begin our discussion let's take a look at some of the things they had to say.

One question we asked was, "How much confidence do you have in President Ford's ability to improve the economy?"

The response was, high confidence, 30 per cent; low confidence, 68 per cent; not sure, 2 per cent.

We also asked "How much confidence do you have in the ability of Congress to improve the economy?"

The response was not all that much different: High confidence, 35 per cent; low confidence, 62 per cent and not sure, 3 per cent.

And the final question asked: "During the next year do you think the economy will get better, get worse, or stay about the same?"

The results: Better, 34 per cent, stay the same, 37 per cent; get worse, 26 per cent, and not sure, 3 per cent.

I would like to start this discussion by asking you gentlemen this: Only 26 per cent of the people in this country think that things are going to get worse next year. Do you agree?

Congressman Reuss, let's start with you.

Mr. REUSS. Yes, I think things will get better. I think the main reason they will get better is that Congress is moving and I think there is still a hope that the President and Congress can get together and that would be the best thing of all.

Ms. MACKIN. Mr. Ullman, our poll indicates the tremendous lack of confidence that people have in either the President or the Congress really understanding and being able to do something about the economy. A feeling I have had myself in watching the Congress.

Do you, as Chairman of the House Ways and Means Committee, really believe that you know what is wrong with the economy in this country?

Mr. ULLMAN. I think we have come to a time when the Congress must reassume some real leadership in answering some of the difficulties of the country. We are not going to get out of this unless we form some kind of a new partnership in government whereby the Congress has a much fuller input into the solution area and finds some accommodation with the Administration.

I think the Congress is prepared to do that. I think that this is a new Congress. I think that we are going to assume a lot more leadership and responsibility and come up with a lot more tough answers for the country than the Congress has ever done before.

Ms. MACKIN. But the question really is, do we know what is wrong with this economy?

First they say inflation, then they say recession, then they say stagflation, slumpflation. What is wrong with this economy?

Mr. ULLMAN. I think it would be presumptuous for anybody to know all of the answers, but I think we know generally what the problems are. The short-term problem is certainly the one of recession. We have to go to that issue, but we are not going to get out of that issue. We are not going to find answers unless we face up to some of the long-term problems, and the long-term problems obviously are energy and inflation and in the process of resolving the short-term problem of recession we must find answers for the long-term problems and I think that we do have a fairly good understanding of the problem if we just have the courage to move out and face up to the issues.

Mr. KIKER. Senator Muskie, there must be 5,000 more Americans becoming jobless with every passing week. Is unemployment going to hit and exceed 20 per cent this year?

In other words, are we going to have a true old-fashioned depression in this country?

Senator MUSKIE. That is the danger and I think that question pinpoints the problem in response to Cathy's question.

You know in respect to the long-term problems, and they are serious, I don't think we in this country have any doubt we can handle them once we are strong economically, and right now the two principal problems are unemployment and an economy slide that threatens to take us to that level. I don't think we need to go through that experience.

I think with the policies the Congress is developing and indeed with the cooperation which the President has indicated that he will give, that we can meet this challenge; that we can stop this down slide and then equip ourselves to deal with the long-term problems which as Congressman Ullman has said are very serious and they include energy.

I think really the difference between the President and the Congress is a question of timing. When do you deal with the long-term problems? How do you deal with the short-term problems? And the short-term ones are the most difficult and the most dangerous at the moment.

Mr. SCHERER. Congressman Adams, I would like to put a question to you as the new head of the House Budget Committee and perhaps also put the same question to Senator Muskie, the head of the Senate Budget Committee.

For the first time you are about to come up with your own budget proposals as an alternative to the President's proposals. You will have these, I am told, by May, perhaps April. Have we any reason to believe your budget proposals will be more stimulative to the economy than the President's proposals?

Mr. ADAMS. Yes, I think the Congress will come forth with a more stimulative budget in the tax area. I think we will phase in the energy program because the President's proposal can have a very bad inflationary effect as well as shifting consuming power out of the general public into the oil or energy sector, so we will phase that in more slowly.

I think we will also take the position that during this period of time we must stimulate the economy in order to bring ourselves out of recession and looking at the years '76, '77, '78, toward a balanced budget, so that we do not continue an inflationary spiral. So we have a pretty good handle on it—in answer to Cathy's question—on where we want to go as compared with where the President wants to go.

He is following the old "Let's let the recession run and bottom out," free market type approach. His basic approach to the budget this time, for example, is not really stimulative. If you look at his figures of what he proposes as a deficit and take just where we are today, the difference is only about $2 billion between the two.

So I think that we will probably reject great portions of his energy package, which involves taxation and moving of funds within the budget and that we will stimulate more and probably not take money from the old people and from the federal employees, which takes it out of the consuming stream.

Mr. KIKER. Speaking of taxes, let's go back to the NBC poll for just a minute. Another question we asked in this poll was this: The way things look now, the federal government will be $50 billion in the red next year. Under the circumstances, do you think there should be a tax reduction?

The answer: Yes, 55 per cent; no, 37 per cent; not sure, 8 per cent.

Next question asked is this: The President wants to refund 12 per cent of your 1974 income tax. The Democrats in Congress propose to refund 10 per cent of your 1974 income tax, up to $200, with the larger benefits going to poorer people. Which of these two tax cuts would you be more likely to favor?

Democrats' tax cut, 81 per cent; the President's tax cut, 11 per cent; not sure, 8 per cent.

And so it would appear, gentlemen, that the American public likes your idea better, at least in this instance.

Ms. MACKIN. Mr. Ullman, on that question, let me ask you this: The American public seems to like what the Democrats are offering but are the Democrats really in agreement, or is this just sort of a facade we have seen, the announcement this week that you all have a program? Do you really agree on what the approach should be?

Mr. ULLMAN. Well, I think that the Democrats generally agree in the direction that we should go. I think we obviously must differ in the application.

I feel, for instance, much more strongly than some, that we must find some hard answers to the energy problem before we can really find the right answers to the economic problem.

But these are differences in degree and not really in direction. I think we are all agreed that the President's energy program that would impose import fees that would put an inflationary bulge into the economy is the wrong approach to the energy problem. And so we have an alternative that we are in the process of developing. Some of us would like to have a tougher energy approach; others less tough, but I think it is mainly an issue of when you phase it in, and I think that the Democrats are generally agreed as to the direction we are going and in the legislative process we are going to work out our differences.

When we bring a bill to the floor from the Ways and Means Committee facing up to the energy issue, it probably will be a little tougher than some will want, but I think that the Congress should have that alternative; we should bring it to the floor and in the normal traditional legislative arena we should make that decision.

Senator MUSKIE. Could I add something to that very briefly?

The issue you are developing with your question is what is done with respect to overriding the President's veto on his energy package, because if we do not override, if we do not override and if there is no compromise of his original energy goals, then we will be committed in addition to an economic policy and that economic policy is geared in the direction of more recession and more unemployment. So that decision is critical. I hope we can avoid that kind of a confrontation and reach a compromise with the President, but that is the key issue.

Now, if we could override his veto, then we can move in the direction of the kind of stimulative tax policy that Congressman Ullman and Congressman Adams are speaking about. But that is the key issue and the economic policy adopted in this session of the Congress may well depend upon what happens in the next week or two.

Mr. KIRK. Will Rogers once said, "I don't belong to any regular, organized political party. I am a Democrat."

My question is, can the Democrats in the House and in the Senate get together, first among themselves in each House and then finally between the House and the Senate and come up with a comprehensive program, an alternative program of their own?

Mr. REUSS. We not only can, but we have. We have done it in the last few days under the leadership of Senator Pastore and Congressman Jim Wright. We have a coherent program, a program that differs markedly from the President's. Our tax program is beamed more at moderate income and low income people. It would give them the most of the benefits on the theory that they are gong to spend more and help the economy more. Ours does more about housing. Ours does something about getting the very high interest rates down. Ours comes to grips with energy without plunging the economy into a depression. So we think we have put something together.

My only regret is that we didn't do it six months ago. We should have. The public is quite right in not giving us straight A's. I hope they will think better of us when we have done our job.

Mr. SCHERER. You said the other day in your talk on the tax bill that the speed of the tax bill was almost as important as its amount. In the meantime, the House has attached the repeal of the depletion allowance which we all know means some delay in the Senate. Suppose it is delayed more than two weeks. How much damage will that do to the stimulation that the tax bill is meant to bring?

Mr. ULLMAN. I think it would create some real problems. I am hopeful at this point that it won't involve that much delay.

As you know, I opposed putting the depletion matter on the tax bill because I felt it should go out there immediately, go out straight and clean, giving a signal to the economy and the American people that the Congress is responsible. The House chose to put the matter on the bill. I think it will have to stay in some form. We will have to work out a compromise. I have already talked to the Senators. I think we can. All of us, I think now are working together to try and find a way out of this problem so we can in fact involve the minimum of delay and I think we can and I think it is terribly important that we get this in place in May so that by May the first the checks are starting to roll on the rebates and that the withholding tax can be in place so that the take home pay of the American people is higher. This is an excellent package. It is geared to the low and middle brackets; it is the right size for the American economy and I think it must get in place and somehow we will find the answers.

Ms. MACKIN. Congressman Reuss, what the Congress is talking about now and what the President is talking about doing for the economy, isn't this what is traditionally called tinkering with the economy in the Tienzien theory?

Mr. REUSS. I don't know what a more fundamental or radical solution would be. It is true that both the Democrats and the Republicans operate within a so-called private free enterprise system and there aren't any big governmental takeovers proposed by anyone, although there is some talk about taking over private corporations that can't make a go of it by themselves, an idea that I am not always sure is so good.

But within the system I think that our Democratic program is more than tinkering. It is tinkering with it in the sense perhaps that FDR tinkered with it, but most people think he did a pretty good job by the time he was through.

Mr. ULLMAN. Let me follow up on what Henry has said. If you look at the deficit we have proposed by the President now of about $50 billion, you can use a rule of thumb that as unemployment rises you pay out about $2 billion worth of unemployment compensation and you lose about $14 billion worth of tax receipts. So, as you look at that deficit, you have got almost all of the deficit involved in an unemployment rise from five per cent to eight per cent in the last two years. Now, what that poll indicates to me is that the American public are aware of the fact that the faster you can get the economy moving again out of the recession, you can begin to drop that deficit and therefore they want more stimulus so that they are going back to work and the Democratic program is aimed at the consuming stream, more, and at the same time, and where the energy panel I am sure will comment on this later, we are not pulling the money out of the consuming stream by raising oil prices—deregulation—and by raising prices through an additional tax per barrel of oil. These have to mesh together so that the people see that as the economy moves we have finally got a chance to have the revenues available so that that budget begins to come closer to balance you don't have a long-term inflationary stream.

Mr. KIKER. Senator Muskie, you are the head of the new Senate Budget Committee. Isn't it true—we keep talking about a $50 billion budget deficit. Isn't it true that if you passed all of the Democratic programs that have been proposed that you would have a budget deficit far exceeding $50 billion,

therefore contributing to more and more inflation?

Senator MUSKIE. No, not really. Our Budget Committee staff estimate of the spending in '76, if this program were passed, is about $355 billion. That is about $5 billion more than the President. And the important thing is that the stimulus is more than the $5 billion difference. Because we do not have the President's energy taxes which would take $30 to $50 billion out of the consumer spending stream, and reduce federal revenues additionally and increase unemployment. The President's program could well produce a ten per cent unemployment rate. The $355 billion budget that is represented by the Wright-Pastore package would result in unemployment moving down from the 7 to 8 percent levels the President's budget projects, to 6 percent. That is the difference, and $5 billion is not the true picture.

Mr. REUSS. To add to what Ed Muskie has just said about fighting inflation, I think the American public are well ahead of some of the President's advisers on how to do that. I think the American public by those polls you have there correctly perceives that the best way to fight inflation is to get this economy moving forward; as it is now, we are only using 75 percent of American factories; we are only using 92 percent of American—the American work force. If we brought the utilization of plants and manpower up, we would get lower unit costs and we would be fighting inflation.

So I think the public really could well replace some of the President's economic advisers. It would be an improvement.

Mr. KIKER. Let's close this discussion by going back to take another look now at our NBC poll.

President Ford says we have to find solutions to our economic problems at the same time as we take measures to conserve energy. Democrats in Congress say that we should place first priority on the problems of recession and inflation and put off energy problems until times are better.

We asked: Which position is closer to your own? The President's or the Democrats'?

The response was, the Democrats' position, 55 percent; the President's position, 37 percent; not sure, 8 percent.

So it would appear most people think the approach by the Democrats is the better one.

We will be back with a discussion of the energy problem by members of the Loyal Opposition in just a moment.

ENERGY

Mr. KIKER. Because of the energy crisis which has suddenly confronted this nation, both Houses of Congress have set up special ad hoc committees.

With us now to talk about the work they are doing are Senator John Pastore, Chairman of the Senate Special Committee on Energy; Senator Herman Talmadge, one of its members, and Representative James Wright, who is Chairman of the Special Energy Task Force in the House.

In our NBC News Poll we asked this question: "Which branch of the government do you think is more to blame for our present energy crisis, Congress or the White House?" And the answer we got was: The White House, 42 per cent; Congress, 36 per cent; not sure, 22 per cent.

We also polled the public on its opinion of the President's proposal to place higher tariffs on imported oil by asking this question:

"One of the things President Ford wants to do is limit fuel consumption. His plan is to raise the price of fuel so people will buy less. Would you favor or oppose such a plan?"

The response was pretty clear-cut: Favor, only 22 percent; oppose, 75 percent; not sure, 3 per cent.

Now, Congress has passed legislation limiting the President's power to raise fuel prices, but the President says he is going to veto that law probably some time this coming week. So we asked, "Do you think the Congress should override the presidential veto or not?" And the response was: Congress should override the veto, 64 per cent; should not override the veto, 29 per cent, and not sure, 7 per cent.

Senator PASTORE. I suppose the most obvious question to begin with is this: Are the votes there to override if the President does veto your bill?

Senator PASTORE. If the vote we passed only a short while ago postponing it for ninety days holds fast—the vote at the time in the Senate was 66 to 28; in the House it was 309 to 114—we would have no trouble.

But, as you well know, quite a lobbying campaign has been afoot. Many Senators, as I understand it, have been approached to change their vote and it all depends on what influence the President has had in that direction.

Now, I would hope that we wouldn't get to that point. As a matter of fact, last Friday we were invited down to the White House and we had quite a talk with the President; we stayed there for about an hour and 15 minutes and a suggestion was made. I believe I made the suggestion that he should hold off on the second dollar which would be imposed on March 1, hold off on the April 1 dollar and hold off on decontroling old petroleum and he said he would take that under advisement and he would notify the Speaker and Mr. Mansfield on Monday, and I would hope by that time that he would have held off on this further imposition and that we could hold off on either deciding whether or not to override or sustain the veto. Because, I have always maintained that confrontation will not solve this problem. It is a problem where we have to be wedded together, have a real marriage between the Executive and the Legislative; get on with doing the people's business and come out of this mess.

Mr. KIKER. So you are not going to have a showdown at the O.K. Corral after all?

Senator PASTORE. We may not have provided he tells us tomorrow he is not going to impose the second dollar and the third dollar.

Mr. SCHERER. Congressman Wright, there are strong indications that the President is going to hold off; that he won't propose a second and third dollar. That represents for him a sizeable compromise. What compromise are you Democrats willing to make in return? What do you see?

Mr. WRIGHT. Ray, I can see a number of very reasonable accommodations that Congress and the President jointly could make.

For one thing, our program doesn't limit what Congress can do for that program. Senator Pastore's group and the group I work with in the House put together. There can be superimposed upon that additional initiatives. I think we can meet the President half-way as was suggested by the earlier panel. With respect to the matter of depletion allowances I think most of us want to get rid of the depletion allowances for the major oil companies, but perhaps for the independents, the small ones, the people who have to go out and find this energy, we can exempt them.

