united in the view that there is nothing that can be done. We have just witnessed the conquest of Angola by Soviet arms and Cuban soldiers, and are now witnessing preparations for a Communist-backed invasion of Rhodesia.

The Cubans, the all-purpose mercenaries of the Soviet bloc, are being ferried all over the African continent—to Mozambique, to Guinea-Bissau, to Somalia, to Algeria and the western Sahara (to take part in a new war with Morocco) and even to Syria and the Golan Heights. We have seen this down-at-heel little sugar-growing republic of 8 million people sending its troops all over Africa, while some of our public leaders have been telling us that there is nothing that Britain, as a second-rate power with a population of just 55 million, can do.

Correction: Mr. Wilson did, of course, find something to do. Forewarned of the move by the pro-Marxist regime in Mozambique—which has distinguished itself by torturing white Portuguese prisoners—the British Government promptly handed out £10 million of taxpayers' money to help the Mozambicans to "apply sanctions" to Rhodesia. Mrs. Judith Hart, MP, darling of the Tribunite Left, soon turned up in neighbouring Lesotho to promise that even more British money will be on the way. It is money that will serve, indirectly, to finance the invasion of Rhodesia by Communist-backed guerrillas who are sworn never to negotiate with Mr. Smith.

Now you don't have to approve of Mr. Smith to see that it is vital for the West to take a stand in southern Africa. Crucial strategic interests are at stake, and if the Russians succeed—through their proteges—overrunning Rhodesia they will rightly conclude that the West will probably stand by making clucking noises when they strike at South Africa and (who knows how soon?) at the soft underbelly of Europe. We are, in fact, facing a series of tests. Each time we fail one, the test gets harder. The West failed in Angola. It cannot afford to fail in Rhodesia.

DOUBLE STANDARDS

But as things stand, no Western government—and certainly not the British government—is going to do anything effective to defend Rhodesia against outside aggression so long as Mr. Smith is governing on the present basis. Most members of the United Nations, including Britain, regard his government as an illegal regime. If the Europeans in Rhodesia were an African tribe, things might well be different. But it seems that in Africa, only whites are capable of being 'racists'. The nasty things that go on farther north—like the summary execution of 31 military rebels in Lagos this week—receive little attention and excite little passion compared with that aroused by Rhodesia or South Africa.

BRITAIN'S ROLE

But it is no good just complaining about double standards. What is needed is a basis for effective Western action to prevent further Communist expansion in southern Africa—which involves enlisting the support of moderate black African leaders. Arguably, Britain would only be able to intervene—given the political will, which is doubtful, and the troops, which could be scraped together with difficulty—under two sets of circumstances.

The *first* would be for Mr. Smith to say he had been a bad boy, and hand responsibility for Rhodesian affairs back to the British government. (Rhodesia is still, theoretically, a British colony). The *second* would be for Mr. Smith and Mr. Nkomo to arrive at some kind of settlement which Britain might then agree to police against foreign intervention. The second possibility is still a real one despite all the difficulties. Mr. Smith needs to reduce the persent isolation of the white Rhodesian settlers; Mr. Nkomo's only hope of maintaining control of the nationalist movement in the face of the challenge from the guerrilla left is through a negotiated settlement. A British pledge to defend such a settlement might help to bring it about—but it is most unlikely to be given by Mr. Wilson.

If all else fails, and Rhodesia slides into a race war which the Communist power would be able to exploit while Western countries stood gaping in the background, the only role Britain would be left to play would be that of helping to resettle those whose lives and property were at risk.

SENATE—*Monday, May 3, 1976*

The Senate met at 12 noon and was called to order by Hon. FLOYD K. HASKELL, a Senator from the State of Colorado.

PRAYER

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

Almighty God, who governs the nations with justice and mercy, touch our hearts with the warmth of Thy love and our minds with the wonder of Thy wisdom. Enlarge our human powers by the awareness of Thy presence while we work. Infuse our lives with the qualities of character which fit us for the times in which we live. May we see beyond the baffling and bewildering events of this age, the mysterious but certain movement of Thy spirit and the unfoldment of Thy coming kingdom.

Spare us, O God, from the cynicism and skepticism which cloud the holy vision of a better nation in a better world. Grant that all who serve in the Government of this Nation may honor their offices by service pleasing to Thee, and in association with the leaders of other nations concert their best efforts for peace and justice in the world.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 3, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. FLOYD K. HASKELL, a Senator from the State of Colorado, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, April 29, 1976, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet until 1 p.m. or until the end of morning business, whichever comes later.

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

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendars Nos. 725, 726, 727, and 729.

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

SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES

The resolution (S. Res. 435) authorizing supplemental expenditures by the Select Committee To Study Governmental Operations With Respect to Intelligence Activities for an inquiry and investigation relating to intelligence activities carried out by or on behalf of the Federal Government, was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 377, 94th Congress, agreed to March 1, 1976, is amended by striking out "$450,000,, and inserting in lieu thereof "$515,000".

WATER RESOURCES PLANNING ACT AMENDMENTS

The bill (H.R. 11876) to amend the Water Resources Planning Act (79 Stat. 244) as amended, was considered, ordered to a third reading, read the third time, and passed.

REINSTATEMENT AND VALIDATION OF U.S. OIL AND GAS LEASE

The bill (H.R. 2782) to provide for the reinstatement and validation of U.S. oil and gas lease No. U-014571, and for other purposes, was considered, ordered

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

to a third reading, read the third time, and passed.

INTERSTATE COMPACT TO CONSERVE OIL AND GAS

The Senate proceeded to consider the joint resolution (S.J. Res. 126) consenting to an extension and renewal of the interstate compact to conserve oil and gas, which had been reported from the Committee on Interior and Insular Affairs with amendments as follows:

On page 1, line 4, strike "until Congress withdraws its consent," and insert "to December 31, 1978,";

On page 12, line 2, strike "continue to make a biannual" and insert "make a biennial";

On page 12, line 3, strike "as provided in section 2 of Public Law 92-322, Ninety-second Congress,";

On page 13, line 1, insert the following:

"(b) The Attorney General shall also review the activities of any advisory committees to the Commission and the States, and not later than June 30, 1978, report to Congress as to whether the activities of any such advisory committees could tend to create or maintain situations inconsistent with the antitrust laws of the United States."

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to an extension and renewal from September 1, 1974, to December 31, 1978, of the interstate compact to conserve oil and gas, as amended, which was signed in its initial form in the city of Dallas, Texas, the 16th day of February 1935, by the representatives of Oklahoma, Texas, California and New Mexico, and at the same time and place was signed by the representatives, as a recommendation for approval to the Governors and legislatures of the States of Arkansas, Colorado, Illinois, Kansas, and Michigan, and which, prior to August 27, 1935, was presented to and approved by the legislatures and Governors of the States of New Mexico, Kansas, Oklahoma, Illinois, Colorado, and Texas, and which so approved by the six States last above named was deposited in the Department of State of the United States, and thereafter was consented to by the Congress in Public Resolution Numbered 64, Seventy-fourth Congress, approved August 27, 1935, for a period of two years, and thereafter was extended by the representatives of the compacting States and consented by the Congress for successive periods, without interruption, the last extension being for the period from September 1, 1971, to September 1, 1974, consented to by Congress by Public Law Numbered 92-322, Ninety-second Congress, approved June 30, 1972. The agreement to amend, extend, and renew said compact effective September 1, 1971, duly executed by representatives of the States of Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming has been deposited in the Department of State of the United States, and reads as follows:

"AN AGREEMENT TO AMEND, EXTEND AND RENEW THE INTERSTATE COMPACT TO CONSERVE OIL AND GAS

"WHEREAS, on the 16th day of February, 1935, in the City of Dallas, Texas, there was executed 'An Interstate Compact to Conserve Oil and Gas' which was thereafter formally ratified and approved by the States of Oklahoma, Texas, New Mexico, Illinois, Colorado and Kansas, the original of which is now on deposit with the Department of State of the United States;

"WHEREAS, effective as of September 1, 1971, the several compacting states deem it advisable to amend said Compact so as to provide that upon the giving of Congressional consent thereto in its amended form, said Compact will remain in effect until Congress withdraws such consent;

"WHEREAS, the original of said Compact as so amended will, upon execution thereof be deposited promptly with the Department of State of the United States, a true copy of which follows:

" 'AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS

" 'ARTICLE I

" 'This agreement may become effective within any compacting State at any time as prescribed by that State, and shall become effective within those States ratifying it whenever any three of the States of Texas, Oklahoma, California, Kansas, and New Mexico have ratified and Congress has given its consent. Any oil-producing State may become a party hereto as hereinafter provided.

" 'ARTICLE II

" 'The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

" 'ARTICLE III

" 'Each State bound hereby agrees that within a reasonable time it will enact laws, or if the laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limtis the prevention of:

" '(a) The operation of any oil well with an inefficient gas-oil ratio.

" '(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities.

" '(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

" '(d) The creation of unnecessary fire hazards.

" '(e) The drilling, equipping, locating, spacing or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

" '(f) The inefficient, excessive or improper use of the reservoir energy in producing any well.

" 'The enumeration of the foregoing subjects shall not limit the scope of the authority of any State.

" 'ARTICLE IV

" 'Each State bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

" 'ARTICLE V

" 'It is not the purpose of this compact to authorize the States joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

" 'ARTICLE VI

" 'Each state joining herein shall appoint one representative to a commission hereby constituted and designated as THE INTERSTATE OIL COMPACT COMMISSION, the duty of which said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said Commission deems beneficial it shall report its findings and recommendations to the several states for adoption or rejection.

" 'The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said Commission shall organize and adopt suitable rules and regulations for the conduct of its business.

" 'No action shall be taken by the Commission except: (1) By the affirmative votes of the majority of the whole number of the compacting states represented at any meeting, and (2) by a concurring vote of a majority in interest of the compacting states at said meeting, such interest to be determined as follows: Such vote of each state shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during said period.

" 'ARTICLE VII

" 'No state by joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject such state to financial responsibility to the other states joining herein.

" 'ARTICLE VIII

" 'This compact shall continue in effect until Congress withdraws its consent. But any state joining herein may, upon sixty (60) days' notice, withdraw herefrom.

" 'The representatives of the signatory states have signed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the governor of each of the signatory states.

" 'This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing state may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.

" 'Done in the City of Dallas, Texas, this sixteenth day of February, 1935.'

"WHEREAS, the said 'Interstate Compact to Conserve Oil and Gas' in its initial form has heretofore been duly renewed and extended with the consent of the Congress to September 1, 1971; and

"WHEREAS, it is desired to amend said 'Interstate Compact to Conserve Oil and Gas' effective September 1, 1971, and to renew and extend said compact as so amended:

"NOW, THEREFORE, THIS WRITING WITNESSETH.