I think surely we are going to have to have an accommodation of some sort with the Executive Branch who want very much to relax clean air standards. We want to keep those reasonable standards intact, but we think we can find some reasonable ways to accommodate the desires of those who want to see us convert more electric power plants and other big plants to the use of coal, of which we have got two or three or four hundred years' supply, rather than natural gas, which is running out.

We can do that perhaps by saying to a factory that would convert and would comply faithfully with those EPA requirements for clean air that exist at the time it puts up these millions of dollars, that we would give them maybe eight years as a grace period to amortize that investment before we just arbitrarily came in and imposed stricter limitations upon them.

Mr. KIKER. Just a few months ago we were paying $1.80 a barrel for oil. Now we are paying $11 a barrel and under President Ford's plan we would be paying at least $12 a barrel.

Can the American economy stand $12 a barrel oil and what sort of programs are the Democrats putting forward to first of all allow our economy to stand it, or to bring the price of oil down and make us self-sufficient in energy? What are we going to do about that?

Senator TALMADGE. The Democrats in the House and the Senate overwhelmingly agreed we can not ration a product based on the ability of the purchaser to pay for it.

Now, this energy crisis is one of the most serious problems that has ever confronted our country. We spent for imported energy last year about $25 billion. There is no way on the face of the earth that we can earn the foreign exchange to pay for it.

Now, we don't think the way to ration it is to make the price higher. We think there are two ways of approaching it. No. 1 is the short-range solution. That means to conserve more energy and, of course, the Congress and the President are on parallel ground there. The President wants to conserve energy. The Congress wants to conserve energy. He wants to conserve it by raising the price. The Democrats in the Congress don't follow that line because we think it would be destructive to the economy, would increase inflation anywhere from two to four per cent, so you are talking about almost a trillion and a half dollar economy. That means 30 to 60 billion dollars a year.

It would raise unemployment—we already have too high a level. It would be much higher than that. Now, short-range, we want to create an energy board with full authority to take whatever action is necessary in the field of conservation and in the field of allocation, and, if necessary, even to the field of rationing. But that would be a last resort.

Now, about half the gasoline used in the United States of America is used for pleasure. That is the source that we should zero in on immediately in our conservation measures. There are many ways you can do it. We proposed to give the Energy Board full authority to do so. Rigid enforcement of the 55-mile speed limit. Close your filling stations on weekends to cut out some of your joy riding. Cancel your courtesy cards where people buy gasoline on credit and don't pay for it until later. Those and other things. Long-range, we will create this Energy Board. Create a trust fund authorized to spend $5 billion a year to develop alternative sources of energy in this country.

Mr. KIKER. You were talking about rationing and that is one of the questions we asked in our NBC News poll. It is another obvious way to cut the consumption of fuel so we asked this question: "How would you feel about rationing? Would you favor it or oppose it?" And the answer is, favor, 42 per cent; opposed, 55 per cent; not sure, 3 per cent.

I suppose I would ask you now, do you think if it came down to it, would the American people accept gas rationing?

Senator PASTORE. Not at this point, you see, because it isn't the paucity of the product. Today it is the price. We are getting the gasoline. As a matter of fact, there was a campaign only a short while ago by the big oil companies encouraging their gasoline stations to dispose of the gasoline that they had because they had so much inventory

stock. Now, we realize that we have to promote and accomplish independence and we'd like to do it by 1985, whereby we could reduce it in half from 20 per cent, the reliance, down to 10 per cent. But as far as rationing at this point, it will not be accepted by the public. The public hasn't had the education as to the criticality.

As a matter of fact, I am not surprised at all at that poll. If you had read my mail, you would have had the same poll. Exactly the same poll, because we go back home and feel the pulse of the people. We don't sit in the cabinet room and decide how the people feel about this and how the people feel about that. And when anybody wants a job, they don't write to the President; they write to us.

Mr. KIKER. President Ford and you agree about that. He didn't want rationing either.

Senator PASTORE. I know, but he is asking now for standby authority and that is exactly what we are giving him. You ask me the question will they accept it now. The answer is no.

Senator TALMADGE. If we have another Arab boycott, that might be his last-resort measure, but before we get into rationing we ought to exhaust every remedy in the field of conservation. Make it mandatory.

Mr. SCHERER. You Democrats are proposing a five per cent a gallon rise in the price of gasoline. Does anyone here think that will really discourage people from driving?

Senator PASTORE. It isn't meant to do that exactly. That is to build up this trust fund to be used for conservation. If you get down to the fact that you have to limit the supply of gasoline, then you ought to get into quotas.

Mr. SCHERER. Well, the Ways and Means Committee are going to consider quotas and they are also going to consider a much tougher program of taxes on gasoline. Maybe ten cents a year up to 40 cents a gallon. Isn't it the feeling if you are really serious about that you have got to put teeth in it and adopt something like that.

Mr. WRIGHT. As John Pastore said, the purpose of the five cents tax is not to discourage consumption. We think the way to discourage consumption is by the elimination of waste, not by the elevation of price. The purpose of the five cents tax is to raise revenue so we can bring on a whole lot faster some of the longer-range developments, so that we can have a NASA-like approach, putting a high priority on coal gasification plants, for example, that will take an enormous amount of money.

The President says we need to have twenty large coal gasification plants in operation in the short run future. The trouble is, each one of those is going to cost about $800 million, so we have got to have some money to stimulate this kind of activity, together with such activities as helping our citizens better to insulate their homes.

You can save an astronomical amount of energy by that means and it is going to take money to do it so this is the purpose, so that the American public realize that the taxes they are paying by way of energy taxes are going to work to build energy sufficiency so that the next decade will get the benefit of it.

Mr. KIKER. Senator Talmadge, you were talking about the fact that we burn so much of our fuel for pleasure. In our NBC poll we asked people what they thought about the President's proposal that Congress pass new legislation that would relax clean air standards for cars, but require auto makers to manufacture new cars which get better mileage. Would you be in favor of it, we asked, or would you oppose such a move?

And they said, favor, 71 per cent; opposed, 25 per cent; not sure, 4 per cent.

Isn't that really one way out, Senator Talmadge?

Senator TALMADGE. Yes, it is. I will give you a personal illustration. I have a six year old Oldsmobile 98 which I use in Georgia when I go home on weekends. I get 15 miles to the gallon on my six year old car that is rather heavy. I have a Cutlass which is the smallest car Oldsmobile makes, supposed to be a gas-saver and that is the reason I bought it. I get 12 miles to the gallon on that. That is some of these mandated congressional solutions to create more gasoline.

I think we are going to have to relax that and I think the Congress will. That doesn't mean that we have got to go back and let anyone pollute everything that he wants to, but you must have balanced programs between emergencies.

Right now the energy emergency is one of the gravest that we face and I think we can afford to relax some of these standards to some degree on a temporary basis. We have certainly got to get these ultilities to burning more coal and we must use coal for boiler fuel wherever we can.

We can relax some of these automotive standards that we passed very rapidly when we didn't see an energy crisis.

Mr. WRIGHT. You might be interested in another of the initiatives we have suggested and this is a combination excise tax and rebate on new car sales as a stimulus for the buying public to shop for more energy-saving vehicles and it is a stimulus to the automobile manufacturers to build them. It would work roughly this way, that we would establish what the norm, the average of the new cars got by way of mileage and then the car that got less mileage performance than that would bear an excise tax, maybe up to $600 for the biggest gas guzzler, on the other end of the spectrum. Those cars that got better mileage up to the highest performance of the best American-built car would get a rebate. We wouldn't try to make money off of the automobile industry. It is pretty hard hit. What we would try to do is to make most citizens who want to buy a big gas guzzler help pay a rebate to encourage others to shop for energy-efficient cars. We think that would help a lot.

Mr. KIKER. Senator Pastore, I'd like to ask you one final question and that is, I guess, the most important question of all:

Are the Democrats in Congress and President Ford going to get together on an energy program they both can agree on and compromise on?

Senator PASTORE. I hope we can. As I have already said, that is the only way we are going to ever solve this problem. This name-calling isn't doing anybody any good. I must admit that the President was very gracious last Friday and he listened to us. He hadn't had an opportunity to study our plan and I am hopeful he will come along and say, "Okay, let's sit down and do this," but as I told him, let us not meet with a fait accompli. If you impose this tax and insist upon it, I mean that doesn't give us any leverage at all because the very hinge pin of our program is the rejection of this $3 tax, which, as you said, brings the price of imported oil from about $11 up to $14. That is prohibitive.

Mr. KIKER. Thank you, gentlemen. Thank you for being with us tonight.

FOREIGN AFFAIRS

Mr. KIKER. Any discussion of the energy crisis must necessarily involve discussion of Arab oil suppliers and the Middle East, and American foreign policy.

Senator George McGovern is a member of the Senate Foreign Relations Committee and so is Senator Dick Clark, a relatively new and junior member, and Representative Clement Zablocki is the second Ranking Democrat on the House Foreign Affairs Committee.

Gentlemen, on our NBC News poll we asked this question: Some people say that if we continue to support Israel we risk being cut off from Arab oil. If we get to the point where we have to choose which of the two you think was more important, guaranteeing the security of Israel or guaranteeing our supplies of Arab oil, which would you choose?

And the response we got was, guarantee Israeli security, 40 per cent; guaranteeing oil supplies, 41 per cent; not sure, 19 per cent.

Senator McGovern, I would ask you, is it going to come down to that? Are we going to have to choose between security of Israel and the supply of oil to our own industrial machine?

Senator MCGOVERN. Mr. Kiker, I don't think so. I don't think that is the choice we face. The American people understand that it is in our interest that a free and independent Israel survive in the Middle East and I would quickly add that sacrificing Israel is no assurance of adequate supplies of oil. There is nothing in the collapse of the State of Israel which is going to open the way for permanent guarantees of oil for the United States. What is in our interest in the Middle East is to continue doing what Secretary Kissinger is now trying to do and that is to bring the two sides together, to recognize that there has to be concessions, both on the Arab side, and recognizing the right of Israel to survive as an independent and free country and by the same token concessions on the part of Israel recognizing that the Palestinians have a right to an existence in the Middle East.

I think what American policy ought to encourage is a spirit of compromise between the two sides, not trying to line up the oil interests against the survival of an independent country.

Ms. MACKIN. Senator Clark, do you think there is any chance we would ever go into a mutual security agreement with Israel whereby we would guarantee Israel's security? There has been some talk about that.

Senator CLARK. I don't think the Israelis want that and certainly there is no indication the Arabs do. I think that kind of guarantee would come only after the two countries, Israel and Egypt, or Israel and Syria as the case may be, would come to some kind of agreement themselves. If they were able to come to some negotiated agreement, some kind of step by step approach, then it seems to me after each of those steps are taken that it might well be helpful for the United States and the Soviet Union and the major powers to come in as a guarantee at that point, but not in and of itself.

Mr. KIKER. Mr. Zablocki, I will ask you the unthinkable. Let's say there is another Middle East War and let's say there is another Arab oil boycott. Our oil is cut off. Do you think that the public pressure will build in this country for us to go in and take it over?

Mr. ZABLOCKI. No, I don't think so. I think that the people hope that we would have a balanced approach in the Middle East which would (1) prevent a boycott and then, on the other hand, I will agree with the Senator that we have a commitment and obligation to Israel. Three Presidents have underlined and have assured the security of Israel. Therefore, I think with regard to Israel being driven into the sea, we will not permit that, but I don't think our public for the sake of oil would want to have our boys fight a war in the Middle East for the sake of Israel.

Ms. MACKIN. Is there some reason we should not have an actual treaty? Is there some reason the United States should not put it on paper that we are guaranteeing the survival of Israel?

Mr. ZABLOCKI. I think if we put it on paper to that extent it would further tend to cause problems between the Arab States and the United States. At the present time they are critical of the United States because we have been tipping, if I may use that term, toward

Israel much too much and that we don't have a balanced policy in the Middle East.

I think if we have evidence that we have a balanced policy at the same time assuring that we will help Israel maintain its security, but not to such an extent that it would be a threat to the Arab States, I am sure that the Arab States will be in a mood to compromise and negotiate.

I think there is a strong possibility of having the Middle East resolved by negotiation.

Mr. KIKER. Senator McGovern, there is some talk, not of war, to take over oil fields, but of a counter boycott; that the industrialized nations of the world get together and cease providing supplies and technicians and the things that we make and grow to the Arab countries. Would this work? Could this work?

Senator MCGOVERN. Mr. Kiker, I don't see any purpose served either for ourselves or for the peace of the world in talking about that kind of confrontation diplomacy. All that can do is to inflame a very dangerous and tense situation today. It would be sheer folly for the United States to even think about committing American military power to a takeover of the oil fields. Those who talk in those terms seem to have learned nothing about our long and sad experience in Southeast Asia. If we were to send American forces into the Middle East for an oil take-over, the first thing that would happen would be the destruction of the oil facilities by the Arab governments. They have made that clear. You would set off guerrilla and terrorist activities all across the Moslem world to the point where it would not be safe for any outsider to travel. The whole area would explode. We would lose both the oil and our good name as a country that stands for peace.

Now, I think the same thing extends to this business of using economic boycotts. This is not the direction in which the world ought to be moving. The most important thing to the United States and other great powers to do today is to work out arrangements with these developing countries so that they are given a fair return for the raw materials that they produce and in return for that we work out reasonable trading arrangements with them but it doesn't serve any purpose on either side to talk about threats and counter threats at this stage of the game.

Mr. KIKER. Speaking of Southeast Asia, let's take another look at our NBC News poll. We asked this question: President Ford says the Government of Cambodia will fall in a few weeks if it doesn't receive an additional $222 million in military and economic aid from the United States.

Do you think Congress should grant the President's request for this aid to Cambodia or not?

The answer was, yes, 23 per cent; no, 69 per cent; not sure, 8 per cent.

Senator McGovern, it would appear the vast majority of American citizens appear to agree with your position on this matter.

Senator MCGOVERN. Well, Mr. Kiker, I think this demonstrates the good sense of the American people that they would vote by a margin of three to one against any further military shipments to the government in Cambodia. All that would accomplish would be to prolong the agony, to prolong the killing and the destruction and I might say to perpetuate an actual starvation situation that exists in Cambodia today. I think it is clear that the American people understand that it is not Cambodia that is about to fall. Cambodia is going to still be there a thousand years from now. What is about to fall is an unpopular and somewhat corrupt government that no longer seems to have the confidence of its own people and no amount of American military shipments is going to save that situation.

So I think the American people are on sound ground in sending the Administration a message that they want at long last this expensive and inflationary and wasteful practice of shipping military aid to Cambodia to stop.

Mr. KIKER. Congressman Zablocki, do you agree with that?

Mr. ZABLOCKI. No, I don't fully agree. I must say, Mr. Kiker, that certainly we did learn our lesson in Southeast Asia; we are not going to commit our military troops, but we do have an obligation to Cambodia and if we are going to have credibility in the world we must stand by in the most bleakest of hours by our allies who may need our help.

Now, Lon Nol has announced he is willing to resign if it means the saving of his country. That is a patriotic position to take, and we are not—our interest is not in the government of Lon Nol as a man, but I do think we have an interest in the people and there is going to be a blood bath in Southeast Asia and in Cambodia if we are going to permit the Communists to run roughshod over that area, not giving at least a minimum of military assistance so they can at least protect themselves against the type of aggressor that is so repulsive.

Senator CLARK. Well, I wonder though, Congressman Zablocki, if it is really true that after having bombed in Cambodia rather heavily at one point, the incursion in Cambodia with our troops, hundreds of millions of dollars that we spent there, whether another $222 million is going to make that kind of difference? It seems to me after each of those developments, the Cambodian government has been in Khmer Rouge. The Cameroon has moved closer to and closer to Phnom Penh after each of those events and it just doesn't seem to me, short of going back in there with heavy military strength, that this is going to happen and we are not prepared to do this.

Mr. ZABLOCKI. This may not be a good analogy but it is somewhat like a patient who has had all of the treatments and the doctor says, "Is it worth giving an antibiotic in the 11th hour, or should we just let him die?

Senator CLARK. Do you think he can live?

Mr. ZABLOCKI. I think he can live and we ought to try.

Senator MCGOVERN. As long as Congressman Zablocki has talked about the dying patient, I would like to paint the picture of a boxer in the ring whose face is bloody, who is groggy, who has no possibility of going on with the fight, the referee at this point steps in and says enough is enough. We are not going to permit any more bloodshed in the ring.

Now, this is a much more serious situation in Cambodia where you have a government that can't secure even the major cities; it has lost 80 to 90 per cent of the countryside. We are providing 95 per cent of their total budget right now. This is a government that is not viable and enough is enough. Eventually you reach a point where you recognize we have a bankrupt political situation on our hands and that we need to do at this point is stop the killing, cut off the flow of ammunition. You talk about a blood bath, Congressman Zablocki; there is a blood bath going on now and our armaments, our bombs, our ammunition is helping to fuel that blood bath. The quickest way to end this is to permit negotiations and that will take place, I think, when we cut off our military aid.

Mr. KIKER. What about South Vietnam? Now, if we don't furnish the aid that they say they need and Henry Kissinger says they need, are you prepared to see the Thieu Government fall? Are you prepared to see a Viet Cong takeover in South Vietnam, which is what the Administration says will happen?

Senator MCGOVERN. Mr. Kiker, what I am prepared to see is the Paris Peace Agreement implemented. The Paris Peace Agreement did not commit us to a permanent defense of General Thieu. It called on General Thieu and the other side to enter into a Council of Reconciliation to set the stage for an election. Now, General Thieu has been unwilling to do that. He has imprisoned even the neutralists. He has imprisoned his non-Communist critics and I don't think it is in our interests to commit another $300 million in American tax funds to perpetuate a regime of that kind. If we will cut off that support and let the local political forces assert themselves, they will get together. It may not be the kind of a government that you and I want, but they don't have that kind of a government there now. I think the best way to implement the Paris Agreement is for us to stop this flow of military equipment and let the local political forces assert themselves.

Mr. KIKER. I think you will all be interested in one other question we had on our NBC poll on foreign affairs. The President says the Democrats in Congress have interfered in the conduct of foreign policy. Do you agree, we asked, or not?

Yes, 39 percent agreed; no, 44 percent disagreed; 17 percent said they were not sure.

So I guess I would ask you, starting with you, Mr. Zablocki, Henry Kissinger says that you are sticking your nose into his business too much. Do you agree?

Mr. ZABLOCKI. I don't think Secretary Kissinger was addressing himself to me particularly nor to the Democrats as a whole, because some of the Loyal Opposition is a bipartisan opposition, as well as we should have a bipartisan foreign policy. For example, much of the complaint by the Congress is that we do not have all of the information that we should be getting. Until the so-called Case-Zablocki Act, where the executive agreements were never known, were never made known to Congress, now they must be reported to Congress.

Now, it is not that we are opposing for political purposes opposition for opposition's sake, but I do think if the Congress is informed and if it is going to carry its constitutionally mandated duties out, it must have the information. I don't think that the poll indicates—or the question was properly put because it is not the Democrats alone opposing the foreign policy; it is a bipartisan opposition to the executive branch.

Ms. MACKIN. Senator Clark, let me ask you about the Defense budget this year that the President is proposing. It is bigger than ever.

Defense Secretary Schlesinger's argument is, inflation is in large part responsible for that.

Will the Democrats in Congress buy this argument?

Senator CLARK. I think it is quite clear the Democrats and the Republicans together are going to cut the Defense budget. The only question is how much. Or more properly put, it is not really even a question of cutting it; it is a question of not allowing such an enormous increase.

Now, I don't think there is any question but what it will be cut something between $5 and $10 billion. How much only 435 members of the House and 100 members of the Senate will decide, but it has to be cut, particularly in this time of great inflationary pressure and because of the recession.

Ms. MACKIN. To return to Vietnam again, there is a billion and a half in this new budget for Vietnam. How much of that do you think can get through this Congress?

Senator CLARK. Well, I think this last year we appropriated about half that, about 700 million. I think that will be cut again this year because I think there is a determined effort in the Congress, at least that would represent a majority, that we are going to have a phase-out of assistance to Southeast Asia. I don't think it will all be cut this year, but it was significantly cut down to 700 million. I would like to see it cut to about 350 million this next year, cut again in half the following year and then ended the following year.

Ms. MACKIN. On Cambodia I had this question I did want to get in: The aid that the President is asking for is about $220 million. There is a problem there of starvation right now. Isn't there a moral and a humanitarian responsibility, if not a military responsibility, to this country—

Senator CLARK. Absolutely. Absolutely. And I think most all of us support the idea of the rice flights into Cambodia. I think we ought to be doing more by way of food in Cambodia just as we should be in many parts of the world. That is a very, very inexpensive proposition and a very important one and we all support that, I think.

Senator MCGOVERN. On that question, we are flying in about 500 tons a day in ammunition but in terms of direct humanitarian food assistance almost nothing. The food we are flying in there is for sale to finance—to provide currency to support the government. Very little of that gets into the hands of poor people, and what I think we need is a food airlift as a substitute for the arms airlift and that kind of a food airlift can take place no matter what kind of a government you had in Cambodia.

Mr. ZABLOCKI. Senator, I don't know where you are getting the information it is not getting down to the people. It is my understanding that indeed our food is getting to the people and it is getting to those who need the food most and as far as the military arms to Cambodia is concerned, they are not very sophisticated, and the type of arms that the Viet Minh are getting from the Soviet Union—they are not tanks. They are not antimissile missiles, they are not missiles they are not airplanes; just defensive weapons that you are going to deny them if you are going to vote against it and I think of the 220 some million dollars we ought to give both.

Mr. KIKER. Thank you very much

Thank you, gentlemen. Thank you all for being with us.

Thank you, Katy.

The final question posed on our NBC News poll was this:

President Ford and the Democratic majority in Congress frequently disagree about how to solve the major problems which confront this nation. Do you think this disagreement is good for the country or bad for the country?

The answer we got was, good, 41 per cent; bad, 51 per cent; not sure, 8 per cent.

Well, no matter what the public might think about this, we can be sure that as long as we have a two-party system, we are going to have disagreement. I think it was the late Senator Robert Taft who once said, "The proper role of the opposition is to oppose." But the Democratic Congressional leaders we have heard from tonight have said in effect, the Loyal Opposition must do more than that; must not only oppose, but propose alternatives of its own. All of which leads us right back where we began, with a Republican Administration and a Democratic Congress, the Loyal Opposition in a continuing struggle for the foreseeable future.

For Catherine Mackin and Ray Scherer, I am Douglas Kiker. Good night for NBC News.

CARTEL THREAT GROWS

Mr. THURMOND. Mr. President, a thoughtful editorial, entitled the "Cartel Threat Grows" appeared in the February 25, 1975 issue of the Aiken Standard newspaper in Aiken, S.C.

The editors make some points that neither the White House nor official Washington may wish to hear, but they are words of warning which are long overdue.

If this Nation is to continue in its world leadership role, it will be necessary to show more conviction and cohesiveness than has been demonstrated to date.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

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

CARTEL THREAT GROWS

The move toward global price-fixing of raw materials by Third World nations should send an economic shock wave through the industrialized nations whose economies still are struggling to recover from tactics used by oil-producing nations to send petroleum prices skyrocketing.

The strategy for establishing a resources cartel was defined more clearly by representatives of 110 Third World nations in a meeting recently in Dakar, Senegal. That strategy already had been set in motion with a "Declaration on the Establishment of a New International Economic Order" adopted nearly a year ago in a special session of the United Nations General Assembly. That document warned the world that natural resources other than oil might be withheld from industrial nations.

The magnitude of the danger to the United States of America becomes clear with a realization that the United States imports 50 per cent or more of 22 of the 41 basic minerals it uses. For example, we depend on imports for 85 per cent of the bauxite and alumina, 80 per cent of the tin and 75 per cent of the nickel that we use.

A recent White House study of the possible threat from a raw materials cartel downgraded its potential danger, which is unfortunate. The report said that the U.S. depends on imports for "about 15 per cent" of its most critical raw materials. It ignores the fact that the 15 per cent could well be the margin that furnishes this nation with its high standard of living.

However, the United States is not powerless in its relations with Third World nations. The recent trade bill provides an avenue with which to respond to economic blackmail of the type contemplated by the Senegal conference. The bill grants trade advantages to developing nations but forbids them to nations which form market cartels. The bill can thus be used to fight any cartel attempting to deny the U.S. raw materials.

Resources sanctions against the United States could cause us some discomfort by denying us a few luxuries. In return the Third World would invite immediate economic retaliation by the United States. A large share of the world market would thus be denied to the cartels.

The industrialized nations surely have been warned sufficiently by the Third World, and, having been burned once by the OPEC nations, should be alert against other economic blackmail. The United States cannot afford to keep turning the other cheek and remain a leader in a changing world.

WHERE IS THE LINE BETWEEN HARDSHIP AND POVERTY?

Mr. FANNIN. Mr. President, in Arizona we have an extremely interesting weekly newspaper with the colorful name of The Brewery Gulch Gazette. Each week publisher Bill Epler runs a short front page column under the heading of "The Brewery Gulch Philosopher Says."

The commentary in the February 2, 1975, edition of the newspaper strikes me as especially relevant in the light of the figures which were reported to us recently concerning food stamps. Although some 17 million already are receiving food stamps, we are told that more than 40 million should be.

Mr. President, it seems to me that the Brewery Gulch Philosopher raises some pertinent questions regarding the definition of poverty, and I ask unanimous consent that his column be printed in the RECORD.

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

THE BREWERY GULCH PHILOSOPHER SAYS

(By Bill Epler)

One of the incongruities of this day and age is the inordinate amount of money spent by this nation on welfare in recent years when the country has been experiencing one of the largest economic booms in its history. On the one hand we are called an affluent society, enjoying the highest standard of living in the history of man, with higher levels of education and well being than ever before known on this planet. At the same time we are told a large percentage of Americans are ill-fed, ill-clothed and living in abject poverty. Relentlessly we are told that billions of additional dollars must be spent on welfare programs of all kinds. What is the score—what is the true situation? Is "poverty" actually so widespread? Or has the borderline between poverty and mere hardship been moved upward as our standard of living has increased? If there is a truly serious poverty problem, it must be that we are losing ground. Can we correct it by simply spending more on direct relief or are new approaches required so more people can do more to help themselves rather than just lining up for the checks each month? These are serious questions and we must start getting some equally serious answers.

APOLLO-SOYUZ

Mr. MOSS. Mr. President, the Apollo-Soyuz project, space détente of the United States and Russia, is expected to make significant contributions to our knowledge in the Earth science, in space processing and manufacturing, in space science and in life science. Let me describe some of the important Apollo-Soyuz investigations currently planned.

Two Earth science experiments will measure gravitational field variations. Such gravity data is useful in satellite navigation and in deciphering the Earth's structure and composition, including those associated with petroleum and mineral deposits.

Another Earth science experiment will measure pollution of the atmosphere by small solid or liquid particles called aerosols which remain suspended in the lower atmosphere and well into the upper atmosphere for extended periods of time. The experiment will investigate use of a device called a photometer which measures absorption of sunlight by these atmospheric particles and is a potential method for long-term satellite monitoring for this problem. Balloon flights carrying similar photometers will cover the lower 30 kilometers of the atmosphere during the same period. Understanding this type of pollution is important because aerosols present in sufficient quantity can affect the balance of radiation transfer through the atmosphere giving changes in weather patterns and overall earth environmental conditions.

Building on the experience of earlier manned missions, Earth features and phenomena will be observed and pho-

tographed. For example: ocean currents, plankton blooms and red tide concentrations, desert movements and dune patterns, fault structures in earthquake regions, snow cover and melting patterns, and dynamic features of tropical storms. A specific study will be made of the growth of river deltas using Skylab photographs for comparison. The growth of deltas is coupled with a growth in the organic materials which result in accumulations of oil and natural gas. In the field of water resources a study will be made of the snow cover of the Himalayas. Quality photographs will allow measurements of the quantity of snow and the drainage patterns of water for irrigation and flood control in the Indian lowlands. Water circulation in closed basins, such as Great Salt Lake and the Black Sea, will be studied in terms of effects on shore lines. Major trends of ocean currents will be studied for application to trade, shipping, and fishing. Near shore environments and the extent of water pollution as well as the location and extent of the "Red Tide" will be studied. Visual investigation and documentation with photographs of tropical weather problems such as hurricanes, storm centers, and localized atmospheric circulation will be accomplished which could provide additional insight into weather generation and forecasting.

The space processing experiments could potentialy lead to separation of human cell mixtures and components not previously possible and could contribute to such fields as immunology and cancer research.

Electrophoresis is a process for separating living cells and other biological materials by affecting the rate of flow of their constituents in solution by applying an electric field. Two experiments will be conducted to determine whether zero gravity enhances this separation using two special techniques. Determination that separation of living cells by either technique is enhanced under near zero gravity conditions could lead to further development of these techniques in shuttle missions as a tool for medical research and therapy.

Preliminary Apollo and Skylab experiments in the field of space processing of materials in the absence of gravity will be extended by melting and solidifying various metal combinations in an improved Skylab furnace. Such processes may eventually be used to manufacture electronic products in orbit. A test being conducted on germanium, a material currently important in the semiconductor industry, will develop data to analyze and improve processing methods that are used on the ground. Increased lead to greatly increased efficiency and size and purity of semiconductors will capacity in power transmission. In another experiment, crystals will be formed in water solution. Both techniques could lead to improved materials for such application as integrated circuits, infrared lenses and high strength magnets.

In the field of space science, there are three astronomy experiments. These will use recently available detectors to investigate deep space sources of high frequency electromagnetic radiation which cannot be observed from Earth because of our obscuring atmosphere. ASTP provides an early platform for investigation of these phenomena that could open up a new branch of astronomy and revise our understanding of the universe. In addition, the new data could help explain emission processes and help us understand their methods of energy generation. For example, radiation from atomic fusion was observed on the Sun before it was produced on Earth. Measurements of radiation from interplanetary helium flow in one of the experiments could contribute to our understanding of the evolution of the stars.

In another experiment, ultraviolet light between the Apollo and Soyuz spacecraft will be used to measure atomic oxygen and nitrogen concentrations at the altitude of 125 miles. These data will contribute to understanding the upper atmosphere and its interaction with the lower atmosphere where weather is generated. The experiment could help us determine the environmental effects of high altitude aircraft.

In life science experiments, measurements will be made of the effects of space radiation and zero gravity and the closed spacecraft environment on both primitive and advanced organisms. Effects of space flight on resistance to disease provided by the astronaut's white blood cells, effects of cosmic rays on their optic nerves, and the growth of bacteria, other microbe forms and fungi are included in these measurements. These experiments will provide new medical knowledge for applications on earth as well as in space.

The promotion of international scientific and medical cooperation is an interesting and important aspect of the ASTP Program. There are five joint experiments with the Soviets. Two experiments will be provided by the Federal Republic of Germany and one experiment is cooperatively supported by a U.S. industrial firm. These experiments, therefore, provide a model for conducting future cooperative experiments. This will be most important not only in developing the Space Shuttle payloads at reduced cost to the United States, but could provide a new era of international scientific and medical cooperation.