"It is hereby agreed that effective September 1, 1971, the Compact entitled 'An Interstate Compact to Conserve Oil and Gas' executed within the City of Dallas, Texas, on the 16th day of February, 1935, and now on deposit with the Department of State of the United States, be and the same is hereby amended by amending the first paragraph of Article VIII thereof to read as follows:

" 'This compact shall continue in effect until Congress withdraws its consent. But any state joining herein may, upon sixty (60) days' notice, withdraw herefrom.'

and that said compact as so amended be, and the same is hereby renewed and extended. This agreement shall become effective when executed, ratified, and approved as provided in Article I of said compact as so amended.

"The signatory States have executed this

agreement in a single original which shall be deposited in the archives of the Department of State of the United States and a duly certified copy thereof shall be forwarded to the Governor of each of the signatory States. Any oil-producing state may become a party hereto by executing a counterpart of this agreement to be similarly deposited, certified, and ratified.

"Executed by the several undersigned states, at their several state capitols, through their proper officials on the dates as shown, as duly authorized by statutes and resolutions, subject to the limitations and qualifications of the acts of the respective State Legislatures.

"THE STATE OF ALABAMA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF ALASKA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF ARIZONA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF ARKANSAS
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF COLORADO
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF FLORIDA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF ILLINOIS
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF INDIANA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF KANSAS
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF KENTUCKY
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF LOUISIANA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF MARYLAND
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF MICHIGAN
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF MISSISSIPPI
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF MONTANA
By _____, Governor
Dated: _____
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Secretary of State (SEAL)

"THE STATE OF NEBRASKA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF NEVADA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF NEW MEXICO
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF NEW YORK
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF NORTH DAKOTA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF OHIO
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF OKLAHOMA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE COMMONWEALTH OF PENNSYLVANIA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF SOUTH DAKOTA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF TENNESSEE
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF TEXAS
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF UTAH
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF WEST VIRGINIA
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

"THE STATE OF WYOMING
By _____, Governor
Dated: _____
Attest: _____
Secretary of State (SEAL)

SEC. 2. (a) The Attorney General of the United States shall make a biennial report to Congress, for the duration of the Interstate Compact to Conserve Oil and Gas as to whether or not the activities of the Interstate Oil Compact Commission and of the States under the provisions of such compact have been consistent with the purposes as set out in Article V of such compact.

(b) The Attorney General shall also review the activities of any advisory committees to the Commission and the States, and not later than June 30, 1978, report to Congress as to whether the activities of any such advisory committees could tend to create or maintain situations inconsistent with the antitrust laws of the United States.

SEC. 3. The right to alter, amend, or repeal the provisions of the first section of this joint resolution is hereby expressly reserved.

The amendments were agreed to.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the executive calendar beginning with New Reports.

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

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

U.S. COAST GUARD

The second assisant legislative clerk proceeded to read sundry nominations in the U.S. Coast Guard.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF DEFENSE

The second assistant legislative clerk read the nomination of Eugene V. McAuliffe, of Massachusetts, to be an Assistant Secretary of Defense.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard, in the National Oceanic and Atmospheric Administration, in the Air Force, and in the Marine Corps, placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

BUT THE PATIENT DIED

Mr. MANSFIELD. Mr. President, a year ago the end of last month marked the end of our misadventure or tragedy in Indochina. It was an error which cost us much in men and money and a great deal of prestige: 55,000 Americans dead; 303,000 Americans wounded; a cost of approximately $150 billion to date; and, according to the "Statistical Abstract of the United States, 1973," a U.S. Department of Commerce publication, it is estimated that this tragedy ultimately will cost us $352 billion and extend well toward the end of the first half of the next century.

Mr. Anthony Lewis of the New York Times has written a commentary entitled "But the Patient Died," under date of April 29, in that newspaper. This applies primarily to Cambodia, one of the most peaceful of all countries in Southeast Asia, if not the world, until our intervention and our participation, now one of the most isolated and hermetically sealed countries in the world.

I ask unanimous consent that this article by Mr. Lewis be printed in the RECORD.

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

BUT THE PATIENT DIED

(By Anthony Lewis)

On April 30, 1970, six years ago tomorrow President Nixon ordered United States forces into Cambodia. It is a day that will live in the shame of Americans who know the good in their country and suffer when evil is done in its name.

Mr. Nixon and his national security adviser, Henry Kissinger, gave assurance that the Cambodian operation would be limited in purpose and means and time. It was none of those things. It began five years of wanton, cruel, useless destruction: the destruction of a civilization. If there is a reckoning, in this life or another, some Americans will bear a heavy burden for what they did to Cambodia.

This is a time of remembrance generally for the tragedy of American intervention in Indochina. It all came to an end just one year ago: April 30, 1975, when the American-supported Government in Saigon surrendered. How much farther away it seems. How quickly we blot the unpleasant from memory.

A small, moving new book brilliantly evokes the reality of America in Vietnam. It is "The Last Day," a Vintage paperback by John Pilger, who was in Saigon for The London Daily Mirror at the close. He interspersed scenes of the disordered American evacuation, marked by illusions, inhumanities, lies. It is a difficult book to read without tears.

But Cambodia was worse. Very little of what goes wrong in the world deserves to be called evil; most is mere mistake. But Congressman Paul McCloskey, Republican of California, was right when he saw Cambodia in early 1975 and said that what American policy-makers had done there was "greater evil than we have done to any country in the world."

In Vietnam, the American intervention could be ascribed to ignorance. And the original mistake was hard to undo. Once in, U.S. officials found it hard to get out while preserving intact the image of strength that they regarded as vital to world order.

But there were no such excuses in Cambodia. In 1970 no rational American official could believe that more would mean less war in Indochina. None could plead ignorance or inadvertance.

Indeed, the very way the invasion was announced suggested that its well-spring was not reason but obsession. "We will not be humiliated," Mr. Nixon said: We would not act like "a pitiful, helpless giant." Mr. Kissinger said his own assistants who opposed the invasion were insufficiently "manly" and showed "the cowardice of the Eastern Establishment."

The President and his men said their aim was only to clean out sanctuaries of the Vietnamese Communists. They promised that the U.S. would not get involved in Cambodia's emerging civil war, would not supply military advisers to the Lon Nol regime just installed in Phnom Penh by a coup, would not fly any air missions in Cambodia except against the Vietnamese. The promises were quickly broken.

In the next three years and three months American planes dropped 400,000 tons of bombs on Cambodia. The U.S. sent $2 billion in aid to Lon Nol—and kept the civil war going for five terrible years.

A country that had once been a demi-paradise, where the poorest never went hungry, became a charred wasteland of starving refugees. A tenth of Cambodia's population, 600,000 people, were killed. Half the population was made homeless.

The evil of 1970 was mercilessly repeated. When the Vietnam "peace" was signed in 1973, Mr. Nixon shifted the B-52's to Cambodia, using them there without a shred of authority in any law or resolution or treaty —very likely the most flagrant Presidential violation of the Constitution in our history. When the end became inevitable, in 1974, Mr. Kissinger still refused to work for a settlement that would mitigate the damage. His policy was to fight to the last Cambodian.

In 1970 many foresaw that the sending of American forces into Cambodia would enlarge the war, but few could imagine the extent of the human and political disaster. The end result has been not only to decimate Cambodia but to give it one of the most xenophobic governments on earth, hating outsiders and reportedly imposing terrible cruelties on its own people.

One wonders about the American officials responsible. Apart from external accountability, does any one of those men ever think of Cambodia, look into himself and despair?

Mr. MANSFIELD. Mr. President I express the hope that while Vietnam has been mentioned seldom if at all in this campaign, what we did there and what was not accomplished there and what was accomplished there never will be forgotten by the American people and that never again will we become involved in a tragedy of this nature, because it was the kind of war that under no circumstances this Nation could have won.

Mr. HUGH SCOTT. Mr. President, I hope that never again will we become involved in foreign military ventures on the soil of any other Nation, save in our own defense or in situations which grievously threaten our national interests. The record of Vietnam and Cambodia is filled with misjudgments, with errors, with mistakes, with tragedy.

I think we also owe to the record to point out that as we debated the withdrawal from Cambodia, it was the minority leader of the House at that time and I who notified the then President, in June of that year, that we would not be able to continue to support any military actions in Cambodia and specifically the bombing at that time. The minority leader was Gerald Ford. The measure to forbid further bombings, effective on a date fixed in that measure was passed.

However, in the course of preparing for these evacuations, there were numerous discussions in the Committee on Foreign Relations. I well remember the point being made by some of the members of that committee with respect to confidence in the new Government of Cambodia that would soon take over, the Khmer Rouge, that they had it on good authority that not more than about eight people would be executed for their crimes. Some of those eight people were well known as leading officials of that government.

To show how wrong we can be on various sides of an argument, the latest reports are that about 600,000 people have been murdered in Cambodia by the present government. That contrasts pretty sharply with the eight about whom we received such warm assurances as to the limitation of the reaction of that government.

Oddly, I think the American people expected more violence in Vietnam and less in Cambodia, and it has worked out the other way. The Vietnamese people seem to have gone in more for reeducation and the process of unification, and the Cambodians have gone in for the destruction of whole classes of population, whole categories, including virtually all the educated people of that country.

So I think it ought to be a salutary lesson that nobody is entirely right and nobody is entirely wrong when we get into these debates.

I yield back the remainder of my time.

ORDER OF BUSINESS

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

A CLOSER LOOK AT THE B-1'S PERMFORMANCE ADVANTAGES

Mr. PROXMIRE. Mr. President, of all the many defenses raised in behalf of the B-1 program, perhaps the most often heard is the significant improvement the B-1 will provide to U.S. strategic bombing capability. And clearly the B-1 does embody some noteworthy advances that make it desirable in certain respects. Certainly for more than $2 billion the American people should be getting something for their money. After all, this is $100 for every man, woman, and child in the country.

Some of the advantages cited for the B-1 over the B-52 are: Supersonic capability; greater hardening against thermal overpressure from nuclear effects; improved takeoff capabilities; higher penetration speeds; lower radar cross-section; and larger payload.

This list of major advantages has been steadily shrinking since the inception of the B-1 program. Forever lost to this list are greater range, lower infrared signature, and many others. And as will now be described even the still-existing advantages are open to question.

A. SUPERSONIC CAPABILITY

Of all the advantages cited for the B-1, supersonic capability is undoubtedly one of the most over-rated and least under-

stood. The B–1's supersonic capability makes the plane suffer very severe penalties in terms of weight, cost, complexity, and subsonic performance. Yet in terms of any realistic strategic mission, the B–1's supersonic capability will simply not be used; thus, it should probably fall under a category headed "disadvantages."