THE INFLATIONARY COSTS OF GOVERNMENT REGULATIONS

Mr. FANNIN. Mr. President, there are a number of us in Congress who feel that the inflation which has plagued our country for the past several years is the direct result of legislation and policies which have come out of the Congress in the past decade.

Today a good portion of the Washington Post editorial page was devoted to a discussion of the economic impact—that is, the inflationary impact—of the steady flow of legislation imposing regulations on U.S. business and industry.

Because of our deep concern over the effects of heavy Federal deficits, the proliferation of new Federal programs, and the consequences of excessive regulation, a group of us introduced S. 15 on January 15, 1975. This bill would require the Congressional Budget Office to prepare inflationary impact statements in connection with legislation reported by Senate and House committees.

Today the Post headlined one of its editorials: "It's Time for Economic Impact Statements." The Post also carried an article by Murray L. Weidenbaum, the director of the Center for the Study of American Business at Washington University, St. Louis, and former assistant Secretary of the Treasury.

Mr. President, it has been my good fortune to listen to Mr. Weidenbaum's testimony at many hearings. He has the ability to carefully analyze economic problems and clearly present the means of dealing with the problems. I ask unanimous consent to have printed in the RECORD the excellent article by Mr. Weidenbaum and the accompanying editorial from the Washington Post.

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

GOVERNMENT REGULATIONS: THE INFLATIONARY COSTS

(By Murray L. Weidenbaum)

As the American public is learning to its dismay, there are many ways in which government actions can cause or worsen inflation. Large budget deficits and excessively easy monetary policy are usually cited as the two major culprits, and quite properly. Yet, there is a third, less obvious—and hence more insidious—way in which government can worsen the already severe inflationary pressures affecting the American economy.

That third way is for the government to require actions in the private sector which increase the costs of production and hence raise the prices of the products and services which are sold to the public. For example, the price of the typical new 1974 passenger automobile is about $320 higher than it would have been in the absence of federally mandated safety and environmental requirements. Attention needs to be focused on this third route to inflation for two reasons: (1) the government is constantly embarking on new and expanded programs which raise costs and prices in the private economy and (2) neither government decision makers nor the public recognize the significance of these inflationary effects. Literally, the federal government is continually mandating more inflation via the regulations it promulgates These actions of course are validated by an accommodating monetary policy.

Obviously, most of these government actions are not designed to increase prices. Nevertheless, that is their result. In part because of efforts to control the growth of government spending, we have turned increasingly to mechanisms designed to achieve a given national objective—better working conditions, for example, or more nutritious foods—without much expenditure of government funds. The approach emphasizes efforts to influence private decision makers to achieve specific ends. Thus, rather than burden the public treasury with the full cost of cleaning up environmental pollution, we now require private firms to devote additional resources to that purpose. Rather than have the federal government spend large sums to eliminate traffic hazards, we require motorists to purchase vehicles equipped with various safety features that increase the selling price.

At first blush, government imposition of socially desirable requirements on business appears to be an inexpensive way of achieving national objectives: it costs the government nothing and therefore is no burden on the taxpayer. But, on reflection, it can be seen that the public does not escape paying the cost. For example, every time that the Occupational Safety and Health Administration imposes a more costly, albeit safer,

method of production, the cost of the resultant product will necessarily tend to rise. Every time that the Consumer Safety Commission imposes a standard which is more costly to attain, some product costs will tend to rise. The same holds true for the activities of the Environmental Protection Agency, the Food and Drug Administration, and so forth.

The point being made here should not be misunderstood. What is at issue is not the worth of the objectives of these agencies. Rather, it is that the public does not get a "free lunch" by imposing public requirements on private industry. Although the costs of government regulation are not borne by the taxpayer directly, in large measure they show up in higher prices of the goods and services that consumers buy. These higher prices, we need to recognize, represent the "hidden tax" which is shifted from the taxpayer to the consumer. Moreover, to the extent that government-mandated requirements impose similar costs on all price categories of a given product (say, automobiles), this hidden tax will tend to be more regressive than the federal income tax. That is, the costs may be a higher relative burden on lower income groups than on higher income groups.

Government regulation is an accepted fact in a modern society. The point being made here is the modest one that a given regulatory activity generates costs as well as benefits. Hence, consideration of proposals—and they are numerous—to extend the scope of federal regulation should not be limited, as is usually the case, to a recital of the advantages of regulation. Rather, the costs need to be considered also, both those which are tangible and those which may be intangible.

It should be acknowledged that what is taking place in the United States represents not an abrupt departure from an idealized free market economy, but rather the rapid intensification of fairly durable trends of expanding government control over the private sector In earlier periods, when productivity and living standards were rising rapidly, the nation could more easily afford to applaud the benefits and ignore the costs of regulation. But now the acceleration of federal controls coincides with, and accentuates, a slowdown in productivity growth and in the improvement in real standards of living. Thus, the earlier attitude of tolerance toward controls is no longer economically defensible.

Worthy objectives, such as a cleaner environment and safer products, can be attained without the inflationary impact that regulation brings, and public policy should be revised to this end. But we need to examine more closely the phenomenon of government-mandated price increases. It is likely that this unwanted phenomenon will be with us for some time—at least until consumers and their representatives recognize the problem and urge changes in public policy.

As these government-mandated costs begin to visibly exceed the apparent benefits, it can be hoped that public pressures will mount on governmental regulators to moderate the increasingly stringent rules and regulations that they apply. At present, for example, a mislabeled product that is declared an unacceptable hazard often must be destroyed. In the future, the producer or seller perhaps will only be required to relabel it correctly, a far less costly way of achieving the same objective.

IT'S TIME FOR ECONOMIC IMPACT STATEMENTS

The scope of new government programs and regulations has never expanded so rapidly as it has in the past decade, except, perhaps, during the early days of the New Deal. Since the mid-1960s, federal legislation and administration orders have set new standards for air, water, noise, meat, poultry, fabrics, land sales, boats, paint, credit transactions, industrial safety, and employment practices—to mention but a few. All of these regulations involved efforts to improve the quality of life for some or all citizens, and most have had a measure of success. Some have required the expenditure of large sums of tax money, while others have not. All, however, cost somebody something, and the costs that don't show up in tax bills tend sooner or later to show up in price increases. As Murray L. Weidenbaum makes clear in a new study, a portion of which appears elsewhere on this page today, those price increases have been a significant component in the inflationary spiral. And, if the expansion of regulation goes on at its present rate, such price increases could produce a stagnant economy.

The argument over health care provides a classic example of the way the present system works. Health insurance plans before Congress are usually discussed in terms of how much they will cost federal or state governments in tax money. While these figures are of obvious importance, the true cost of any such plan must incldue the additional expenses the plan will impose on employers and employees. If those additional expenses are paid by the employers, they will be reflected, sooner or later, in prices. If they are paid by employees, they will be reflected in a loss of buying power. In either case, they are real costs, just as tax increases are real costs.

Congress has taken note of one aspect of this problem by requiring that the President's budget set out as "tax expenditures" those losses in tax revenues that result from deductions or tax credits used to encourage economic activities. But it needs to go further. In order to get a true picture of the full costs of a health plan or noise reduction regulation or any other federal program, Congress needs an "economic impact" statement not unlike the environmental impact statements now required of many construction programs. Then it could know how much a particular program or set of regulations really costs.

This is not to suggest that things like health insurance or safety regulations or meat inspection programs should be postponed or abandoned. Rather, it is to suggest that Congress and the public should be aware of the full costs of the legislation it approves—and of the individuals or institutions that will be made to bear those costs. We suspect that if Congress recognized the full cost of some of the information federal agencies now gather or of some of the health and safety regulations that have been imposed, it would cut back certain federal activities. The benefits, in some instances, of the information or the regulations would hardly seem commensurate with the costs. And, in a time of inflation and recession, any unnecessary cost imposed by government on business or individuals simply increases the agony.

QUICK ACTION ON TAX CUT NEEDED

Mr. ROTH. Mr. President, nearly two months after President Ford recommended the enactment of an immediate tax cut, Congress has still not completed action on effective tax legislation. I commend the distinguished chairman of the Finance Committee and the other members of my committee for beginning work so quickly on the House-passed tax legislation, and I hope that we can move quickly and send legislation to the President for his signature as soon as possible.

The most important factor of this tax legislation is speed. Congress must act immediately to return tax dollars to the economy to stimulate consumer spending and create jobs. If Congress cannot get the tax cut to the President's desk within the next few weeks, I believe Congress should postpone its Easter recess and stay in session until its work on the bill is completed.

I am not, however, urging a blanket endorsement of the House-passed tax legislation, about which I have some reservations. I believe that the tax cut must be designed to achieve an increased flow of money throughout the economy and, at the same time, treat all taxpayers fairly. But the legislation passed by the House raises, in my mind, some serious questions of equity.

Under the House legislation, almost half of those taxpayers with adjusted gross income of between $10,000 and $20,000 would receive no benefit at all from the tax cut on 1975 income because they itemize their deductions. In my opinion this is just not fair.

While tax relief must be granted to low income people, I believe that more tax relief must also be directed at the taxpayers who pay the most taxes, the middle-income taxpayers. In many ways, the House bill is "soak the middle-income" legislation.

Middle-income taxpayers, earning too much to receive Government benefits and too little to use Government tax loopholes, are now bearing the brunt of the Federal tax system.

The increased tax load has made it increasingly difficult for middle-income families to raise their standard of living, to purchase their own homes, or to meet skyrocketing college education expenses.

A tax cut that includes significant relief for middle-income taxpayers is essential, both in terms of equity and in terms of restoring economic health. Most of our economy is in the midst of a recession, but the housing and automobile industries are in a state of depression, with both industries experiencing alarming levels of unemployment.

A major drawback of the House bill is that, by ignoring the middle-income taxpayers and by limiting the rebates to $200, it provides no stimulus for the housing and automobile industries. The administration proposal, with tax cuts applied more evenly to the middle-class up to a maximum of $1,000, is more likely to stimulate these two industries and put more people back to work.

The primary purpose of this legislation is to get the economy moving again and to provide more jobs, and I hope the Finance Committee will take a careful look at the House bill and reshape it to provide more stimulus to the housing and automobile industries.

I also hope that we can provide some help for our small businesses, which are in desperate need of tax relief. Small businesses have not been able to absorb the impact of inflation and recession as well as many of our larger corporations, and the Congress must take steps to assure the continued growth of these firms.

I have been urging for more than a year now that the oil depletion allowance be repealed, but I want to avoid—and a majority of the other members of the Finance Committee also want to

avoid—any action that would jeopardize the tax cut.

We need the tax cut, as promptly as possible, in order to restore consumer confidence and get the economy moving again, and I am concerned that prolonged debate over the depletion allowance would tie up the tax cut. I am pleased that Senator LONG, the chairman of the committee has given us his assurances that legislation to repeal the depletion allowance will be taken up, retroactive to January 1, 1975, just as soon as work on the tax cut is finished.

But the most important tax reform facing the members of the Finance Committee and the Senate is an antirecession tax cut legislation. There is no time for delay, and no time for partisan party politics. Our economy is in too serious a condition for the Congress to continue acting like it is business as usual. The Congress must demonstrate to the American people that decisive and effective leadership can lead the economy out of this recession and put America back on the road to economic prosperity.

IMPROVEMENTS IN FTC PROCEDURES

Mr. MOSS. Mr. President, last year the Committee on Commerce conducted 4 days of oversight hearings on the Federal Trade Commission. Additionally, we considered a number of legislative proposals having to do with the Commission. As a result, we gained considerable familiarity with the Commission and its immense potential.

One of the difficulties to which we addressed ourselves in our oversight hearings was case selection procedures and timeliness. Now, FTC Chairman Lewis Engman has proposed a number of changes which the Commission believes will significantly improve Commission responsiveness and timeliness.

I believe that the steps which the Commission proposes to take in changing its rules and in improving its internal management are important advances. Only time will tell whether they function successfully, but all evidence indicates that given dedicated personnel, these changes will have a positive effect.

Mr. President, I ask unanimous consent that a speech by FTC Chairman Lewis Engman outlining these changes be printed in the RECORD.

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

ADDRESS BY HON. LEWIS A. ENGMAN

One of the criticisms leveled at the Federal Trade Commission since time immemorial—or at least since 1915—is that the wheels of our justice grind so exceedingly slowly that the public is deprived of responsive resolution of issues and cases however fine our eventual product may be. Certainly there is some merit in that allegation. Over the years, the Commission has been plagued by the problem of delay. Its effects have been apparent at every stage of our process, from investigation to final adjudication.

It is more important to make good law than to make fast law. Nonetheless, the Commission's proceedings have, too often, had a Nuremberg quality, providing the public with more moral compensation than meaningful protection.

As many of you here will appreciate, some of these problems may be attributed to factors outside the Commission. The private bar has, to put it mildly, not been reluctant to take its full measure of due process. Still, much of the fault has been that of the Commission itself. Two years ago, Commissioner Dave Dennison addressed the problem of delay before this very group. His message at that time was that the Commission acknowledged its faults and was working to correct them. My message to you today is that during the time that has elapsed since Dave Dennison made his remarks, much progress has been made.

(Some of you may be bemused by the fact that it has taken us two years to have made some progress toward solving the problems of delay. You are not alone.)

That progress, which is the subject I want to address now, is the result of two separate developments. The first is reform of the Commission's internal rules of procedure. The second is improvement in the planning and management of the Commission's activities. I will deal with these developments in that order.

One of the things we have done in the past two years is to revitalize our Rules Committee in order to take a hard look at the problem of procedural incentives to delay. The Committee's work is not yet complete; but as a result of that Committee's recommendations, two rule changes have recently been adopted by the Commission.

The first rule change eliminates the Commission's cumbersome delay-inviting, so-called Part II procedures which have been in effect for the past 14 years. As many of you know, this procedure—unique to the FTC—provided for a 30-day period after the Commission had determined to issue a complaint during which the proposed respondent could agree to a settlement. This procedure was well intended. In fact, the point of Part II was to avert delay by forcing settlement, where possible, before rather than during litigation.

In practice, Part II turned out to be a time waster rather than a time saver. First, the 30-day period was extended so often by the Commission that its strictures became meaningless. Second, the Commission's stated firm intent not to utilize the consent order procedure during the adjudicative stage except in "exceptional and unusual circumstances" crumbled under the weight of practical considerations. In practice, because of the costly and time-consuming nature of litigation, the Commission continued to withdraw matters from adjudication whenever it became apparent that a satisfactory settlement was possible. The "exceptional and unusual" circumstance became the "ordinary and routine" disposition. Finally, when—in the interest of accountability and openness—the Commission decided a few years back to announce a complaint when it was "proposed" rather than waiting until the commencement of formal proceedings, the proposed respondent was deprived of one incentive to settle during Part II—the incentive to minimize publicity (regardless of how far and evenhanded that publicity might be).

The evidence is now overwhelming that the Part II procedure has served primarily to give respondents three shots at settling a case where before they had only two. It was slowing things down rather than speeding things up. During Fiscal Year 1974, the 27 matters that were eventually settled in Part II consumed an average of six months before the Commission accepted a matter and submitted it for public comment. Not only that, but 31 other matters which eventually proceeded to formal litigation did so only after having languished fruitlessly, in Part II for an average of more than 5 months. Part II was clearly an idea whose time was costly.

I should emphasize that the elimination of this one stage from the Commission's procedures in no way affects the Commission's established practice of seeking public comment for 60 days prior to final issuance of a consent order.

Nor does it affect the Commission's policy of encouraging settlements and discouraging extensive litigation where an agreed-to order is in the public interest. Companies who wish to negotiate consent orders will have ample opportunity to do so during the investigative stage. In addition, in appropriate circumstances, the Commission will continue to consider consent orders which are negotiated between complaint counsel and respondent after a formal complaint has issued.

The Commission will be publishing in the near future revised rules clarifying these new procedures.

The second major procedural change which the Commission has recently approved is the elimination of the so-called *All-State* doctrine. This doctrine was a Commission requirement that the staff complete virtually all of its investigatory work and present a *prima facie* case prior to Commission consideration of a complaint. Though the rule sprang from good intentions, it was a source of considerable delay since the staff frequently found itself investing large amounts of time and effort assembling evidence during an investigation only to have the respondent settle short of adjudication.

No doubt, in some instances, the large amount of evidence compiled by the staff was responsible for the respondent's willingness to settle. But in some cases, the staff work may have been superfluous, for the respondent might have agreed to the same settlement without it.

Elimination of the Commission's *All-State* rule will restore flexibility to our procedures by allowing each complaint to be examined on its own merits as to whether or not there is "reason to believe" a law violation has occurred; delay may be avoided in some cases by virtue of the fact that the matter may be settled by consent order before the evidence-gathering process has been completed by the staff. In addition, such evidence-gathering that still may be necessary after a complaint issues may take place simultaneously with respondent's discovery rather than preceding it.

In addition to reviewing our rules with an eye to cutting back on delay, the Commission, in the last year and a half, has made at least four basic changes in the way we are planning and managing our operations.

To begin with, we have introduced a concept of Commission programs under which the Commission's activities, for purposes of planning and budgeting, are grouped according to specific objectives. For the first time, we are now able to tell the Congress and the public that the Commission is devoting "X" percentage of its effort to an investigation of competition in the energy area or competition in the food industry and "Y" percentage of its effort to an investigation in some other area. Just as important, for the first time, the Commission itself knows how it is matching up its resources with its objectives. Under our old management system, we could tell you what we were spending on salaries or how much money was being spent for travel or for postage stamps, but there was no way to relate these random facts to substantive Commission activities and accomplishments.

Now, for the first time, as part of the 1976 budget which will be submitted to Congress in the near future, we will be able to tell the public not only how much we propose to spend for gasoline but also how much we intend to spend to enforce honest gasoline advertising.

Which brings me to a second major change in the way the Commission is conducting business and that is our current effort to apply cost/benefit analysis. Chart-

ing the flow of resources towards specific objectives—which our program planning and budgeting enables us to do—is only part of intelligent management. In a world of finite resources and seemingly infinite problems, it is also essential that the Commission be able to identify those areas in which our efforts will yield the highest returns. This is true as it applies to the selection of broad objectives and it is equally true as it applies to selection of the individual cases by which we choose to further those objectives.

This will not be easy. Although we can predict with some degree of certainty the probable cost of pursuing a particular investigation or case, it is extremely difficult in most cases to quantify with precision the probable impact of Commission success in a given endeavor. It is difficult because of the paucity of hard economic data. And it is difficult because of imponderables such as the effect of deterrence. How many anticompetitive mergers are not consummated because of *Kennecott?* How many unsubstantiated advertising claims are never made because of *Pfizer?* As practicing lawyers, you can answer those questions better than I.

Not all cases produce easily identifiable benefits. And questions of probable impact are not easy to answer. In fact, sometimes it is hard to identify the right questions to ask. Until recently, the Commission did not believe it necessary to raise such questions, much less to attempt to answer them. Happily, that view belongs to the past.

The third notable change in the management of the Commission today is our new computerized information retrieval and case tracking system. In the old days—not to be confused with the good old days—cases would disappear into the bureaucratic maw and become lodged in the various nooks and crannies of the Commission's digestive tract until one fine day—often years after meaningful action was possible—they would reemerge as proposed complaints. To illustrate the rudimentary nature of our old system, I was told that when one of our supervising attorneys first came on board and asked for a survey of pending cases, he was handed a shoe box full of 5 x 8 cards. All that has changed. Today cases are programmed to move past each checkpoint in the system on a day certain. If it doesn't happen, the computer kicks it out and we find out what the delay is. I won't say the computer has made us perfect. But I will say that it promises to be a useful purgative for what was once a very clogged system.

Finally, the Commission has made an important change in its control of expenditures within a given program. In the past, the purse strings were tightly held at the top. If a project manager wanted to send an investigator to Cincinnati, he could not do so without clearance from above. Our operational managers had responsibility without authority. It was an arrangement which was harmful not only to efficiency but to morale. It is an arrangement which no longer exists. Within the general constraints of the overall allocation to a project, project managers today have broad discretion as to how funds are used. With that authority, we have also achieved accountability.

All of these administrative changes are recent and much refinement will be necessary. But I believe they have contributed significantly to a more effective Commission. In addition to facilitating intelligent planning reflecting current priorities, they have given the Commission the means to ensure that plans become translated into performance while they are still relevant. In sum, these tools will enable us to give our activities sharper focus, to make more rational case selection and to process those cases faster and with greater effect.

Already we have some tangible results. The Bureau of Competition, which had a head start on the implementation of a computerized case management system, has dramatically reduced its backlog to a manageable number of pending investigations. Over the past twenty months, the Bureau has cut from 200 to less than eighty the number of outstanding investigations without diluting either the number or, in my judgment, the quality of proposed cases.

In addition, the average time for the processing of merger matters, for example, through investigation to complaint, has been cut in half.

I hope that we can match these improvements with further improvements in the year ahead. This week, for the first time in its history, the Commission will conduct a "mid-year review" of its activity. This session is in addition to the normal yearly budget exercise. We will look at where we have come in the first half of Fiscal Year 1975 and match that progress against what was promised. We will re-examine the priorities which seemed appropriate six months ago to see if they hold up today. If changes are warranted, changes will be made.

The procedural reforms and improved management and priority selection efforts I have discussed today have as their single purpose the sharpening of the Commission's tools for doing the public's business. They have been developed and implemented through the efforts of the entire staff. They represent institutional changes—changes in the way we look at ourselves and in the way we do business. They are not the stuff of which banner headlines are made but they are the hard news behind the headlines.

In short, their success can only be measured by the success of the Commission in effectuating its Congressional mandate. By that standard, I am optimistic that the future will prove our efforts to have been worthwhile.

EQUAL EMPLOYMENT OPPORTUNITIES FOR ALL AMERICANS

Mr. DOLE. Mr. President, recently I wrote to the General Accounting Office concerning the sorry plight of our equal employment opportunity effort and the rather appalling array of deficiencies in that program and the Equal Employment Opportunity Commission itself. Not the least of these is the latest action within the EEOC wherein Chairman Powell was actually censored publicly by the other Commissioners.

GAO INVESTIGATION

The GAO is presently involved in a thorough audit of the EEOC. It is none too soon. An independent study by my staff has indicated without question that a wide variety of abuses exists which jeopardize our ability to meet the very laudable objectives of the EEO program. These preliminary findings, most of which are already being confirmed by the GAO, indicate that legislation may well be necessary in this Congress to get this program back on track. I expect, when the GAO report provides additional guidance this fall, to introduce appropriate legislation. Hopefully, we all can be ready to act swiftly at that time.

In order that my colleagues can be considering this situation prior to that point, I offer the following areas of concern which already appear to need some attention:

First. Certification or other means of assuring apropriate qualifications for EEO and Federal contract compliance officers;

Second. Better processing and certification procedures for complaints;

Third. Strengthening of referral actions to qualified fair employment agencies;

Fourth. Coordination of complaints between recipients;

Fifth. Faster, more equitable processing of complaints;

Sixth. Clarification and modification of legal action permissble by employers regarding false or malicious complaints; and

Seventh. Review of section 205 of Executive Order No. 11246 to provide for single approval of affirmative action plans.

Mr. President, it is as important now—10 years later—as it was in 1964 when the Civil Rights Act was passed that we assure the benefits and right of equal employment opportunity for all Americans. It is probably even more important now, in view of the lessons of these 10 years of history, that we assure these rights in a fair and equitable manner.

I want to promote these noble goals, and intend to further refine these issues with the objective of introducing constructive legislation after the General Accounting Office has completed its audit. As a further aid to those interested in joining me in this effort, I ask unanimous consent that my letter of February 28 to the GAO on this matter be printed in the RECORD.

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

COMMITTEE ON
AGRICULTURE AND FORESTRY,
Washington, D.C., February 28, 1975.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: My staff has recently studied the operation of the Equal Employment Opportunities Commission and application of its regulations in Kansas. The findings give me great cause for concern—sufficient to request an audit of its operations if you were not already so engaged.

My purpose here is to offer our help in your investigation and to provide you with the following list of topics which appear to need in-depth review:

Claims of blackmail, coercion and payoffs;
Actual success in meeting goals;
Credentials of officers and examiners;
Efficiency;
Validity of claims (cost of pursuing fraudulent invalid, malicious claims) and malicious abuse of process; and
Percentage of claims settled in favor of claimant and propriety of settlements.

If my staff can be of assistance in any way, please let me know.

Sincerely yours,

BOB DOLE,
U.S. Senate.

AMERICANS PULL THEMSELVES BACK FROM THE BRINK

Mr. FANNIN. Mr. President, the March 3 issue of U.S. News & World Report contains interesting and meaningful comments by James Hitchcock, a historian at St. Louis University.

Professor Hitchcock points out that the sustained prosperity of the past decade resulted in a habit of self-gratification among the American people.

Many people lost sight of the really important aspects of life, and frivolous concerns became paramount.

Now our society is facing some economic hardship. None of us want to see such hardship, but Professor Hitchcock does find some positive developments as a result of the economic conditions.

Students are becoming much more realistic in planning for their own role in the future. Conditions would appear right for a strengthening of families. Professor Hitchcock seems to suggest that people who have engaged in a frenetic search to find themselves or find success in the past decade might well find what they are looking for in their own homes.

Mr. President, this is an article which I think would be of interest to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

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

THE SILVER LINING

(NOTE.—James Hitchcock is a highly regarded historian, a professor on the faculty of St. Louis University. Recently, he and George E. Jones, an Associate Executive Editor of this magazine, engaged in a long conversation that ranged across the entire spectrum of today's America—its politics, economy, morals, ethics, social and cultural trends. At one point in their discussion, Professor Hitchcock made the observations that follow on this page.—Howard Flieger, Editor.)

You can argue that in any society that experiences sustained prosperity—and ours, of course, experienced more sustained prosperity than any in the history of the world—there begins to develop in people the habit of self-gratification.

It will extend from material things to spiritual things, so that people will not only expect to have a new car every year and color television whenever they want it, but they will also expect to have all the spiritual gratifications as well.

Thus, there will be more and more emphasis on self-fulfillment, on finding "the true me," and asking "Who am I? How can I find my identity?"—which, incidentally, are problems which most people throughout history have not really been much concerned with. We've now reached the place where it's sort of bred into many people's bones that "I am very important; I should be able to satisfy myself."

Hard times may act as a decompressing factor to this self-awareness pressure. On campus it's amazing. Five years ago all the rhetoric of student reform emphasized the idea of self-fulfillment. People were saying "I don't want to be a cog in the economic machine. I don't want to be processed as a servant of the system."

Now, with jobs hard to find, students are primarily interested in vocational education. They ask you "What kind of a job can I get if I go through this program?"—which is a total contradiction of what they were saying five years ago.

I'm not in any way advocating a depression, but I think that, if we do have a period of tight economy, much of what has been fashionable in the past 10 years will begin to appear frivolous. The same phenomenon happened in the 1930s, when people looked back on the '20s as a decade of tremendous frivolity.

The unfortunate thing about it is an economic cutback always tends to harm first and perhaps most those who never did share too much in the prosperity.

I can think of many Americans—including myself—who can easily stand to have their living standards reduced somewhat. It might be morally beneficial to them. But there will be lots of other people who are already living at a kind of poverty line, and they are going to be harmed very, very much.

But if recession goes on I think there could be a rebirth of the family. Affluence seems to have drawn people more and more away from the family into a larger orbit. We may see a rebirth of family unity simply in the possibility that economic conditions may make people stay home more and find family ways of amusing themselves.

Maybe hard times will mean less emphasis on this extremely hard-driving, aggressive spirit of ambition and achievement which has taken many fathers away from home a lot.

I think also we have the basis, at least, for a political renaissance, because people do want to believe in something. I don't think we've reached the point where people are prepared simply to dismiss politics as being something that is hopeless. Given the proper kind of leadership, there can be a rebirth of belief in our traditional systems.

It is true that in past periods of uncertainty the American people have pulled themselves back from the brink. That may happen here, too. I have a lot of faith in the good sense of people.

BACKGROUND AND POLICY ISSUES IN THE APOLLO-SOYUZ TEST PROJECT

Mr. MOSS. Mr. President, Vikki A. Zegel, with the Science Policy Research Division of the Library of Congress, has prepared a comprehensive paper on the background and policy issues involved in the Apollo-Soyuz test project.

The final increment of funds for the U.S. portion of this joint program was appropriated by Congress last year, and the mission is on schedule for launch next July 15.

Part VII of the Library of Congress report summarizes the policy issues quite succinctly. I invite the attention of my colleagues to the entire report and in particular to the excerpts from part VII which I ask unanimous consent to have printed in the RECORD.

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

VII. POLICY ISSUES IN THE APOLLO-SOYUZ TEST PROJECT

It is hoped that the scheduled 1975 joint mission will be more than a simple "handshake in outer space" for the Soviet and American participants, but several skeptical speculators have expressed doubt that any meaningful benefits will be realized as a result of the ASTP. Some Western sources feel that the project will be little more than a "wheat deal in the sky" reaping few, if any, scientific or technological benefits for the United States.

Further skepticism about the safety and reliability of the Soyuz vehicle has been raised in light of repeated Soviet failures, most recently that of the Soyuz 15 mission, which had to be aborted due to the failure of an automatic docking system that was being tested. At least one United States Senator has raised strong objections to the United States participation in this project and has asked for extensive further studies into the safety aspects of the mission. In response to these objections, Soviet officials have confirmed that the Soyuz 15 mission was not directly related to the Apollo-Soyuz Test Project.

In addition to questions about benefits and dangers, other issues which have been raised in connection with this flight involve the credibility of detente in light of continued Russian secrecy, the practical applicability of the universal docking system, and the feasibility of follow-up joint missions and future cooperative efforts between the United States and the Soviet Union.

The purpose of this final section will be to explore the policy issues involved in the Apollo-Soyuz Test Project, and to consider some of the various questions which have arisen as a result of the planning and implementation of a joint endeavor of this nature.

A. *International Cooperation: What Are the Expected Benefits to Detente?*

As already mentioned, a major accomplishment of the 1975 joint mission will be the demonstration of cooperation in space between the United States and the Soviet Union. United States and Soviet engineers have worked jointly in designing and testing the universal docking mechanism to be used during the ASTP. This is the only jointly developed piece of hardware, but space officials are hopeful that the attitude of cooperation in engineering technology may thus be fostered. Perhaps the Apollo-Soyuz Test Project will serve as a springboard for future joint research and development efforts between the two countries.

The present atmosphere is still probably best described as one of competitive cooperation, but it is hoped that this joint endeavor will lead to further relaxation of competitive tensions in the future. According to Glynn S. Lunney, technical director for the United States ASTP group:

"We've run into a cooperative attitude, and that attitude grows with time. There's been a fair amount of trust and good faith put in the bank by both sides, so there is a willingness to draw on that today that we sure didn't have at the beginning. It takes time to develop, but when you stop to look back, I think both of us have made a pretty good bank account . . . They're still (our) competitors, but you can speculate on what 10 more years might bring."

There are others, however, who feel that the continued policy of Russian secrecy will preclude any meaningful benefits for the United States, other than political imagery:

"The political symbolism of the joint space flight planned for mid-1975 by the United States and the Soviet Union cannot be discounted. The image of Americans and Russians orbiting the earth while dependent on each other's life-support systems suggests detente in a most dramatic fashion.