The chief justification for making any strategic bomber supersonic is to enhance its penetration capability. Since bombers can never hope to outrun missiles, it makes little difference whether a bomber arrives at its target in 5 hours rather than 10. Spending less time over hostile airspace is desirable, however, if doing so does not jeopardize the bomber's mission. The issue is whether the reduction in time spent over hostile airspace is worth the increase in bomber vulnerability stemming from greater radar and infrared visibility, reduced range, and other factors that accompany supersonic flight.

The B–1 will be capable of supersonic flight only at medium and high altitudes, since its supersonic on-the-deck requirement was dropped many years ago. Because supersonic flight consumes so much fuel, the B–1 would only fly supersonically over or near Soviet airspace. Yet high altitude penetration for bombers was ruled out years ago, even for the supersonic FB–111 and the old B–58, because such a flight mode makes a bomber easily visible to radar. As a result, all the emphasis in recent years has been on low level penetration for bombers. In addition to radar vulnerability, a B–1 flying supersonically would be much more vulnerable to infrared-seeking weapons and tracking devices. This arises because at supersonic speeds, especially at Mach 1.6, the B–1's engines will have their afterburners turned on. Under these conditions, the B–1 IR signature will light up like a Christmas tree, providing a much easier target for surface-to-air heat-seeking missiles.

RANGE REDUCTIONS

As if this were not bad enough, the range of the B–1, which is already seriously below its design goal will be sharply reduced by supersonic operation. The "fuel mileage"—specific fuel consumption—of jet engines typically deteriorates by a factor of anywhere from two to four during afterburner operation. For example, the FB–111's fuel mileage deteriorates by a factor of 4.3 at maximum supersonic capability over its normal subsonic operation.

Thus supersonic operation would slash the B–1's range still more; this would decrease the B–1's target coverage and evasive maneuvers capability while increasing its tanker dependence Indeed, the combat mission requirements for the B–1 apparently do not include a supersonic, high altitude requirement: Should the need arise, the B–1 could also penetrate at supersonic speeds at high altitude. An extreme example of the impact of supersonic capability on B–1 range is seen by the fact that a B–1 operating supersonically for its whole mission would not be capable of reaching the Soviet Union and returning.

These performance costs are only the direct costs of the B–1's supersonic capability. Less direct but no less important are the penalties embedded in the B–1's design by its supersonic capability. An entirely subsonic B–1 could use more efficient jet engines—similar to those on the 747 and DC–10—that would extend the B–1's range and lower its infrared signature. Thus the B–1 is denied longer range, lower IR signature, greater target flexibility, heavier payload, greater evasive maneuver capability, shorter take-off distance, and thus overall higher survivability, all because of its supersonic capability. Additional subsonic compromises had to be made in the fuselage and wing design in order to give the B–1 a supersonic capability.

SWING-WING ISSUE

The Air Force claims that the cost of the supersonic capability is relatively low because even a subsonic-only B–1 would have to have the swing wing for acceptable flying qualities during on-the-deck penetration. While the swing wing does improve the B–1's penetration flying qualities at low altitude, there are other ways to do this. It is not clear that bomber designers would want to give a subsonic penetrator a swing wing, since that choice incurs a substantial weight, volume, and complexity penalty in the design. In fact, Boeing and General Dynamics, who competed with Rockwell for the B–1 contract, submitted alternative fixed-wing designs to the Air Force along with their swing-wing proposals. And as late as 1 year ago in an effort to reduce costs, the Air Force was reexamining the need for a variable sweep wing.

In a letter on the feasibility of conducting a cost-effectiveness study on the B–1's supersonic capability the GAO said:

> One of the important factors that must be considered when trying to determine whether the supersonic capability should be eliminated is that the design of the aircraft for the high subsonic speed mission gives it an inherent supersonic capability. (Letter of Dec. 24, 1975, from the Comptroller General of the U.S., B–163058, page 2.)

The GAO explains:

> The low-altitude, high subsonic speed and the fast-base escape requirements dictate a design with the swing-wing and high thrust engines. According to the Air Force, the additional flexibility of supersonic speed is worth the small additional cost. (Ibid.)

GAO appears correct in one regard—a swing-wing design possibly would be desirable for a subsonic bomber. There the similarity ends. For instance, a subsonic penetrating bomber would have engines far different from those on the B–1. High bypass ratio turbofans, such as those powering the 747 and DC–10, would give the subsonic bomber extremely high thrust at takeoff without the need for a fuel guzzling afterburner such as that required by the B–1 engines. These ultra-high efficient turbofans simply cannot be used on supersonic aircraft. It is a certainty that a subsonic-only version of the B–1 would have radically different, and much more efficient, designs for the fuselage, the engines, and the wing itself.

The recent Air Force announcement that the B–1 top speed will be slashed from Mach 2.2 to Mach 1.6 offers insight into the real value of the much-vaunted supersonic capability. The Air Force adopted this modification in order to reduce the spiraling B–1 costs, but in fact, the program cost savings realized will only be $240 million.

In other words, the Air Force traded off half of the supersonic capability of the B–1 for a mere 1-percent savings in total program costs. If supersonic capability is such a critical necessity for our next strategic bomber, why did the Air Force sell half of it for such a pittance? The Air Force maintains that all features eliminated from the B–1 were done on the basis of cost-effectiveness. Senate Armed Services Committee hearings, fiscal year 1977, part 10, page 5553. So if the cost savings of eliminating supersonic capability are that small, the effectiveness of supersonic capability must be miniscule.

It should also be noted that at Mach 1.6 the B–1 could not begin to outrun anything but the oldest current Soviet interceptors.

I. DOLLAR COST OF SUPERSONIC CAPABILITY

The dollar cost of supersonic capability should also not pass unnoticed. The Air Force claims that the cost is only 15 percent of the procurement cost. GAO letter report, December 24, 1975. This, of course, ignores the substantial performance cost just discussed. Even if one accepts the Air Force estimate, which others dispute as being too low, the cost of supersonic capability would amount to a cost of $3 billion. That amount would be more than enough to pay the $2.1 billion cost of reengining the B–52 fleet. Yet this $3 billion will be spent for a supersonic capability that is strategically useless and which degrades the vital subsonic performance of the plane.

And there are doubts over that 15 percent figure. As stated earlier, the present costly designs of the fuselage and airfoil are all made necessary by the supersonic requirement, and possibly that of the swing wing as well. Other Air Force officials a few years ago put the monetary cost of the supersonic capability at 20 to 30 percent, and other officials higher still. In 1968, the Defense Department estimated the cost to be as much as 30 percent higher than a subsonic bomber.

Also, maintenance costs have been traditionally higher for supersonic aircraft than for subsonic ones.

II. AIR FORCE JUSTIFICATION FOR SUPERSONIC CAPABILITY

In the face of all these cost mission and performance drawbacks to the B–1's supersonic capability, why does the Air Force want this expensive option? The following responses are usually heard:

First. It can be used to burst through a Soviet AWACS threat;

Second. It can be used once the Soviet air defense threat has been seriously degraded;

Third. It can be used in some parts of the world of potential U.S. interest where defenses against high altitude penetrations do not exist;

Fourth. Supersonic capability forces the Soviets to divert resources in order to defend against such a penetration mode; and

Fifth. Supersonic capability gives the B–1 added flexibility which a subsonic-only bomber would not have.

Each argument merits individual attention.

First. Supersonic capability can be used to enable the B–1 to burst through a Soviet AWACS—SUAWACS—threat. This argument is unconvincing, for the B–1 or any supersonic bomber. In order to fly supersonically, the B–1 will have to leave the safer environment of low-level penetration and climb to high altitude. In exchange for the higher penetration speed, the B–1 would be vastly more visible to the Soviet AWACS radar and ground-based radars. And the greatly increased infrared signature of the B–1 at these speeds would make it much more vulnerable to surface-to-air and air-to-air missiles. A cheaper and much more effective alternative for the SUAWACS threat would be an anti-SUAWACS missile. The Air Force started to work on the Hound Dog 2 as a SUAWACS killer, but for some reason halted its development. It should be pointed out that the Hound Dog 2 could be carried by the B–52 but not by the B–1.

The bomber defense missile, which is being studied by the Air Force and which will be compatible with both the B–52 and B–1, is a much more appropriate and cheaper method for countering a SUAWACS threat than is supersonic capability.

Second. Supersonic capability can be used once the Soviet air defense threat has been seriously degraded.

This argument is puzzling. If Soviet air defenses are degraded so much that supersonic high altitude penetration is feasible, why would not subsonic high altitude penetration be feasible as well? It is conceivable that a narrow set of circumstances could exist where supersonic but not subsonic high altitude penetration would be feasible. Yet it seems foolish to spend so much for such an unlikely event, especially considering the tremendous range penalty of supersonic flight.

Third. Supersonic capability can be used in some parts of the world of potential U.S. interest where defenses against high altitude penetrators do not exist.

The same reasoning used in the second argument applies here as well. If defenses against high altitude penetrators do not exist, then there would be no reason to fly supersonically. Subsonic high altitude flight would be just as effective and would not reduce the plane's range and target flexibility as supersonic flight does.

Fourth. Supersonic capability forces the Soviets to divert resources in order to defend against such a penetration mode.

The basis for this argument is that defense against supersonic high altitude penetration requires a substantially different sort of hardware than defense against subsonic penetration. Whatever the merits of this resource diversion argument are, it ignores the fact that the Soviets must defend against a supersonic bomber threat anyway, no matter what Congress decides on the B–1. The Soviets must defend against our supersonic FB–111 and the French Mirage IV–A. Forward-based and carrier-deployed supersonic U.S. aircraft also have a nuclear strike potential against the U.S.S.R. Not knowing ahead of time to which targets these aircraft would be directed, the Soviets already have to defend many of their targets against the possibility of a supersonic aircraft attack. Admittedly the FB–111 cannot now reach all targets in the Soviet Union when it is based in the United States. But in their air defense planning the Soviets would have to hedge against the possibilities of: Substantial refueling; one-way missions; and forward deployment of the FB–111's in a crisis.

Fifth. Supersonic capability gives the B–1 added flexibility which a subsonic-only bomber would not have.