"Beyond the political imagery, however, are the very practical considerations of the scientific and technological benefits of the joint Apollo-Soyuz project. If this country is to spend several hundred million dollars to put three Americans in orbit to meet two Russians launched from the Soviet Union, we would expect some demonstrable return in terms of science and technology . . ."

The joint space flight must be viewed chiefly as a political effort—a demonstration of the potential of detente—and a costly one at that.

Recently, an article in the Soviet Novosti Press regarding the Soyuz 16 flight cited ASTP's contribution to detente. In his article, Alexiy Gorokhov stated:

"The launching of the Soyuz 16 is regarded at Baykonur as an addition to the results of the (Vladivostok) summit meeting, as further proof of the implementation of the agreement on Cooperation in the Exploration and Use of Outer Space for Peaceful Purposes, concluded in May, 1972."

Analyses of the Apollo-Soyuz Test Project's worth have thus ranged from overwhelming praise to open criticism of the costs vs. the expected benefits to both countries. The nature and extent of the ASTP's scientific and political contributions will

have to be judged in the light of history, but some effects are already being realized. Even the most critical opponent of the project would have to recognize the fact that the two historically competitive powers in the space race have moved to a far more cooperative ground as a result of the effort. The sharing of engineering skills and opening up previously "sensitive" Soviet materials and "restricted" areas to the United States can only be regarded as a positive step toward cooperation. While these events may not lead to any new technological insights for the United States, they represent a real change in Soviet attitude, which in the past has been that of total secrecy in the areas which are now opening. The Soviet space program has existed within a seemingly impenetrable wall of secrecy, which led to negative attitudes on both sides and thus precluded any real attempts at cooperation. While it may be argued that this atmosphere still exists to a certain extent, the wall that was built up in the early days of the space race now seems to at least be opening a few windows through which the new atmosphere of increasing openness will hopefully continue to flow. Again, only time and history will be able to judge the extent of this change in attitude, but the steps taken have thus far been positive ones. In this sense, the ASTP has already made positive contributions to fostering the spirit of detente.

B. *Technology Transfer: Will the Russians Gain More Than the Americans?*

The Apollo-Suyuz Test Project is not planned as a technological exchange project, but there is some feeling that there will be a unilateral technology transfer from the United States to the Soviet Union. Since United States space technology has progressed beyond that of the Soviet Union in many areas, some feel that the Russians stand to gain substantial technical knowledge from the ASTP. Others feel that the Russians are using the project as an opportunity to catch up to the United States in the so-called space race.

Chester M. Lee, NASA program director for the Apollo-Suyuz Test Project, defended the program against such recurrent suggestions of one-way technology transfer at a meeting of the National Space Club in Washington, D.C.:

"Technology transfer has never been an objective of ASTP . . . and the program has been structured to minimize it . . . Drawings, schematics and the like are exchanged, but this is not technology transfer . . . no manufacturing or assembly techniques are being revealed, and insights into NASA management techniques that are gained by the Soviets may or may not be applicable to their system . . . I cannot imagine that they don't have an inertial guidance system, but if they do not, they will not learn how to develop one through ASTP . . ."

Nevertheless, many are questioning the justification for United States participation in the ASTP. As indicated earlier, some feel that if the United States is to spend some $250 million to place three astronauts in orbit, some demonstrable scientific and/or technological return should be expected. It is true that the ASTP provides an opportunity for a United States manned spaceflight in the interim period between Skylab and the Space Shuttle, but there are no new technical advances expected, other than the test of the universal docking mechanism.

In the event that the United States and Soviet crews are unable to achieve proper rendezvous and docking orbits with their respective spacecraft, or if the joint project should be impeded for some other reason, the United States will continue with the experiments part of the mission as scheduled, as the experiments are to be carried on board the Apollo craft. Still, some experts feel that the expected scientific and technological return from the project will not justify the cost in time, money, and effort spent by the United States.

In summary, both sides are likely to gain some new technological insights, but both nations have indeed tried to protect their own technical secrets. While some U.S. techniques may be more advanced, our more open society has not made these matters unattainable to Soviet engineers through other channels.

C. *Crew Safety and Hardware Reliability: What Are the Risks Involved?*

In light of several Soviet space failures, concern has been raised by many as to the safety and reliability of the Soyuz vehicle. The flights of Soyuz 1 and Soyuz 11 ended in death for their crew members, and Soyuz 10 and Soyuz 15 apparently failed in their efforts to complete certain airlock actions or docking maneuvers with the Salyut-1 and Salyut-3 space stations, respectively. Speculators have questioned the possible implications of this safety record for the Apollo-Soyuz Test Project. According to official Soviet statements, none of these flights had any direct relation to the ASTP. The Soyuz 16 mission in December 1974 was the most recent ASTP-related flight. Prior to that, National Aeronautics and Space Administrator Dr. James C. Fletcher indicated, the last manned mission directly related to the ASTP was the successful Soyuz 12 mission in September 1973, according to Soviet information. Also, Cosmos 672, an unmanned spacecraft launched and recovered in August 1974, was reportedly an ASTP precursor.

Thorough equipment tests have been conducted to ensure the Apollo-Soyuz Test Project mission success and crew safety. Despite all this, and despite repeated assurances of Soviet hardware reliability, some United States officials remain skeptical about the flight and question the justification of United States participation in the joint mission. NASA's Apollo-Soyuz Test Project program director Chester M. Lee, in defense of the program, stated that the joint docking mission will be as safe as NASA can make it, but conceded that '. . . there are some things that could happen that only God can prevent . . .".

The recurring policy question for the United States appears to be whether the benefits to detente are worth the monetary costs and human risks involved. This is a value judgment not subject to definitive answer. To date, NASA has been fairly conservative in decisions on human safety and has not obviously put human life second to political considerations.

D. Practical Return: *What are the Applications of the Universal Docking System?*

The Apollo-Soyuz Test Project's main technological goal is to test the new jointly designed universal docking mechanism between the United States and Soviet spacecraft. The proven success of this mechanism could have far-reaching applications for future space missions involving more than one spacecraft. This would include missions involving only one or more than one country. The applications for space rescue (again on either a unilateral or international basis) are perhaps the most commendable. In theory, if all nations agreed to use this mechanism, it would be possible for a space rescue to take place between any two spacecraft having such an androgynous device for docking purposes. This is a practical return to be ultimately realized by all nations, not just the United States and the Soviet Union.

In addition to the amplifications of the universal docking mechanism, experiments to be conducted during the Apollo-Soyuz Test Project promise to yield significant data, and, hopefully, some new insights into various areas of physics, chemistry, biology, and astronomy, among other fields.

E. *Post-ASTP: Are Any Future Joint Missions Planned Between the U.S. and the U.S.S.R.?*

Both the United States and the Soviet Union are apparently committed to continuing space cooperation beyond the joint docking mission, and much of the Apollo-Soyuz Test Project's justification would be lost if nothing further were planned:

"But both sides also appear to believe that whatever happens next is some years away, and that agreeing on the right mission is more important than agreeing on something quickly . . ."

Some very informal discussions about future plans may have taken place during NASA Administrator James C. Fletcher's visit to Moscow in September 1974, but the visit was described by the National Aeronautics and Space Administration as ". . . much more on the order of a courtesy call than a business call . . .".

At least one post-ASTP cooperative effort has been agreed to by the two countries, however. The Soviet Union has invited the United States National Aeronautics and Space Administration to propose and furnish one or more biology experiments to be carried aboard a Soviet Kosmos biology satellite in the last quarter of 1975. It was announced that this offer was agreed to by NASA December 11, 1974. . . .

It is felt that in order to maintain continuity in U.S.-Soviet space collaboration, more negotiations toward post-ASTP agreements will be necessary, and will probably begin next spring (1975). The United States Space Shuttle may or may not fit into these plans. It is felt, however, that technology transfer will become an increasingly important factor in any future long-range considerations of U.S.-Soviet cooperation. . . .

For the United States and the Soviet Union, the Apollo-Soyuz Test Project represents a major step toward the realization of goals set forth in the May 1972 agreement on cooperation in the exploration and peaceful uses of outer space. As the preparations for the ASTP continue to develop, the cooperative attitudes on both sides appear to grow, correspondingly. The fact that post-ASTP plans are already being discussed would seem to indicate that this spirit of cooperation will be a part of future joint missions. History will be the judge of its success or failure, but the prospects appear good that the ASTP will make significant contributions, both to the future of space science and to the strengthening of cooperation between the two leading competitors in the space race.

SENATOR LAXALT

Mr. THURMOND. Mr. President, today I wish to call to the attention of the Senate an interesting column about one of our colleagues, Senator PAUL LAXALT, which appeared in the February 26, 1975, issue of the Aiken Standard newspaper, Aiken, S.C.

Written by the distinguished columnist, Holmes Alexander, this article provides some interesting information on the background of one of our newest colleagues. This article is refreshing in that Mr. Alexander has so capably revealed the personality and character of the new Senator from Nevada.

The people of Nevada apparently recognized, as has Mr. Alexander, unusual traits of character and openness in this man, who in such a short time has come across as a person of strong convictions and beliefs.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

SENATOR LAXALT'S OLD FASHIONED VIEWS

(By Holmes Alexander)

His mother kept a small hotel in Carson City, Nev., which prospered when the legislature was in town.

She was French Basque from Bordeaux, and had come to America to be with her dying brother who had suffered poison gas in World War I. Her husband, a Basque also, but from the misted valley of the Pyrennes, had migrated to become a sheepherder in the mountains and deserts of Nevada.

A strange and lonely man, Dominique Laxalt, whose wife said he should never have married "because he didn't go with a house." One of his sons wrote in a well-received book that Dominique's home was in the hills.

"And seeing him in a moment's pause on some high ridge, with the wind tearing at his wild thickness of iron-gray hair, you could understand why this was what he was meant to be."

Like most immigrants, Dominique felt drawn to go home again, but he put it off until late in life, and made the air-trip only after a brush with death and at his family's insistence. In "Sweet Promised Land" (Harper & Row), by Robert Laxalt, Dominique's life story hits its climax when he starts to leave the Pyrennes village, and the kinfolk there call after him, "Come back. Come back." With grim face, with gasping breath, he plunged along unheeding, and spoke savagely to his son. "I can't go back. It ain't my country anymore. I've lived too much in America ever to go back . . . Don't you know that?"

Such were the parents of Sen. Paul Laxalt (R-Nev.) He is whipcord fit at 52. He bears himself with the masculine gentility of the Old West, which is quite different from that of the Old South, and yet is somehow related. He is smooth with the polish of confidence and popularity, and of deserved success in law and politics. He was in uniform in World War II, and still seems to wear the proud regimentals of inherited freedom which came down from forebears who valued it and knew they would find it in America.

If you need help in believing that the USA is going to survive its decline from military supremacy, its fall of the Nixon government, the crumbling of the economy and the stumbling of our national leaders, pay a visit to Senator Laxalt.

He is a believer. I tried to get him to speak out for a new Conservative party, but he still sees the GOP as the citadel of responsible government, free enterprise and national security. He told me how painful it was to have been elected on the promise of a Federal balanced budget, and now to have a Republican President with a planned deficit of $52-billion, and unplanned indebtedness of much more. But he makes a mighty effort and tries to accept Mr. Ford's word that this is a one-shot emergency plan.

He believes that our political disease is Bigness, and he told this to the Navada legislature in a Lincoln Day address: "What we are fighting in this country is Bigness . . . I'm impressed sitting at the Senatorial desk to see how the presentations come in. Almost every morning we get glossy presentations from organized labor, beautifully done . . . we get glossy presentations from big government . . . from big business—all making their pitch . . . and the poor devils who are not included within that classification are not represented at all . . . small business."

Laxalt's Republicanism comes down to three items. One is plain honesty in spending the people's money. Two is a special custodianship for small business which contributes $500-million a year to the economy, employs over 5 million workers, and is not beholden to the Federal government for protected contracts and bailouts. Third is an unapologetic attitude toward military preparedness—armed services second to none.

"Don't you know that?" demanded the Senator's father angrily when declaring America to be his home and country.

ANOMALIES IN THE RETIREMENT SYSTEM

Mr. MANSFIELD. Mr. President, on Monday, February 24, 1975, I made a statement to the Senate regarding certain anomalies in the retirement system whereby high level Federal personnel may retire and be rehired for the same job and receive increases in annuities which would not be realized if this person continued to work without such a "paper" retirement.

This matter was discussed at length on February 26 at a meeting of the Democratic Policy Committee which was attended by the chairman of the Committee on Post Office and Civil Service, Senator GALE MCGEE. The Policy Committee unanimously urged that the Post Office and Civil Service Committee make a thorough examination of the Federal retire-rehire practices as well as other related problems, in particular, the so-called double-dipping and triple-dipping practices. With regard to this meeting I have today written to Senator MCGEE confirming this discussion.

I ask unanimous consent that my letter to Senator MCGEE and attachments be printed in the RECORD.

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

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, D.C., March 4, 1975.

HON. GALE W. MCGEE,
Chairman, Committee on Post Office and Civil Service, Washington, D.C.

DEAR GALE: First, let me express to you my deep appreciation for your contribution to the discussion in the Democratic Policy Committee on February 26, concerning reemployment of Federal annuitants and retirees. In the light of continuing inflation and the pay freeze and other considerations, the problems and anomalies in this area, increase, as is partially documented in the attached material. Confirming the discussion by the Policy Committee on February 26, I would note that the Committee on Post Office and Civil Service should make a full and complete investigation of the practices, anomalies and problems connnected with the Federal annuities and notably those which grow out of the rehiring by the Federal government of civilian and military retirees.

You will note in the attached documentation that I have requested information from the Civil Service Commission concerning reemployment of Federal annuitants and military retirees. I would hope that your Committee will follow through on this request in addition to gathering from the Commission any other information which may be required in your investigation.

The Policy Committee also unanimously supports the passage of the attached bill as an interim step in dealing with an aspect of the situation on an urgent basis. This bill is requested by the Civil Service Commission.

Please be assured that the Policy Committee and I, personally, will do whatever we can to sustain your efforts in connection with this investigation. In my judgment, some of the current practices and distortions, if persisted in, will raise the gravest questions about the integrity of the career system and the stability of the federal retirement structure.

With best personal wishes, I am

Sincerely yours,

MIKE MANSFIELD.

STATEMENT OF SENATOR MIKE MANSFIELD TO THE SENATE DEMOCRATIC POLICY COMMITTEE

In June, 1973, the Policy Committee adopted unanimously a resolution regarding a practice permitted by the Civil Service Commission whereby a Federal employee who has worked a sufficient number of years in the upper salary levels, which have been frozen since 1969, could retire and be rehired for the same or similar responsibilities. In this way, this person could take advantage of the cost-of-living increases in his or her annuity while being paid the difference between his annuity and frozen salary. At the direction of the Policy Committee, I wrote the Civil Service Commission and others responsible in the Senate and House asking that the rehiring of Federal annuitants in such cases be limited to six months pending further clarification.

In the year and a half since the Policy Committee called for this action, there have been cost-of-living increases in benefits every six months totaling 25.3%. What this can lead to is clear from the following example. If a Senate aide retired June 1973 with a $28,800 annuity and was rehired for the same or similar responsibilities, he would now in 1975 be making more than $36,000 which is in excess of the general salary freeze maximum. That in one year and a half! In three more years, with cost-of-living increases limited only to 5% per year, this person's annual take from the Federal Government would rise to $43,000 or more than the present salary of Members of Congress. In some cases, the prospect is for a compounded 100% increase in annuities in less than ten years. As inflation continues and supergrades remain frozen, the advantages of such a practice to the employing agency and the employee increase and the practice becomes more widespread. In the Senate, alone, the number of reemployed annuitants has more than tripled in a year and a half, even though the practice is not permitted in the offices responsible to the Majority Leadership. We do not know exactly how many other Federal employees have taken advantage of this situation. Even though only a few thousand may be involved, there is cause for considerable concern because we are referring to those who fill a very limited number of positions in the highest echelons of the Government and, hence, those who wield considerable power to shape its course.

Recently I received a letter from the Chairman of the Civil Service Commission stating that the Commission would discontinue the policy of discouraging the rehiring of Federal annuitants for longer than six months. Chairman Hampton stated that a 6 month limitation on the rehiring period of Federal annuitants was, in their view, no longer in the best interest of the Government since the executive pay freeze is responsible for the loss of a number of exceptionally able, high-level officials in the three branches of the Government.

While I can appreciate the consideration which may have led the Commission to shift its policy, I cannot agree that it is a proper course to take. It is my feeling that the change constitutes a circumvention of the intent of the Congress in establishing the freeze on their own salaries as well as on those of other high officials. Moreover, if the rehiring of civilian and military retirees especially for the same or similar jobs becomes extensive, the practice could contain very grave implications for the maintenance of an alert and vigorous Federal career system not to speak of the financial drain to the Federal Retirement Fund. There must

be room at the top for an inflow of new faces and new ideas in the direction of the Federal bureaucracy. The Commission's new approach goes in the opposite direction.

However, pending a much broader examination of Federal retirement practices and inequities—both civilian and military—it would be my hope that the Policy Committee will urge the Chairman of the Post Office and Civil Service Committee to make a thorough investigation of the practices, anomalies and problems connected with Federal annuities and notably those which grow out of the rehiring by the Federal Government of civilian and military Federal retirees.

I suggest that the Committee urge Senator McGee as Chairman of Post Office and Civil Service to give priority consideration to reporting out a bill which I introduced on Monday. This measure requires agencies that rehire Federal annuitants to deposit the savings realized to their budget from this practice, into the General Fund of the U.S. Treasury. This would eliminate immediately the advantage which now accrues to the rehiring agent, whether it be a member of Congress, a committee or Federal agency or department. It would require the employing agency to pay the full salary of the person hired and not merely the difference between his or her annuity and the listed salary of the position. This is essential if the Retirement Fund is not to be strained to a dangerous point.

STATEMENT OF SENATOR MIKE MANSFIELD

FEBRUARY 24, 1975.

Mr. PRESIDENT: Over a year and a half ago, the Democratic Policy Committee adopted a resolution calling attention to an anomaly in the Civil Service retirement system. The anomaly arose out of the unforeseen high rate of inflation coupled with the automatic cost-of-living increases for annuitants and the freeze on salaries of Members of Congress, high level appointees and top grade civil servants which has been enjoined by Congress for more than five years.

The situation to which I refer involves an unkown number of Federal employees who retire and thus qualify for automatic cost-of-living increases in annuities but are then reemployed by the Federal government, sometimes immediately and for the identical job from which they retired. In this way, the reemployed annuitant receives from the retirement fund his annuity enriched whenever there is an automatic cost-of-living increase. Moreover, the rehiring agency need cover out of its appropriated funds, only whatever amount is necessary to equal the rehired employee's previously frozen salary level.

Since the granting of automatic cost-of-living increases to annuitants has occurred every six months for the past 1½ years, for a total percentage of 25.3%, the advantage of retire-rehire to the annuitant is obvious. His pension for eventual retirement is permanently enriched by the cost of living increases. At the same time, by continuing to work for his full pay, he is not losing any of his current level of income. If a Senate aide or high executive official who retired June, 1973, with an annuity which could be as high as $28,000, was rehired for the same or similar responsibilities by his agency, he could have reached an annuity of over $36,000 which would actually be in excess of the general executive salary freeze mazimum of $36,000. That, in one year and a half! If the cost of living increases continue at 5% per year for the next three years—that is at the limit President Ford asked for Federal salaries and annuities—this person's annual take from the Federal government would still rise to almost $43,000 by 1978, or more than the present salary of Members of Congress. In some cases, the prospect is for a compounded 100% increase in annuities in less than ten years.

There are actually several related employment problems in this situation which grows so largely out of the inflationary spiral. Nevertheless, the whole range of Federal retirement-rehire and other matters pertaining to the retirement system—both civilian and military—needs a thorough examination. One such question, for example, involves the impact of the automatic cost-of-living increases for annuitants. *The Washington Post* on Sunday, February 16, contained an article on the subject by Associated Press reporter Dick Barnes raising complex questions of how annuities pyramid under the present system. While I shall not go into these matters here, they clearly warrant further attention by the Post Office and Civil Service Committee.

The specific practice of retiring from the federal service and being rehired for the same job, however, which the Democratic Policy Committee focused on a year and a half ago has again surfaced. On January 10, 1975, the Commissioner of the Civil Service Commission wrote to me stating that as a matter of policy the Commission intended no longer to discourage the rehiring of retired annuitants in the top grades for longer than six months. For the good of the Civil Service system and the government that was the maximum time which the Majority Policy Committee had urged be adopted as a standard a year and a half ago.

I have replied to Mr. Hampton's letter giving my reasons for disagreeing with this shift in policy by the Civil Service Commission. I can appreciate the considerations which may have led the Commission to give this incentive to top employees to go through the motions of retiring from the Federal government and then to return to work in the Federal government. Nevertheless, it is my belief that the change constitutes a circumvention of the legal intent of Congress in establishing the freeze on their own salaries as well as on those of other higher officials. Moreover, if the Civil Service Commission permits the rehiring of retirees especially for the same or similar jobs to become extensive, the practice contains very grave implications for the maintenance of an alert and vigorous Federal career system and a sound Federal administration, not to speak of the new financial drain on the already overladen Federal Retirement Fund. For the good of the government, there must be a continuing flow of new faces and new ideas into the management levels of the Federal bureaucracy; regrettably, the new position of the Civil Service Commission moves precisely in the opposite direction.

Mr. President, I intend to bring this matter before the Senate Majority Policy Committee in the near future. At that time, I will recommend that the Policy Committee urge the Chairman of the Committee on Post Office and Civil Service to make a thorough examination of the particular practice to which reference is made in the exchange of correspondence between Commissioner Hampton and myself. In addition, there is a need for the latter Committee to examine in a full investigation the broader related problems connected with Federal annuities notably those which emanate from the practice of rehiring by the Federal agencies and departments of growing numbers of civilian and military Federal retirees, in particular, the so-called "double-dipping" and "triple-dipping" practices.

As an immediate and, hopefully, at least partial deterrent to increasing numbers of "paper" retirements, however, I intend to recommend that the Post Office and Civil Service Committee report out promptly a bill which the Civil Service Commission is anxious to see passed and which I will introduce today. It would require agencies which have rehired persons receiving Federal annuities to deposit the savings which accrue to their budgets in the General Fund of the U.S. Treasury. This would eliminate immediately an advantage to the rehiring agency whether it be a Senate committee, a Member of Congress or an executive department or agency. It would require the hiring agent to pay the full salary of the person and not merely the difference between his or her annuity and the listed salary of the position. This measure is essential if the Retirement Fund is not to be drained in order to pay part of the employment budgets of the agencies and departments who engage in this retire-rehire practice.

I ask unanimous consent that the letters to which I have referred and related material to be inserted at this point in the Record.

U.S. SENATE,
OFFICE OF THE MINORITY LEADER,
Washington, D.C., February 21, 1975.

Hon. ROBERT E. HAMPTON,
Chairman, U.S. Civil Service Commission, Washington, D.C.

DEAR MR. HAMPTON: This will acknowledge your letter of January 10 regarding the Commission's latest rulings on the rehiring of annuitants. Quoting from your letter, you state:

"We believe it is no longer in the interest of the Government to discourage the re-employment of recently retired high-level officials whose experience, knowledge and talent an agency needs to retain. The total number of such re-employed annuitants is expected to be quite small, but some may be retained for longer periods of time than heretofore."

While I can understand and share the motive of serving the interest of the Government, I must most respectfully disagree with the policy through which you expect to do so in this instance. To be sure, it is in the interest of the Government to retain competent personnel in the career service and, perhaps, in unusual circumstances even to rehire them for short periods after retirement. However, there are additional facets involved in your present approach which are not alluded to in your letter.

In the first place, the responsible elected officials of the Government—the President and the Congress have adopted a ceiling on Federal pay scales. The law is specific: maximum salaries of civil servants, no less than those of other appointed officials, Members of Congress and the Judiciary are frozen under present law. This freeze is related to the state of the economy. Because of the high rate of inflation and the existing system of reflecting that rate in automatic increases in annuities, your policy of permitting the rehiring of retirees could constitute a circumvention of the freeze. If a retired annuitant with maximum annuity is rehired for an indefinite period, he could be receiving in due course out of the annuity fund more than the pay ceiling. In so saying, I am not arguing for or against the existing ceilings on Federal pay. Whether or not they are desirable, it is the sole responsibility of the President and the Congress to change them. It seems to me, however, that it is not a prerogative of the Civil Service Commission to adopt administrative courses which could tend to circumvent or nullify those policies.

In the second place, whatever the shortcomings of the present ceilings, the fact is that when coupled with the automatic cost-of-living increases for annuitants, the effect has been to provide a very powerful incentive for retirement of employees when they reach eligibility for retirement. Prompt retirement, which provides openings in the higher grades, in turn, has the effect of encouraging the career concept and stimulating a flow of new blood into the management and direction of the Federal agencies. That, too, it seems to me, is in the interest of the Government. I very much fear that the Com-

mission's present course regarding rehiring of retirees could act to increase immobility and atrophy, at least in the upper levels, in the management of the agencies.

Insofar as the Senate is concerned, as you know, the Majority Policy Committee adopted a resolution last year which states in relevant part, the following:

The Majority Leader is directed to communicate, jointly with the Minority Leader or separately, to all Committees of the Senate, to the Civil Service Commission, and the Director of the Office of Management and Budget as an urgent recommendation, that pending clarification of the situation (of rehiring retirees), all reemployment of annuitants by the Federal government, by the same office, agency or department for the same or similar responsibilities from which they may be retired be limited to a period not to exceed six months.

That policy is being maintained in offices responsible to the Senate through the Majority Leadership and it has been encouraged throughout the entire personnel structure of the Senate.

So I must reiterate my personal disagreement with the course which the Civil Service Commission has adopted in this matter. It would seem to me that at the very least you should have and make available without delay the following information for the consideration of the Congress and the appropriate Committees:

(1) The criteria or guidelines which have been communicated by the Commission to the Departments and Agencies concerning maximum numbers and permissible length of service for retired annuitants.

(2) The present number of civilan Federal employees who are rehired retirees, broken down by agency by which they are presently employed as well as the broad pay categories (i.e.: "above $30,000 salary;" "above $20,000 salary," etc.)

(3) The number of retired military personnel now working as civilian employees of the federal government, analyzed on the same basis as the above.

For numbers (2) and (3) above, if it is feasible, the totals might be broken down further into those rehired by the same agency from which they retired and those hired by agencies other than that from which they retired.

This exchange of letters will be called to the attention of the Majority Policy Committee with the suggestion that the Chairman of the Post Office and Civil Service Committee of the Senate be urged by the Committee to make a full and complete inquiry into all aspects of the Commission's present policies in connection with retirement-rehire. It would also be my intention to make this exchange of correspondence a matter of public record.

Sincerely,

MIKE MANSFIELD.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., January 10, 1975.

Hon. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: I am writing further concerning your interest in the matter of reemployment by the Government of employees retired under the Civil Service Retirement System which previously was discussed in our correspondence during June 1973 and my letter to you of March 8, 1974.

During the past few years we have seen a number of exceptionally able, high-level officials in the Executive, Legislative and Judicial branches leave the Government service at a date earlier than expected because of the ceiling on Federal salaries. Some of these officials with long service and eligibility for an immediate annuity might have been prevailed upon to continue their work as a reemployed annuitant, but we discouraged agencies from following this course. A few high-level officials were reemployed nonetheless, but the period of reemployment was generally only for a few months.

However, with the executive pay freeze now in its 6th year, we believe it is no longer in the interest of the Government to discourage the reemployment of recently retired high-level officials whose experience, knowledge and talent an agency needs to retain. The total number of such reemployed annuitants is expected to be quite small, but some may be retained for longer periods of time than heretofore.

There is one anomaly connected with the retirement and rehiring of retired Federal employees which the Commission thinks merits Congressional action. This anomaly is an omission in the retirement law which permits agencies to save the difference between a reemployed annuitant's salary and annuity. The Commission has recommended in the past and will do so again that the law be amended to require agencies to deposit savings on reemployed annuitant's salaries in the General Fund of the U.S. Treasury. We believe that correction of this anomaly would ensure that agencies will reemploy annuitants only where they are essential to carrying out the agency's mission.

Sincerely yours,

ROBERT E. HAMPTON,
Chairman.

[From the Washington Post, Feb. 16, 1975]

HUGE BONUS FOUND IN U.S. PENSION PLAN

(By Dick Barnes)

Federal retirees can get billions of extra dollars at taxpayer expense because a formula designed to keep their pensions in step with inflation actually propels them ahead.

The unintended bonus could easily cost taxpayers $100 billion or more by 1990, according to projections by the Associated Press—projections that Congress failed to make before it approved the formula.

So many variable factors are involved that the exact cost of the bonanza for today's nearly 2 million federal pensioners cannot be determined.

But Associated Press calculations show that a typical federal employee who retired in January, 1973, could, during the rest of his life, draw more than $27,500 beyond what he would receive if his pension merely kept even, month by month, with the cost of living index.

Put another way, at a point when the cost of living had risen 46 per cent since this employee's retirement day, his monthly pension check would have increased by 57 per cent.

The pension overpayments come about because under a 1969 law, retirees are given an extra permanent 1 per cent pension increase each time their checks are adjusted for changes in the consumer price index. That index is the standard measuring tool for the cost of living.

The extra 1 per cent is supposed to compensate for money lost between the time living costs increase and the time retirement checks are adjusted to meet those increases.

But in reality, the extra 1 per cent compounds over the years, pushing retirement checks farther and farther ahead of any rise in the cost of living.

In fact, the faster the cost of living increases, the farther and faster federal pensions move ahead.

Civil servants, congressmen and retired military personnel all benefit from the extra 1 per cent formula, which Congress approved in 1969.

Although it is more than five years old the lucrative retirement pay formula has never drawn significant public attention.

In his budget message to Congress on Feb. 3, however, President Ford called for a comprehensive evaluation of the federal retirement system. He referred briefly to "cost-of-living adjustments which over-compensate by providing for permanent annuity increases in excess of changes in the consumer price index."

Ralph J. Devlin, who was top staff assistant on the House subcommittee that first approved the formula, expressed surprise in an interview about how the plan was operating in practice.

But he acknowledged that in 1969 no detailed projections of its effect had been made. He characterized the formula as a "throw-in in a bill that had some goodies."

The General Accounting Office warned the committee of a spiral effect, but even GAO did not make long-range projections.

Referring to the recent rapid rise in the cost of living, Devlin said, "Nobody had a crystal bill that could tell what would happen."

But Associated Press calculations show that overpayments occur whether the cost of living rises slowly or rapidly.

Take an employee who retired in January, 1973 at $400 per month, at the average civil service retirement age of 57 and who lives the 18 years predicted by insurance industry tables.

If future inflation continues at an average rate of 0.5 per cent per month, or a bit more than 6 per cent per year, he will be overpaid in pension checks by $27,588.62.

If future inflation is at a low rate of 3-plus per cent a year, he will be overpaid $13,688.29. But if it continues at the present high rate of 12-plus per cent per year, his overpayment will total $78,388.59.

When Congress more recently tied Social Security benefits to the cost of living, it did not add in the extra 1 per cent factor.