On the face of it this seems to be true: Since the B–1 can fly both supersonically and subsonically, it will be capable of performing a supersonic mission should the need ever arise. But this is a narrow and incorrect interpretation of flexibility. In return for a capability that has been strategically obsolete for 15 years, the B–1 must sacrifice flexibility in range, payload, tanker dependency, evasive maneuver capability, and infrared signature, among others. It was precisely over this issue that there arose strong controversy within the Air Force, the Office of the Secretary of Defense, the National Security Council, and the Office of Management and Budget in 1969 and 1970. The White House and OMB made such strong arguments against the B–1's supersonic capability that it took the threat of resignation by the then-Deputy Secretary of Defense, David Packard, before the White House gave in and approved the supersonic capability.

And as shown earlier, this obsolete and unnecessary supersonic capability is costing the United States a minimum of $3 billion. This alone should give one pause about the B–1 program.

B. HARDENING AGAINST NUCLEAR EFFECTS

In any new strategic bomber, improving its survivability against the effects of nuclear blast is desirable. In times past it might have been conceded that this is a critically important advantage for the B–1, primarily for prelaunch survivability. However, recent statements by high Defense Department officials have almost completely discounted the value of this advantage in prelanuch survivability. In his 1975 testimony before the Senate Armed Services Committee, Dr. Malcolm Currie, Director of Defense Research and Engineering, stated that the joint strategic bomber study "has brought out that the hardness of the KC–135's can assure an adequate level of prelaunch survivability."

Since the B–52 is of the same generation as the KC–135 and has similar takeoff characteristics, this would seem to alleviate concern that the B–52 as it now exists would not have an adequate level of prelaunch survivability. Furthermore, the fact that the B–52 will be on active SAC duty through the 1990's offers assurance that the B–52 has an acceptable level of hardness against nuclear attack. And as will be discussed later, a B–52 with new engines will have improved takeoff performance. Thus, though the B–1 is superior to the B–52 in hardening against nuclear effects, this advantage is not of overriding importance.

C. IMPROVED TAKEOFF CAPABILITIES

This is another advantage that up until a few months ago seemed to be of measurable importance. The B–1 was to have a shorter takeoff capability and quicker reaction time than the B–52, enhancing its prelaunch survivability. But once again, Dr. Currie's statement on "the adequate level of prelaunch survivability" of the KC–135 calls this belief into question. The KC–135 is basically no more dispersable than the B–52, and cannot fly away any faster, so one must conclude that the B–52 even as it now exists is not unacceptably inferior to the B–1 in this respect. And as will be described later, a B–52 retrofitted with new engines will have nearly the same takeoff distance as the now-degraded takeoff distance of the B–1. Thus, the B–1 may have little better takeoff capabilities than a cheaply modified B–52.

D. HIGHER PENETRATION SPEED

Higher penetration speed is chiefly important because it reduces the time a bomber must spend over hostile territory. This then reduces the bomber's vulnerability to air defenses. Yet the Joint Strategic Bomber Study found that the performances of the B–1 and B–52 in penetration were extremely sensitive to the performance of their electronic countermeasure, ECM. This would indicate that, all things equal, higher penetrating speed is desirable, but that overall penetration success is much more dependent upon the ECM package contained in the bomber than on its penetration speed. This is reminiscent of what the Department of Defense was saying some years ago:

> The most important factor in manned strategic weapons systems appears to be the weaponry and penetration aids carried; the characteristics of the carrier are a secondary consideration, except as they relate to penetration aid effectiveness. (Hearings on Military Posture, House Armed Services Committee, February–April 1967, pages 499–500.)

Furthermore, as will be discussed later, the penetration speed of the B–52 can be improved with new engines. One anonymous source within the industry has stated that a reengineered B–52 with additional structural modifications could have the same peneration speed—mach 0.85—as the B–1.

E. LOWER RADAR CROSS SECTION

This is certainly a big advantage that the B–1 has over the B–52, though once again the Joint Strategic Bomber Study seems to indicate that ECM is the most important variable in assessing bomber penetrability. Furthermore, from the point of view of radar detectability, the B–1 is at a great disadvantage compared to the cruise missile. The cruise missile is practically invisible to radar, having the radar cross-section of a seagull.

F. LARGER PAYLOAD

Mr. President, the so-called larger payload advantage is very puzzling, to say the least. Some B–1 enthusiasts go so far as to claim that the B–1 will carry three times the payload of the B–52. "Why the B–1?" North American Rockwell brochure. While it is true that the B–1 can carry three times the number of SRAM's internally that the B–52—24 versus 8—this is almost meaningless, as the B–52 carries an extra 12 SRAM's under its wings, and four additional conventional weapons—Mark–28 gravity nuclear bombs—in its forward bomb bay, making a total of 24 weapons per B–52, the same number as the B–1 carries. "Modernizing

the Strategic Bomber Force," Quenbeck and Wood, the Brookings Institution, 1976, page 25. Thus B–1 payload advantage over the B–52 thus simply melts away.

Industry sources state that the B–1 will probably never carry any weapons externally because of the resulting range degradation which the B–1 can ill-afford. Maj. Gen. H. M. Darmstandler, special assistant for the B–1 to the Air Force Chief of Staff, told a group of congressional staffers that carrying the ALCM externally would result in "a 15 percent degradation of range." U.S. Senate staff briefing, May 15, 1975.

Furthermore, the total weapons capacity of the B–52 could be increased beyond that of the B–1 by relatively simple modifications. By extending the bomb bay aftward, the B–52 could be modified to carry two or even three SRAM rotary launchers internally. This should not require stretching the aircraft fuselage. Including the twelve missiles it can carry externally, the B–52 could thus carry a mix of 28 or possibly 36 SRAM's and cruise missiles. Again note that the B–1 can carry only 24.

DISAPPOINTMENT WITH AIR FORCE HANDLING OF B–1 DATA

Mr. President, I want to express my disappointment with the way the Air Force has handled this exchange of information. At the beginning of this series of speeches, I thought that the purpose would be to disseminate as much information about the B–1 as possible. In order to do this, I told the Air Force that I would put their replies to my speeches in the RECORD. I have done so and I will continue to do so.

In addition to this, as an experiment, I provided a full copy of my speech several days in advance to the Air Force. In turn, they promised to provide me with whatever response they might choose to make. This seemed to be a fair way of handling a complicated issue—even more than fair in that the Air Force would in effect have the last word on the day of my speech.

Well, several things have gone wrong. When the Air Force reply arrived in my office the morning of my first speech, my staff asked if this was the full response or was there more that had been provided to the press or other people. My staff was assured by two Air Force officials that indeed this was the full response. Only later did the Air Force admit that in addition to this reply to my office they had made available a different and much more extensive rebuttal to the Senator from Arizona (Mr. GOLDWATER).

I have no objection to the Senator from Arizona being the spokesman for the Air Force on the B–1 or for the Air Force to prepare a rebuttal for him. But it does seem that the Air Force was not honoring its original commitment. This makes me wonder whether the Air Force can really be objective in this issue. If you ask the fox to justify chicken stealing, you might expect an eloquent statement about social justice or survival of the fittest. But the fox is not exactly an impartial observer. His way of life is at stake. So it is with the Air Force.

Mr. President, I would now like to comment on portions of the rebuttal provided to the Senator from Arizona and to my office by the Secretary of the Air Force.

First, the Air Force goes to great lengths to discredit my example of the range of the B–52. Conveniently for the Air Force argument, they delete the following sentence in my remarks. That sentence reads:

Of course, in a strategic mission its range would be less than this but it is probably greater than that of the B–1.

Thus I made the very point the Air Force objects to. And yet they spent so much energy trying to rebut this point that I wonder if they even read the speech. Surely it is selective perception of the worst type to conveniently drop out the very sentence of my speech which qualifies the range data on the B–52.

Second, the Air Force states that the additional life cycle costs of the B–1 are closer to $8 billion rather than the $40 billion figure I use. My figure was meant to include all program costs. Not just the life cycle costs but the basic procurement costs of $21 billion plus the uncounted associated costs which the Air Force admits will cost $8 billion and which I think will be much higher. Thus the real total program costs will be at least $30 billion and will be over $40 billion with a new tanker system. The Air Force says they will not require a new tanker, but all the evidence, including a recently disclosed OMB memorandum point to a new tanker program costing at least $10 billion.

Third, I note that the Air Force always compares the characteristics of the B–1 bomber with the B–52 G model, never the B–52 H model. Why? Because the B–52 H has turbojet engines which are more efficient than the turbofan engines of the B–52 G. Since about half the B–52 fleet consists of B–52 H's, it is obvious that the Air Forces seeks to state the worst case and overlook the more favorable comparisons with the B–52 H's.

Fourth, the Air Force costs for the SRAM assume that the B–1 does not carry a full complement of SRAMs—only about one-half a load. Thus, the Air Force SRAM dollar figures understate full weapon payload costs. I used figures assuming a full SRAM load. The Air Force should supply the costs of the other weapons on each B–1 for an accurate comparison.

Fifth, I still have not received the information I requested from the Air Force in the first speech. They criticized some of my data but neglected to provide the hard evidence to support their own case. Therefore, I again call upon the Air Force to provide that data. I am speaking of a full comparison of the original specification of the B–1 in 1969, when initially presented to Congress, compared to its degrated specifications today. I am referring to an itemization of the performance degrations in the B–1. And the costs of reengineering the B–52 and the studies that have been performed on this subject; and whether or not the 747 or other wide bodied jets could be used for stand-off bomber platform and what studies have been done on this subject, and the full life cycle costs of the B–1 coupled together with the full production cost of the B–1. Those are highly relevant statistics which are critical to the Air Force case. But so far they have been lacking.

SUMMARY OF ARGUMENTS

In conclusion, Mr. President I want to summarize the principal arguments of this second speech.

First, it appears that the alleged performance advantages of the B–1 bomber are exaggerated or useless compared to other bomber alternatives.

For example, its supersonic capability is vastly overrated and causes severe penalties in terms of weight, cost, and mission. The low level supersonic capability for the B–1 has been dropped. Now it must use its supersonic capability at high and medium altitudes where it is vulnerable to radar detection. Furthermore, due to the tremendous heat exhausted in supersonic flight, the B–1 will be more vulnerable to heat seeking missiles.

Supersonic flight also decreases the range of aircraft since it uses so much more fuel. A B–1 flying supersonic for an entire mission would not be able to get to the U.S.S.R. and back.

Supersonic flight therefore will most likely be used only over enemy airspace if at all. There the B–1 faces a trade off between less time over target and increased vulnerability due to its heat production.

The U.S.S.R. has the most heavily defended airspace on Earth. We will be flying into the teeth of their defenses—not a wise military strategy. There is a very real probability that these attacks into the U.S.S.R. could result in very high attrition rates resulting in what could be suicide missions for our pilots.