Total costs of the federal retiree overpayments in future years depend on so many factors they are difficult to compute. Rates of retirement, age of retirement, federal pay levels and the cost of living all affect calculations.

But for just the 133,318 civil servants who retired in the year ended June 30, 1974, the cost of extra payments in their lifetimes could exceed $5 billion if the cost of living rose steadily at .05 per cent per month—a rate well below current levels.

Add in another 800,000 civilians already retired, try to estimate future retirements in the 2.5 million-person federal work force, figure in nearly 1 million retired military personnel, who tend to retire earlier and draw benefits longer, and the cost of these overpayments by 1990 could easily exceed $100 billion.

For several years before the 1969 change, federal retirees' pensions followed the cost of living this way: when the cost of living increased 3 per cent from the most recent base month and stayed at or above that level for three consecutive months, pension checks would be increased by the percentage rise in cost of living from the base month to the highest month during the three-month period.

The increase would take effect two months later. The high month during the three-month period would then become the new base for any subsequent increase.

By 1969, however, employee organizations were arguing that retirees were losing money because of the time lag between increases in the cost of living and the effective date of pension increases.

Congress settled on adding one percentage point to each increase generated by the cost of living.

S. 801

A bill to amend section 8344 of title 5, United States Code, to require Government agencies to deposit in the General Fund of the U.S. Treasury the amount of annuity payments withheld by them from the salaries of certain reemployed annuitants

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8344(a) of title 5, United States Code, is

amended by inserting between the third and fourth sentences the following new sentence: "The amounts so deducted shall be deposited in the General Fund of the United States Treasury."

MISSOURI FARMERS OPPOSED TO OIL IMPORT TARIFF

Mr. SYMINGTON. Mr. President, in connection with the vote last week on the President's oil import tariff proposals, it would appear significant that an opinion survey conducted by the Midcontinent Farmers Association, an organization of some 165,000 farm families in Missouri and adjacent States, found the farmers contacted unanimously opposed to the President's energy proposals.

Increased agricultural production requires increased energy use; and therefore increased petroleum prices can only add to the farm price squeeze and higher food costs to the consumer.

I believe Members of the Senate will find of interest the comments made by several Missouri farmers as reported in the MFA "Farm News" release; and therefore I ask unanimous consent to have the comments printed in the RECORD.

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

FARM NEWS FROM JACK HACKETHORN

COLUMBIA, MO.—President Gerald Ford's proposed $3 per barrel oil import tax and the removal of controls on domestic crude oil prices is not popular with Missouri farmers.

A survey of opinion by the Midcontinent Farmers Association found farmers were unanimously opposed.

Don Harshbarger of Centralia said the proposed import tax on crude oil will be inflationary and will result in higher production costs to farmers. "Instead we need to conserve our resources. To do this, I feel there will have to be gasoline rationing."

D. T. Weekley of Blackwater replied: "From what I have read, the proposed $3 per barrel tax would add about one-third to the cost of fuel. Last year our cost per acre for fuel was $5.50. This includes all tractor and combine use, trucks to haul the grain to market and the pickup to service the machinery. The new cost would be about $7.30 per acre. In addition there is truck and pickup used in caring for livestock and other necessary farm chores. In our operation the additional cost would amount to about $1,600. In my opinion a system of rationing would be much better for all types of business. Fuel used for driving to work deserves consideration. It would not be popular but the fuel saving must come from pleasure and recreational uses."

George James of Brunswick replied "I think the import tax on crude oil is inflationary and will not conserve the use of gasoline enough to meet import objective. Rationing is the only sure way to save a million barrels of crude oil a day. I, as a farmer, cannot reduce the use of gasoline for my farming operation. In fact, when I try to increase yields per acre, farm the acres that were in soil conservation, plow more grassland due to cheap cattle and milk prices, I will use more gasoline regardless of the price. This situation will only increase the prices squeeze on farmers or add to the cost of food to the consumer. We need to curtail pleasure driving, use of boats, snowmobiles and other activities which consume gasoline."

Lawrence H. Kullmann, Route 2, Warrensburg, thinks the proposed measures will add considerable to the cost of producing crops. "Farmers will be affected much more than other classes of people because tractors drink quite a bit of gas in a days run."

Sam Murrell of Unionville points out that removing controls on domestic crude oil prices is even more inflationary than the $3 import tariff. "Those who will be hardest hit by additional costs can least stand the added costs. Farmers have been subsidizing consumers for years with low priced food. With inflation and low prices for livestock few farmers ever receive their costs of production.

Robert Shepard of Gilliam explained "the proposed tax on imported oil means higher input cost in every phase of my business. This reaches from the fertilizer, chemical and fuel input for grain farming to every trip we make to care and feed our cattle and hogs. I have 10 farms—all in the township where I reside—but some are 7 miles apart. Transportation expenses for the grain and livestock we sell plus the increased costs of inputs will jump our expenses close to 20 percent. In todays falling economy this will work grave hardship on all farmers." Shepard said he received a letter from a sister on a cattle ranch in New Mexico who wrote "The increase in gasoline price is going to be a real hardship on folks here because of distance—37 miles to town."

J. Deal Bolton of Fairfax stated "with the present farm problems we don't need any more. The prices of machinery, trucks, labor, fertilizer, chemicals are high enough. We can't afford to pay higher prices for fuel. I have farmed for 32 years and things look worse now than at any other time."

James Bess of Advance said "I am very much against the import tax on crude oil. Fuel is already too high."

Richard Miller, Cassville, answered "it looks to me like there are other methods that would be better for conserving energy—even rationing. Costs of production are already forcing some farmers out of business. This will add to the number."

Kenneth Barkley of Canton says the import tax on crude oil "will have a very serious effect on farmers in our country. Farmers are probably more dependent on oil than any other industry. We must have diesel fuel and gasoline to operate our tractors and machinery, natural gas and oil products to make fertilizer, herbicides, insecticides and for drying grain. Transportation is also a must and oil is needed for heating. Our fuel bill is one of our major expenses and we always try to hold down consumption as much as possible. Our President has asked the farmers to produce more grain for food to feed the hungry. Why is he going to impose more tax on us to do so? Why not try rationing with teeth in it to prevent black marketing?"

Turpin Youtsey farms in the Grand River bottom near Gallatin. "The import tax will be inflationary. The industries that supply farmers compound the problem. They need fuel to generate the electricity we use, to make our fertilizer, our chemicals and just about every input going into the farming operation. This tax is sure to create a further breakdown of our farm economy." Youtsey favors a tough control policy and adds that farmers "can not take the bus."

Glenn Meyer, Rhineland, answered "A tax on imported oil will increase the costs of producing food. What we need is more oil. Why put a fuel tax on imported oil which will only make it less available."

Keith Meek, Cameron, replied "I don't like rationing of gas but I believe it could cut consumption. Farming is very unstable with lower crop yields, depressed livestock prices and every thing a farmer buys has gone up. A tax on crude oil will make everything we buy higher priced."

Paul Lynn of Cooter said "this will not cut inflation or increase the buying power of consumers. Only the gasoline bought by the poor will be curtailed—all others who can afford to buy will buy gasoline regardless of cost."

James Teague of Cyrene replied "for government that is requesting all out production for 1975, it is beyond me to understand how anybody would consider putting an additional tax on fuel needed in the production of food. It reminds me of Bernard Shaw's statement 'education and taxation will ruin the world'."

Ed L. Weaver of Birch Tree thinks such an increase would be highly inflationary. "Farmers must be big consumers of fuel if they continue to produce."

Elvis Besand, Route 7, Perryville, answered "This may be the straw that breaks the camel's back for some of us. I just got through fertilizing my pasture and hay fields with fertilizer that went from $80 to $178 per ton. I sell a lot of hay. Cattlemen tell me they can't pay my price for hay. Some are selling their cows. This will eventually even itself out and the consumer will pay the cost. But some of us farmers will be hurt in the meantime."

SHORTAGES OF COAL, FUEL OIL, AND NATURAL GAS

Mr. HOLLINGS. Mr. President, I wish to insert in the RECORD a concurrent resolution passed by the South Carolina General Assembly memorializing the President of the United States, The Congress of the United States and the Attorney General of the United States to make certain investigations and take certain action relative to limiting exports of coal and determining whether shortages of coal, fuel oil and natural gas are artificially created by certain major oil companies and other industrial companies.

I ask unanimous consent to have the resolution printed in the RECORD.

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

CONCURRENT RESOLUTION

Whereas, there is currently a shortage of coal, fuel oil and natural gas for fuel in steam electric generating stations in the United States ;and

Whereas, there have been no substantial increases in production of utility steam coal, fuel oil and natural gas for the past several years; and

Whereas, there has been an increase in exports of coal to foreign markets by more than fifty percent since 1968; and

Whereas, most of the independent coal mining companies and uranium producing companies have been acquired by the major oil companies and certain other industrial companies who apparently have no interest in increasing the Nation's production of coal or uranium; and

Whereas, this situation has resulted in spiraling coal and fuel oil costs and dwindling coal inventories for some of the Nation's electric power systems to the point where the reliability of those systems is in danger and their customers are burdened with constantly rising fuel costs. Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

That (1) the President of the United States and the Congress of the United States are hereby urged to exercise their statutory authority under the Export Administration Act of 1969 to limit exports of coal to the pre-1968 level;

(2) the Attorney General of the United States is hereby urged to investigate all recent acquisitions of coal-producing companies and uranium-producing companies by companies who are primarily engaged in the production or marketing of another form of energy, to determine whether the current shortage of coal, fuel oil, and natural gas is an artificially created one; and

(3) the Attorney General of the United States is hereby urged to investigate the interlocking ownership and dealings of coal, fuel oil, natural gas and uranium companies to determine if any violations of law,

be it antitrust or otherwise, have occurred and may be continuing which would give any persons or companies such control over the above forms of energy as could require the consumers of this state and nation to pay artificially high prices or become burdened with policies and dealings which are void of the public interest.

Be it further resolved that a copy of this resolution be forwarded to the President of the United States, to each member of the Congress of the United States and to the United States Attorney General.

GUERILLAS MURDER MONTANAN SERVING IN ARGENTINA

Mr. MANSFIELD. Mr. President, on Friday night we learned of the untimely and despicable murder of John Patrick Egan, the U.S. consul in Cordoba, Argentina. Mr. Egan was murdered by a group of guerrillas who refused to respond to appeals of reason. The comrades they sought in exchange were, according to all sources, not under the control of the Argentinean Government.

As soon as we were informed of John Egan's abduction by the guerrillas, the matter was taken up with the Department of State who immediately embarked on an investigation. This senseless murder was totally out of the hands of both United States and Argentine officials. This kind of international violence is reprehensible, and will contribute little to the advancement of any political ideology. The entire Montana congressional delegation is incensed by this display of paganism.

John Patrick Egan was a Montanan, and his daughter, Mrs. Susan Sirokman, and brother, Eugene Egan, continue to live in Valier, Mont. Mrs. Mansfield and I have expressed our sense of horror and dismay to the family, and I take this opportunity to publicly extend our deepest sympathy in the family's hour of sorrow and tragedy.

Mr. President, I ask unanimous consent that statements of sympathy on the death of John Egan by President Ford, Secretary Kissinger, and Ambassador Alejandro Orfila be printed in the RECORD.

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

THE WHITE HOUSE,
March 1, 1975.

STATEMENT BY THE PRESIDENT

The kidnapping and murder of U.S. Consular Agent John Patrick Egan by terrorists in Cordoba, Argentina is a vicious act which will be condemned by men of decency and honor everywhere. There can be no justification for the wanton killing of an innocent and defenseless person. Mr. Egan served his country loyally and well. All Americans will join in honoring the memory of Mr. Egan and expressing deepest sympathy to his widow and family.

The following is the text of a telegram the President sent to Mrs. Egan:

"Dear Mrs. Egan:

"Mrs. Ford and I want you to know you have our deepest sympathy. The death of your husband is as unjust as it is tragic. Words cannot capture the strain nor mitigate the suffering you have undergone, but we want you to know that our hearts are with you in this most difficult moment.

"Your husband was highly esteemed in Cordoba. As U.S. Consular Agent there he served his country well. His tragic, senseless death is mourned by all men of goodwill."

GERALD R. FORD.

FEBRUARY 28, 1975.

STATEMENT BY SECRETARY OF STATE HENRY A. KISSINGER

It is with the utmost regret that we have learned of the murder of Consular Agent John Patrick Egan at Cordoba in Argentina. Mr. Egan met violent death at the hands of a group of terrorists, a senseless and despicable crime which shocks the sensibilities of all civilized men. We are sure those responsible will be found and brought to justice.

Mr. Egan was a loyal, dedicated citizen who served his country quietly and effectively. He joins the ranks of loyal Americans who have laid down their lives in the line of duty. This murder should again signal to the community of civilized nations the necessity of concerted and firm action to combat the continuing menace of terrorism.

On behalf of my colleagues in the Department of State and the Foreign Service, Mrs. Kissinger and I extend deepest sympathy to Mrs. Egan and other members of the family on this loss to them and to ourselves.

MARCH 1, 1975.

Hon. MIKE MANSFIELD,
U.S. Senate, Cannon House Office Building, Washington, D.C.

DEAR SENATOR: On behalf of the people and the government of Argentina, I would like to express to you our sincere condolences for the passing of Honorary U.S. Consul John Patrick Egan.

I can assure you that this unjustifiable event has shocked all of us and has strengthened our desire to continue the struggle against violence and those who practice it.

Mr. Egan gave his life in the fullfillment of his professional duties through which he was strengthening the relations between the United States and Argentina, a common objective of our people.

Please accept, Senator Mansfield, the sorrow of the Argentine Nation for this extremely tragic crime.

Sincerely,

ALEJANDRO ORFILA,
Ambassador.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate convenes at 12 noon on Thursday. The following Senators will be recognized, each for not to exceed 15 minutes, and in the order listed:

Senator GARN, Senator THURMOND, Senator FANNIN, Senator LAXALT, Senator HANSEN, Senator MCCLURE, Senator BUCKLEY, Senator HELMS, Senator SCHWEICKER, Senator FORD.

There will then be routine morning business for not to exceed 15 minutes.

Senate will then resume consideration of the Byrd substitute to Senate Resolution 4. Amendments will be in order. Rollcall votes will undoubtedly occur.

On Friday, the cloture vote will occur on Senate Resolution 4 as amended by the Byrd substitute. Rollcall votes are expected thereafter on amendments to the Byrd substitute.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 noon tomorrow.

The motion was agreed to, and at 6:29 p.m. the Senate adjourned until tomorrow, Thursday, March 6, 1975, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 5, 1975:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Carla Anderson Hills, of California, to be Secretary of Housing and Urban Development.

Thomas G. Cody, of Maryland, to be an Assistant Secretary of Housing and Urban Development.

NEW COMMUNITY DEVELOPMENT CORPORATION

Otto George Stolz, of North Carolina, to be a member of the Board of Directors of the New Community Development Corporation.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE COAST GUARD

Coast Guard nominations beginning Robert E. West, to be captain, and ending Thomas S. Latham, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on February 7, 1975.

EXTENSIONS OF REMARKS

LITHUANIAN INDEPENDENCE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 1975

Mr. CRANE. Mr. Speaker, at a time when we hear a great deal of discussion about "détente" and an easing of tensions between East and West, the unfortunate fact is that millions of men and women continue to live under Communist tyranny and continue to see their own national life destroyed by those who have, since 1917, been practicing a brutal and ruthless form of colonialism.

On February 16, Americans of Lithuanian descent together with Lithuanians through the world commemorate the 57th anniversary of the Declaration of Independence of Lithuania, whose history dates back to the 12th century. It is an irony indeed that the only country in which Lithuanians will be unable to observe this event will be in Lithuania itself.

It was in 1251 that Mindaugas the Great unified the Lithuanian principali-