Bomber flight time to target involving hours matters very little when missiles can reach the same targets in 30 minutes. Already the Air Force has reduced the supersonic capability of the B–1 dramatically from Mach 2.2—2.2 times the speed of sound—to Mach 1.6. This makes the B–1 far too slow to outrun modern Soviet fighters.

The supersonic capability of the B–1 will cost at least $3 billion, or more than enough to reengine the B–52 fleet and produce a very effective subsonic bomber.

In view of these facts, the supersonic capability of the B–1 is of very little value and in fact has great costs.

Claims by the manufacturers of the B–1 that it can carry three times the payload of the B–52 are erroneous. While it is true that the B–1 can carry three times more short-range attack missiles—SRAM's—internally than the B–52—24 versus 8—this is almost meaningless as the B–52 carries an extra 12 SRAM's under its wings and 4 additional weapons in its forward bomb bay, making a total of 24 weapons per B–52 or the same as the B–1 will carry.

The B–1 probably will not carry external weapons because of the 15 percent reduction in range that requires. Furthermore the B–52 can be modified to carry even more SRAM launchers internally. Including 12 external missiles, the B–52 could carry a mix of at least 28 and possibly 36 SRAM's and cruise missiles while the B–1 carries 24.

As for a smaller radar image, the B–1 clearly is better off than the B–52. But the B–1 is far larger and more susceptible to detection than the cruise missiles which could be launched by a stand-off bomber platform—another cost effective alternative to the B–1.

The higher penetration speed of the B–1 can be adequately compensated for in the B–52 by new engines, but even then the most essential item is electronic countermeasures. These "black boxes" confuse enemy radars and missiles. The Air Force has testified that these black boxes are one of the most important factors in manned bombers. Yet they can just as easily be placed in B–52's as B–1's.

Beyond all the technical arguments, there are real bureaucratic reasons why the Air Force and its supporters in Congress are so adamant about spending $22 billion for the B–1. These are simply:

Every pilot wants the newest, latest aircraft. And the Air Force is dominated by pilots from World War II. Without the B–1, they might eventually have to fly unexciting stand-off bomber platforms.

Without the B–1 bomber, the Air Force might not be able to justify so many positions for generals and other high-ranking officers.

These are the parochial attitudes that lie behind the technical arguments but nonetheless help determine major funding decisions. That is why it is impossible to get an objective analysis from the Air Force on the B–1. Jobs and pestige are at stake.

Mr. President, I yield the floor.

ORDER OF BUSINESS

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

STRATEGIC CONCEPTS AND THE ROLE OF THE B–1

Mr. GOLDWATER. Mr. President, the debate on the B–1, in my opinion, should now get into the strategic area.

We have spent about 10 years arguing about money, and I think we are all pretty well aware of that amount and the amounts that we can expect, but there are one or two things I would like to comment on before my basic remarks on strategy.

The Senator has just stated that the B–1 is not living up to its expectations.

Yesterday, the B–1 reached a top speed of 2.1 mach, 1,350 miles per hour.

Mr. President, I ask unanimous consent that a release from the Air Force concerning that performance be printed at this point in the RECORD.

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

B–1 FLIES TWICE THE SPEED OF SOUND

EDWARDS AFB, CALIF., April 30, 1976.—The Air Force's first prototype B–1 bomber flew faster than twice the speed of sound today during its 21st test mission. It was the aircraft's fastest speed to date.

A top speed of 2.1 Mach (approximately 1,350 m.p.h.) was achieved over the Pacific along a flight path extending from Washington State to the California-Mexico border. Acceleration and air induction control system tests were conducted during the run at altitudes up to 50,000 feet. Supersonic speeds were maintained for 25 minutes during the mission.

Today's top speed marks the completion of the initial phase of high Mach testing and approaches the limits to which the B–1 prototypes will be flown. Prior to today's flight, the highest speed achieved by the B–1 was 1.9 Mach, approximately 1,255 m.p.h.

Other test events during the 7 hour and 16 minute flight achieved two performance climbs, cruise and penetration performance evaluations, a minimum speed investigation and two aerial refuelings.

Crew members for the flight were Rockwell's Doug Benefield, pilot; Air Force Colonel Ted Sturmthal, copilot; and Pat Sharp, Air Force flight test engineer.

Two B–1 prototypes are currently undergoing flight testing at Edwards. The second B–1, an offensive avionics test aircraft, has completed three flights. A third prototype is expected to fly for the first time this summer.

Including today's flight, the two B–1 aircraft have completed 165 hours and 54 minutes of successful flight testing. Six hours and 23 minutes of that time has been at supersonic speeds.

Air Force System Command's Aeronautical Systems Division at Wright-Patterson AFB, Ohio, is responsible for overall B–1 system development and procurement. Rockwell International's B–1 Division at Los Angeles is the B–1 system contractor; the General Electric Company of Cincinnati makes the aircraft's F101 engines.

Total Flight Hours, Aircraft #1: 152 hours and 14 minutes (31 flights).

Total Fight Hours Aircraft #2: 13 hours and 40 minutes (3 flights).

Mr. GOLDWATER. Mr. President, the Senator stated that every pilot wants the newest aircraft and that the Air Force is dominated by pilots from World War II.

The truth, Mr. President, is that the average age of SAC aircraft commanders is 31 years, and if copilots are included, the average age of all SAC pilots is 29 years. In other words, they were not even born when World War II had ended.

Less than 25 percent of general officers have promotion list service dates that would have permitted service in World War II.

All pilots want good airplanes, just like all people want good in anything that they purchase.

Mr. President, another remark that the Senator has repeatedly made is about supersonic capabilities at low altitude.

This aircraft will fly 0.85, which is 85 percent of mach 1, at elevations below 500 feet. No other aircraft we have in the bomber class will do that. The highest speed of the B–52 is about 390 miles an hour.

I say to my friend from Wisconsin that we do not have any new aircraft engines. We have to build them. We are way behind in engines.

Mr. President, it should be noted that the B–1 has never been planned to fly supersonic at low altitudes. It was considered in the very early stages, but not incorporated in the final approved plan.

Also, it is ridiculous to consider that the B–1, or any bomber, would ever want to fly an entire mission supersonic. That has never been planned; it never would be planned. We could never carry enough fuel in the aircraft or the tankers necessary to accomplish that.

The subsonic penetration speed, which has been demonstrated in flight, allows the B–1 to fly beneath enemy radar coverage. The B–1 will not have to fly at high or medium altitudes unless the mission calls for it.

Mr. President, our country's strategic forces are designed for one basic purpose—to make the United States so strong no other country would attack us or our allies for fear of the consequences. The United States has a national policy that we will not launch a surprise first strike nuclear attack against a potential enemy. To make certain a potential enemy will not launch a surprise attack against us, we have developed a strategic force known as the Triad.

The cornerstone of this force is deterrence. The United States has a force of bombers, land-based missiles, and submarine-launched missiles. The complementary characteristics of this force mix form a credible deterrent denying potential enemies any options for a successful knockout blow against our country. In addition, the Triad compounds the offensive and defensive problems of an adversary attempting to defeat or defend against U.S. forces. It maintains an important hedge against uncertainties and assures that a major technological advance against any one element will not negate the effectiveness of the entire force. It permits countering a temporary vulnerability in any one element; and, denies the adversary the opportunity for undue concentration of his resources against any single strategic force element.

Mr. President, many people do not understand these facts—so let me give an example. To hit our bombers, the enemy must strike quickly or they are away. To hit missile silos, he must have a high degree of accuracy. He knows that if he goes for the bombers with his relatively short range submarine launched missiles, the nuclear detonations would occur on U.S. territory well before his more accurate silo based missiles could arrive at our missile silos. Our missiles would be launched in retaliation before they could be destroyed. If he tries for our silo missiles first, the bombers would be away long before the accurate long-range missile could get there, leaving nothing for the submarine-launched weapons to hit. And in either case he pays the price of certain retaliation. The Soviet Union knows this and the price they know must be paid keeps them from starting the war.

"What are the unique things a bomber can do?" some ask. Missile systems are better—more modern, up to date, faster. They used bombers in World War I—this is the space age. Well, sometimes slow is better. Bombers take some time to get where they are going. They, therefore, do not constitute a first strike threat. Furthermore, they give people time to think about eventualities, thoughts which may be so overwhelming the bombers will not have to be used.

Bombers are also very visible. Missiles sit hidden in silos or in submarines. They are always there. They can be forgotten. But a difference can be seen between bombers on the ground in their usual

places, bombers on the ground in unusual places, and bombers in the air. They are noticed when they move and that very visibility has deterrent features, a nation may realize it is coming too close to the edge.

If bombers do have to be used, they deliver many weapons with high accuracy.

I might say, Mr. President, with all this talk about our missiles, we have never tested one intercontinental ballistic missile with a warhead. So I do not buy, offhand and quickly, the argument that we have superior accuracy in our missiles. We have not tried them. But bombers, we know of their accuracy. The bombers can destroy the hard targets that the slight inaccuracies of the missiles would cause them to miss. The bombers have people on board who can assess damage and make decisions on that assessment. Finally, the bomber can be used again if that becomes necessary to salvage what is left.

The bomber that provokes the correct thought—makes the Soviets reach the proper conclusion—must be capable of hitting him where it hurts and he must know that it can.

Today the manned bomber force is constituted primarily of B–52 G and H aircraft. These aircraft will be 19 to 23 years old in 1981. The bomber force must be modernized in order that the Triad remain viable.

Mr. President, the Soviets keep trying to break the balance. They develop new missiles, better and more accurate, to jeopardize our silo based missiles. They deploy new defenses to keep our bombers out and they have massive civil defense programs to protect their industry and their population from our ICBM and submarine-launched missiles.

We must respond to this continually increasing threat to our deterrent capability, for if we do not the unthinkable will come true. If the Soviet Union believes that they have the advantage, they will use it, and all the things we stand for could be lost because of our vulnerability.

I might say at this point, Mr. President, while I cannot recite this as accurate, I am informed that the Soviets are busy putting all their command posts, all their communications centers, and their industries, underground.

If this is true—and I am not saying it is true—this could present a problem for this country that would require the complete rethinking of our strategic concepts, but it would not mean the rethinking of the bombers because they would be needed more than ever in a case like this.

How should we respond? The oldest part of the Triad is the bomber, the B–52. The last of these was built in 1962, over 14 years ago. One task of this system is the most demanding mission of all, deep penetration of the enemy heartland to accurately place weapons on hard, well defended targets that cannot be confidently eliminated by our missile force. The B–52 still works well, but against the increasing Soviet defense will not be able to do the job effectively much longer. We know it, and the Soviet Union knows it.

If we hung all those extra missiles under the wings of the B–52, as my friend from Wisconsin suggests, we would have an airplane barely able to take off, and one that would probably cruise at less than 200 miles an hour and would be the most vulnerable bomber that we have ever put up; even more vulnerable than bombers we flew in World War II.

The question is not whether to upgrade this capability, but how to do it. Many proposals have been made. "Modify the B–52," some say, that has worked before. But the aircraft is slow, it cannot fly as low as necessary, and it would be better if it could carry more weapons. "Modify the FB–111," others say, it is a good aircraft, it is fast and flys low. These things are true, but the FB–111 is what the names implies, a fighter-bomber and it is good at that job; it is just not a heavy bomber. It flys fast, but not long enough, it flys low, but does not carry enough payload. Still others advocate cruise missiles—they are new, they should be good. But they cannot think like a man and avoid trouble, they are slow, they are range limited and they may not be as accurate where accuracy is at a premium and they do not carry electronic countermeasures.

This brings us to the B–1. It is all the things the others are not. It takes off fast to escape attack, it flies low and fast and far, it carries many weapons, it has good ECM, and it has a man there to think for it.

We rely heavily on our bomber force to maintain the strategic balance. As I indicated earlier, the bombers hit all targets including the hard targets which require the most accuracy. They make up less than one-quarter of our delivery vehicles, yet they carry half our megatonnage. We know from experience they will work, but we have never fired the other weapons in the Triad in anger. Our bomber must be the best, and the best is the B–1. Without it, the Soviets will write off the U.S. bomber force in about 10 years as an effective contributor to the strategic balance. With it, we can maintain the precarious balance we now have established, and the Soviets will know we still mean to maintain this balance. Some say the systems we have are sufficient and, now that we have them, we need to do nothing more than maintain them, and reduce defense spending accordingly. The French adopted a similar attitude following the First World War, mentally defending themselves with the Maginot Line. But they learned that there is no one defense. A new technological application characterized by the swift Panzers simply ran around the line, not over it.

We must not allow ourselves to adopt a similar Maginot Line mentality. The role and significance of the manned strategic bomber have not been diminished in any way by the advent of the missile and space age. The mission of the manned bomber, however, has become more demanding and exacting. We need a more capable, not a less capable bomber. We need the B–1.

I suggest to my colleagues that, before we decide, let us consider the consequences.

Mr. President, earlier this year I wrote a letter to Gen. Russell Dougherty, who is Commander in Chief of the Strategic Air Command, and asked him questions that I thought were pertinent relative to the debate that would take place in the Chamber of the Senate concerning the B–1. He has answered these questions in a beautifully written, wonderfully reasoned letter.

To conserve time, I ask unanimous consent that this letter of General Dougherty be printed at this point in my remarks.

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

DEPARTMENT OF THE AIR FORCE,
February 23, 1976.

HON. BARRY GOLDWATER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GOLDWATER: In your letter of 31 January 1976 you outlined the nature of the principal issues you foresee in Congressional consideration of the FY77 Defense budget, with focus on those associated with the B–1 procurement request in the President's budget. You indicated that it would be helpful in your deliberations within the Armed Services Committee and the Senate to have my views, as Commander in Chief, Strategic Air Command, on: (1) the requirement for the B–1; (2) why Strategic Air Command does not support the various alternatives to the B–1 that have been suggested: (3) the value of keeping a manned system as part of the strategic equation; and (4) any other matters that I consider relevant to your deliberations.

I appreciate the opportunity to be heard on these important issues and am pleased to provide my views as requested—views that you should feel free to use as you and your colleagues in the Senate see fit.

If you would indulge me in a reordering of the questons you have posed, I would first like to address the "value of keeping a manned system as part of the strategic equation"—for I consider the "requirement for the B–1" as subordinate to (and flowing from) a more generic and fundemental U.S. Strategic Requirement for a fully modern manned penetrating bomber:

If deterrence of attempted coercion, intimidation, or direct attack on the sovereignty of the United States (and those allies we choose to associate with our vital national interests) is to remain the basic tenet of our national security policy, U.S. authorities must continue to have the assurance of a panoply of relevant and diversified military capabilities that can support them in any and all actions necessary to preserve that sovereignty . . . no matter what the circumstances of confrontation.

A hardened, long-range, manned penetrating bomber offers a uniquely capable and dependable strategic delivery system that spreads itself reliably and capably across the broadest possible spectrum of those required military capabilities. When completely modernized and manned with skilled, ingenious military crews, such a penetrating bomber offers the United States an overall flexibility of choice and application that is unmatched by any other weapons system. It can:

Carry a larger number of weapons (conventional or nuclear) than any other strategic delivery system—to any fixed targets, anywhere, under a wide variety of circumstances.

Achieve unequalled accuracies in long-range delivery under all circumstances; and, through self-contained sensors, offers our only long-range capability against mobile or imprecisely located targets.

Provide a highly visibile deterrent force, one that can be used as a recognizable expression of national determination and resolve in either preplanned or ad hoc contingency situations.

Accommodate (or readily be adapted to) the delivery of multiple types of conventional and nuclear weapons—highly accurate gravity delivered, standoff-launched cruise, ballistic, semi-ballistic or defensive weapons—in large quantities, for multiple or selective delivery.

Through design growth characteristics, adapt rapidly in tactics and/or avionics to negate or avoid unanticipated defenses and other threats.

Drive an enemy requirement for extensive diversion of his resources to defensive (vice offensive) systems—but still can be designed with the flexibility to penetrate those defenses if penetration is required for assurance.

Provide us the most effective and economical way to redress the already serious (and worsening) imbalance in deliverable megatonnage vis-a-vis the Soviet Union.

Provide a simultaneous capability for long-range, real (or near real) time strike assessment deep within enemy territory with the flexibility of striking alternate planned targets or withholding unnecessary attacks and retaining weapons.

Be launched as a visible expression of active deterrence, yet be recalled without expenditure of ordnance, even after launch, should the deterrent objectives be achieved.

Provide our nation an assured capability to extract severe penalties on an enemy society, regardless of any unexpected degradation or blunting of our SLBM or ICBM force; thus providing insurance against unexpected defenses or failure of any aspect of our strategic ballistic missile systems.

Be used repeatedly. Depending on the nature of conflict, substantial recovery can be anticipated—thus enabling rearming and reuse for any required strategic purpose in subsequent warfighting or war terminating activities.

Exploit superior U.S. technology and capability; for we can build, maintain and operate a flexible, modern delivery system of this type better than any potential adversary.

Be applied across the spectrum of military capabilities—and is uniquely useful for an infinite number of lesser contingency missions; without loss of ultimate capability as a major delivery system for large nuclear payloads.

Survive blunting attacks and reliably be protected from destruction on the ground through tried, proven launch procedures of Strategic Air Command, adapted to reasonable expectations of our modern detection and warning systems.

We know what we can do with a manned delivery system. With a modernized manned penetrating delivery system in our mix of major strategic weapons systems, we are confident of our ability to continue to provide our National Authorities assurance of a viable deterrent posture, under all circumstances of threat or attack. Without it, we are not confident that we can provide such assurances in the future.

Turning now to my views on the requirement for the B–1 (and I will not repeat the statistics and details of program characteristics, costs, etc. which are matters of record with the Congress):

Simply stated, I view the B–1 as the best candidate vehicle reasonably available to satisfy the future requirement for a modern manned penetrating bomber—and to provide the U.S. with the diversified characteristics that are and will be needed in our complementary mix of strategic delivery systems. Not only do I view it as the best, I do not see any other comparable system that can reasonably be expected to do this job as I think it must be done for assurance—or for long-term economics.

We are satisfied that the B–1, as it has evolved, will provide our nation with the most efficient and effective manned penetrating weapons system ever conceived. It will accomplish the varied missions that could be required of it with an assurance we do not believe possible in other alternatives that have been proposed and considered.

Strategic weapons planning is dynamic, complex, and demanding. In the thirty year experience of Strategic Air Command with such planning and with the analyses of the plans for efficiency and completeness, SAC achieved a measure of expertise in applying strategic weapons systems to the jobs to be done that is unparalleled. When that expertise is applied to the future problems of maintaining a credible strategic deterrent force, the performance characteristics of such a force containing the B–1 clearly exceed those of a force mix of other, alternative weapons systems. These expert analyses support our individual judgments that no other system reasonably available to us will do the job as well, as efficiently, or as long into the future as will the B–1.

As we now have it, the B–1 development represents a careful blend of operational requirements, modern technological feasibility, fiscal constraints and life-cycle support considerations. It is a real thing—a modern manned penetrating bomber that has been conceived, developed and tested to the point that we are confident that it will perform the future requirements for such a delivery system and give us a viable weapon system mix. It is not a paper study or a theoretical analysis of what might be or what might satisfy future requirements. The B–1 is here, it is timely, and it is competent—postulated alternatives meet none of those criteria.

Your third question is "Why Strategic Air Command does not support the various alternatives to the B–1 that have been suggested?" You are correct, we have not supported those alternatives for the overall reason that none of them has stood the tests of long-term sufficiency, cost effectiveness, or supportability over the years ahead. They may have superficial or analytical appeal to some, but they don't measure up with those of us who must maintain and operate our deterrent forces.

To some degree, all the alternatives suggested are either an upgrading of existing equipment that offers expensive short-term improvement without long-term sufficiency, or inadequate performance to remain viable under anticipated high threat situations.

The various models of the B–52 have provided us a magnificient penetrating bomber; its design has given us the inherent growth potential to adapt to changed penetration tactics, offensive and defensive avionics enhancement, and to accommodate to improved types of air-launched missiles and bombs. But the operational B–52 has carried a primary deterrent load for over 20 years, and its ability to adapt to change and modification is not infinite—regardless of its sterling performance throughout those two decades. The basis B–52 technology is that of the 1950s. The aircraft is soft to blast effects; its launch and escape time is relatively long; its radar reflectivity is great; it has no supersonic capability; it cannot penetrate at extremely low altitudes; it is expensive to man and maintain; its design characteristics preclude flexibility in dispersal and deployment. Importantly, even though modified and upgraded, it would be perceived as "nothing new" in the dynamics of deterrence.

Our serious study of the major B–52 modifications proposed as an alternative to the B–1 procurement (e.g., larger engines, redesigned wing, fuselage extension, etc.) leads us to the reasoned conclusion that these improvements will not provide the modern characteristics needed for the future and are, in sum, expensive stopgap measures that would provide neither an adequate nor a cost effective, long-term vehicle to do what we see as required. While I could support these B–52 modifications as desirable to upgrade its viability during the remaining time it is part of our strategic force, they do not offset or obviate the requirement for the B–1. Also, such extensive modification program would cause a protracted reduction in our operational bomber inventory when the need for these deliver systems is increasing.

One of the principal alternatives that has been advanced is an improved and enlarged version of the FB–111. This alternative has the initial appeal of offering a more modern and higher perfomance penetrator since the FB–111 is basically a hard and fast aircraft with low radar reflectivity. However, our continuing analysis of the various proposals for FB–111 upgrade has led to the conclusion that the extensive modification required to make the FB–111 comparable to the B–1 would be, in effect, an entirely new aircraft with all the expense, time, and testing required. The basic FB–111 design is already an adaptation of a fighter/bomber aircraft; and it does not have the growth potential to compete, efficiently, with the B–1 without such a major redesign that, in effect, it is a new aircraft.

In our view, the redesign suggestions that have been advanced leave us with an aircraft that lacks growth potential, does not have the desired low-level range and payload characteristics; and, in order to do the job required, would have to be procured, manned, and supported in such large numbers that it is neither an economical or efficient long-term alternative to the proposed B–1 force.

As respected as the FB–111 is within Strategic Air Command's manned penetrating bomber force, we have a pragmatic recognition of its limitations in size and range, neither of which can adequately be overcome by modification. In fact, and in perception, such an alternative is considered inadequate for the future requirements of our manned bomber force.

The other alternative that seems to have attracted the attention and support of some analysts is a large, "stand-off" aircraft armed with air launched cruise missiles. Standing alone as an alternative for the B–1, I think this approach to solving our complex future problems of deterrence would be extremely dangerous, if not ineffective and grossly deficient. The concept of an air launched cruise missile does have appeal to us, however, as a secondary and lesser included mode of attack for use within our overall strategic force mix. This weapons development offers the possibility in the future for compensating an inability to attack an expanding enemy target system with a limited number of delivery vehicles through the extended use of obsolescing, penetrating bombers (e.g., the early models of the B–52) that in future years may no longer have a high probability of being able successfully to penetrate in depth. Such weapons could be useful in low threat areas and contingency situations to degrade peripheral defenses and attack shallow targets, provide interdiction support in land or sea areas, thereby augmenting the potential firepower of our primary manned penetrating forces.

As an alternative for the B–1, the concept suffers from serious inflexibility since the stand-off aircraft are, by design, unable to penetrate under any circumstances; the result is a serious erosion of flexibility and overall capability in our manned bomber force. A penetrating bomber can always be adapted to utilize and exploit any advantages of a stand-off air launched cruise missile, while still retaining the important advantage of not being limited to a stand-off role and being able to extract high levels of damage against deep targets, including those requiring a high order of accuracy and yield to achieve reasonable damage levels.

The question of vulnerability of a large stand-off missile launching aircraft is, in itself, sufficient for us to discount this as a primary weapons delivery mode for our strategic forces. Its patent lack of credibility in future years would seriously (if not totally) degrade its deterrent value.

The air launched cruise missile is viewed

by us as a potentially valuable adjunct to our total force flexibility to handle a constantly expanding threat and target system and, possibly, as an economical, efficient way to challenge an enemy to maintain expensive area and terminal defenses—thus diverting resource allocation from his offensive capabilities against us. It is not yet tested; its operational utility, accuracy, cost and efficiency stand as important unknowns.

I would advise those in positions of responsibility for our overall deterrent and defensive capabilities not to pursue this alternative except as an additive capability for possible use in future years—it is not adequate as a primary weapons system for deterrence.

You have courteously offered me an opportunity to present "any other comments" that I consider relevant to you and your colleagues' determinations on the B–1 issue. I would like to accept this invitation to address the issue of relative cost of the B–1; for I, as any responsible American, recognize the impact of such an expensive weapons system on our national budget and our nation's fiscal resources.

At the outset, I am reminded that much of the cost of this long-term production program will be returned to our nation's economy (and our Treasury) in the form of wages, goods, services and tax receipts generated through classic economic multiplier effects. Notwithstanding these economic realities, however, I think the overall cost of the program, which is the rallying cry of many opponents, must be placed in perspective in order to be understood; i.e.,

In describing the critical role of our nation's strategic forces, Secretary Rumsfeld said (in his 1977 Defense Report): "Without the foundation of adequate strategic nuclear forces, the United States and its Allies cannot hope to deter aggression and contribute to some semblance of international stability . . ." Within the context of that critical, central role for our strategic forces, the cost of those forces (Air Force, Navy, Army—offensive and defensive—procurement, O&M, personnel, RDT&E, and military construction) is seen in perspective as but a small fraction of our present and projected total obligational authority (in constant FY77 dollars) in the DOD budgets for 1977–1980 (i.e., 1977—9.1%; 1978—9.5%; 1979—9.5%; 1980—10.5%). These projections include the anticipated B–1 procurement requests.

In my view, there is no weapons delivery system program that is more important, more critical, or offers more deterrent utility within the total mix of our strategic forces than the B–1. Without such a capable, flexible, and visible strategic weapons delivery system, our deterrent forces would be seriously deficient across the potential spectrum of confrontation and/or conflict. Yet, the widely publicized "20 billion dollar" B–1 program appears in far better perspective if it is viewed as a percentage of the DOD budget requests in those years: i.e., 1977—1.4%; 1978—1.7%; 1979—2.1%;1980—2.6%.

In the context of its central importance to our nation's future security—and as an average of 1.95% of our expected DOD budget requests during these years—the "20 billion dollar B–1 program" appears far more understandable to me . . . and, I hope, to the Congress and the nation.

In sum, I see no real alternative to the B–1 from among the suggestions that have been advanced. If we are denied timely production of this aircraft and rapid introduction of the B–1 into our operational inventory, it is my opinion that the nation's deterrent force mix soon will be seriously deficient in its ability to maintain an essential balance—real or perceived—with the strategic forces of the Sovet Union.

Respectfully,

RUSSELL E. DOUGHERTY,
General, USAF,
Commander in Chief.

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

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with statements therein limited to 5 minutes.

WAIVER OF CALL OF THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

THE B–1 BOMBER

Mr. PROXMIRE. Mr. President, I want to say once again how delighted I am the Senator from Arizona (Mr. GOLDWATER) has chosen to respond to my arguments against the B–1. I believe this is a useful debate.

I would like to reiterate the specific points I made in the course of this second speech were not rebutted by the Senator from Arizona. I talked about how much the supersonic capability is vastly overrated; how the supersonic flight decreases the range of the aircraft; how it most likely will be used only over enemy airspace, if at all; how this is a very vulnerable aircraft when it flies at high altitudes where, of course, it will be vulnerable to Soviet missiles in the most heavily defended airspace in the world.

I might say that many of the arguments by the Senator from Arizona—and they are very thoughtful and well-expressed arguments—will be met by subsequent speeches which I intend to give. As I said, this is one of six speeches. A little later this week, and then in the following weeks, I expect to be giving the other speeches on the other aspects of this aircraft.

I cannot avoid the conclusion that this is an expenditure that cannot possibly be justified. We will have not only a more economical Defense Department and Air Force if we do not fund the B–1, but we will have a more effective, far more effective, Air Force and military force if we do not go ahead with this $21 billion expenditure on a weapons system which was obsolete years ago and would not come on the scene for 5 or 6 years.

WHY NOT DISCLOSE BRIBES?

Mr. PROXMIRE. Mr. President, in recent months, nearly 100 of America's blue chip corporations have admitted to paying corporate bribes overseas. For a large number of companies doing business overseas, bribes to foreign officials was a way of life.

In the Banking Committee's investigation of bribery, however, we found that a number of other companies apparently had strict policies of refusing to pay bribes and did not suffer for their greater integrity. The idea that bribes must be paid in certain parts of the world is simply a myth.

The legislation before the committee S. 3133 would end corporate bribery, first by requiring a systematic program of disclosure to the SEC of all overeas consultant payments and second, by flatly prohibiting such payments to foreign public officials.

Disclosure is the heart of this legislation. The disclosures that the SEC is currently receiving are in part predicated on the idea that such payments are material to investors, and must be disclosed under existing law. S. 3133 would require systematic disclosure of all such payments, per se, whether or not materiality were asserted.

I was delighted to read a column in a recent Wall Street Journal agreeing that disclosure is the best remedy to put an end to corporate bribery. Indeed all defenders of the free enterprise system should abhor bribery, because it interferes with the basic premise of free enterprise—that the marketplace rewards the most efficient producer.

As Lindley Clark, Jr. commented in the Journal, "full disclosure is a large part of the solution."

Mr. President, I ask unanimous consent that the text of this article as it appeared in the Journal be printed in the RECORD at this point.

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

SPEAKING OF BUSINESS

(By Lindley H. Clark, Jr.)

VIRTUES OF DISCLOSURE

Over the past several months the Securities and Exchange Commission has been hearing confessions from some of the nation's major corporations—confessions that they have made "questionable" payments either abroad or at home.

The questionable payments are quite a mixed bag. Some have been outright bribes or illegal political contributions. Some have been very large, and some have been so small that the SEC lawyers wondered why companies chose to report them. Some have been carefully hidden away in the company's accounts, with or without the connivance of top management. Some have been openly reported.

Where do we go from here? Well, bribery is illegal just about everywhere, and certainly one way to start would be to enforce the existing laws that are on the books. If we can't make the present laws work it's no answer simply to pile up new ones.

But what we have here is no neat collection of black-or-white cases; a distressing number come in various shades of gray. American multinationals are in a sort of moral-political-economic quandry, one that is made all the more difficult for them because it is so imperfectly understood by the public.

American businessmen every day are engaged in courting customer good will—and in trying to get along with all of the various branches of government that oversee their operations. Ethical problems can and do arise here as well as overseas; the U.S. has no monopoly on morality.

Salesmen take customers to lunch, to a baseball game, to the theater. Manufacturers' representatives, offering the products of several companies, travel the U.S. making sales on commission. The manufacturers aren't likely to know what the "rep" does with the commission.

There have been efforts, some reasonably successful and others less so, to draw lines. If a salesman entertains a private customer it

may be considered perfectly proper; if he does the same thing for the purchasing agent of a city government it may be improper. The public has a right to expect that its representatives won't profit personally, or even enjoy hunting-lodge weekends, because of the way they spend the public's money.

Gray areas will continue to exist. How do we deal with them? The Internal Revenue Service of all organizations, may have pointed a way.

As income tax rates have mounted, the federal government obviously has acquired a larger stake in the way that business taxpayers spend their money. If business expenses are considered to be "ordinary and necessary," companies can deduct them from income in figuring their taxes. That means that the government partly subsidizes all of those customer lunches and jaunts to the theater.

More than a decade ago, the IRS began looking much more closely at business-expense accounts. Most importantly, the service began requiring much more documentation of such expenses, more disclosure. Expense accounts still are abused, perhaps, but it's a fair guess that disclosure has cut down the abuses.

Last week Roderick Hills, chairman of the Securities and Exchange Commission, in effect suggested that disclosure was a partial solution to the foreign payments problem. He said that U.S. companies can continue making payments "extorted" by foreign tax, customs and other officials as the price of doing business overseas. Nothing the SEC has done "interferes" with such "grease" payments. Mr. Hills insisted, provided they are accurately entered on the public's books and that management knows they are being made.

Some of the questionable payments were channeled through secret funds or otherwise hidden because company employees knew, or feared, that top management would not approve. Some such payments were hidden because top management knew, or feared, that the public would not approve. Morality is not an absolute; it's a matter of public perceptions. At one point in China, after all, it was perfectly moral to drown female babies.

The SEC disclosures already have accomplished a lot, although many multinational companies may view the chief result as confusion. The disclosures have forced international organizations to think about international ethics. The U.S. cannot and should not try to impose its own standards on all of the world, even after it finally decides what its standards really are.

The Organization of Economic Cooperation and Development has finally drafted an ethical code that will apply, in one way or another, to most of the world's industrial nations. The United Nations also is working on a system of rules. Enforcement still is an open question, but it will be some help to have clear and consistent standards.

U.S. multinationals may be mainly aware of the public payoff uproar in the U.S., but the disclosures may also be bringing changes overseas. In some cases they may make it more difficult for foreign government functionaries to solicit bribes: even an authoritarian regime can't be completely contemptuous of public conceptions.

It helps to get things out into the open air. U.S. companies do themselves and the business community a service by voluntarily examining their own operations and revealing what they find. In any reasonable time frame, high standards of morality aren't likely to be bad for business.

Part of the public's misperceptions of American business stems from a lack of knowledge. Many Americans, for instance, think the big oil companies were primarily responsible for the energy problems and believe it would be a fine thing to break them up. More openness, more candor from the business community would be a help.

Some companies may not be able to stand the heat. In a few cases, in fact, corporate managers already are deliberately drawing back from foreign operations at least partly because of the payoff controversy.

As the world economy becomes ever more integrated, however, the world's nations have to learn how to work together. Working together won't be improved by secret agreements, by decisions to condone bribes or payoffs, but by open covenants, openly arrived at. Full disclosure is a large part of the solution.

Mr. PROXMIRE. Mr. President, I yield the floor.

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 noon tomorrow.

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

THE PANAMA CANAL ZONE AND THE NATIONAL WILL

Mr. THURMOND. Mr. President, on Sunday, May 2, an editorial appeared in the Washington Star entitled "Much Ado About Panama." The thrust of the editorial advocates the Neville Chamberlain approach to the Panama Canal Zone. It is being embraced now by some as the issue heats in the campaign for the Presidency.

To me this argument is a symptom of a sickness, which touched our land during and after the Vietnam war. The arguments of this group are pointed toward avoiding a difficult foreign policy situation at any cost. The end result of such illogical reasoning is simple. If a foreign policy position is likely to cast the United States as an unpopular power in the eyes of other nations—give it up. Should we find ourselves in a position which may provoke a confrontation with a small or large power, it is best to give in. When all the trappings are stripped away, we see loss of national will and sense of purpose. If we follow those who espouse such a course, our country will become a second rate power. There will be contempt for us in the eyes of the world, not good will or respect.

The answer, to those who would lead us down the Neville Chamberlain path, appeared in the Strategic Review—Winter 1976.

Mr. President, I ask unanimous consent that these articles be printed in the RECORD.

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

[From the Washington Star, May 2, 1976]

MUCH ADO ABOUT PANAMA

A hot issue for Republicans in the Texas primary to the astonishment of those who thought gunboat diplomacy went out with high-button shoes, was the dire threat to the Panama Canal. Gov. Ronald Reagan has been giving President Ford a hard time about it. He contends that Americans "bought, paid for and own" Teddy Roosevelt's Big Ditch and claims that the President and Ambassador Ellsworth Bunker (who is negotiating a new treaty) are plotting to give up American "sovereignty" in the Canal Zone to that "tinhorn dictator," Gen. Omar Torrijos Herrera.

Down in Dallas, according to late reports, they're so wrought up that "Save the Panama Canal Clubs" are flourishing.

This largely phony flap is a timely reminder that in presidential elections, imaginary or transitory issues often heat people under the collar unduly. Who today remembers—or cares—that 16 years ago the fate of the Republic was said to hang upon the defense of Quemoy and Matsu, two small offshore islands in the Straits of Formosa?

The Canal, which the U.S. indeed built and "paid for" (after a fashion—Secretary of State Elihu Root told TR speaking of the intrigue surrounding its acquisition, "Mr. President, you . . . were accused of seduction and you have conclusively proved that you were guilty of rape.") is of substantially greater real and symbolic importance to Americans, and Texans, than Quemoy and Matsu were in 1960.

But the Canal is thought by most students of the matter to be a wasting strategic asset and an economic liability. The 99-year treaty under which the U.S. exercises suzerainty (not sovereignty) in the Canal Zone is a bone in the throat of Panamanian nationalists; and according to Mr. Robert Keatley of the Wall Street Journal, the Canal could be put out of whack for up to two years by a lunchbox full of dynamite applied at one of the locks. The Canal, moreover, doesn't pay for its cost of operation and carries an ever-decreasing volume of U.S. merchant and military tonnage.

Such considerations do not always cool hot heads. Governor Reagan is quite right in saying that the U.S. has no *legal* obligation to negotiate a new Panama treaty; but diplomacy often needs to be anticipatory. The inflexible approach Mr. Reagan counsels in such emotional terms could be self-defeating if the Canal becomes the target of guerrilla warfare.

The possibility of what General Torrijos has called "the Ho Chi Minh route" is not easy to think about coolly, but it is a factor to be borne in mind. Accordingly, the last three U.S. administrations have made it our policy to reinsure American interests for the foreseeable term of the Canal's usefulness, which is usually put at 25 years. They have reasoned, correctly in our view, that if American interests could be secured in a new treaty with some concessions to Panamanian pride and nationalism, both parties at interest would benefit.

There is, of course, no guarantee that the policy would work, or that a new treaty would quiet down General Torrijos and assure orderly operation of the Canal. It's a gamble, if you like. In any case, Mr. Bunker's treaty must in due course be laid before the Senate. There any actual—as distinguished from imaginary—"giveaways" may then be openly debated.

To stand pat, as Governor Reagan counsels us to do, is to make another sort of gamble—a gamble that American refusal to alter the legal status quo could incite a scene of ugly disorders in the Canal Zone threating the ditch with sabotage and presenting the need for military intervention.

Should that happen, Governor Reagan and the 37 neo-Rough Riders of the Senate who threaten to torpedo a new treaty would bear heavy blame for the consequences. Presumably they would be the first to volunteer for a Panama expeditionary force.

[From the Strategic Review—Winter 1976]

PANAMA: STRATEGIC PITFALL

(By Lt. Gen. V. H. Krulak, USMC (Ret.))

The author: General Krulak is a Director of the United States Strategic Institute. From 1964 to 1968 General Krulak served as Commanding General, Fleet Marine Force, Pacific. He is now Director of Editorial and News Policy of the Copley Newspapers and President of the Copley News Service, San Diego, California. General Krulak's article,

"Mainland China: The View From Taiwan," was published in the Summer 1975 issue of Strategic Review.

IN BRIEF

The case for giving up the Panama Canal rests on three points: that the Canal Zone is really Panamanian property; that the United States is exploiting the Panamanians, robbing them of Canal operating profits that are rightfully theirs. In fact, the 1903 treaty granted the United States perpetual sovereignty over the Canal Zone. It is more accurate to say that Panama pressured the United States because Panamanians were fearful that a canal would be built across Nicaragua instead of Panama. The United States paid Panama for the right to build the Canal and for clear title to the Canal Zone, and currently voluntarily pays Panama $2 million a year, although the Canal has been a losing venture during the past few years. Due largely to Canal-related employment, Panamanians have a living standard equalled by few other Latin American states. The Canal is still strategically important to the United States and economically important to the United States and to the world. Only because of the Canal is the United States able to risk what amounts to having a bare bones, one-ocean navy. There is no indication from their current behavior that the Panamanian dictator and his Marxist military government would not capriciously bring about major changes in the economy and security of our nation if they were ever in a position to exercise authority over the operation of the Canal. Most Latin Americans understand these factors as do the American people at large.

We live in a time when revisionists serve up historical fiction to meet every ideological need. No current issue of importance has undergone more distortion of historical fact or present reality than is represented by the massive campaign afoot to popularize U.S. relinquishment of sovereignty in the Panama Canal Zone.

This should surprise no one. A principle of the greatest importance is involved here. It is the latest pressure-point for erosion of U.S. prestige as well as the ability to control its future. With the Soviets gaining port facilities of the greatest strategic importance all around the globe to serve their growing naval power, Panama, apart from the Canal as a strategic asset, must be viewed as a key location in the Western Hemisphere.

Basically, the drumfire of propaganda in both the U.S. print and electronic media rests its case on three points:

First, the contention that the Canal Zone is really Panamanian property and that the Republic of Panama never relinquished its sovereign rights to the area;

Second, that the United States pressured Panama into giving us a position on the Isthmus of Panama in 1903, using deception, force and threats to accomplish something that contravened the desires of most Panamanians themselves;

And finally, that the United States is even now exploiting the Panamanians, robbing them of Canal operating profits that are rightfully theirs.

All three of these contentions are contrary to fact. None has any basis in truth.

Sovereignty

As to the matter of sovereignty, there is no question whatever. The Canal Zone is not in any sense Panamanian territory. The 1903 Hay-Bunau-Varilla Treaty with Panama was unequivocal in this regard, granting the Canal Zone to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The treaty is in no way less positive or final than the treaty of 1803 through which President Jefferson bought Louisiana from Napoleon, or the treaty of 1867 which formalized the purchase of Alaska from Czarist Russia.

The reality is that the 558 square mile Canal Zone is United States territory, a fact that the United States Supreme Court subsequently confirmed in a formal opinion—(*Wilson* v. *Shaw*, 204 U.S. 24, January 7, 1907).

Among other things, the lengthy Court opinion says:

The title to what may be called the Isthmian or Canal Zone, which at the date of the act was in the Republic of Colombia, passed by an act of secession to the newly formed Republic of Panama. The latter was recognized as a nation by the President. A treaty with it, ceding the Canal Zone, was duly ratified, 33 Stat. 2234. Congress has passed several acts based upon the title of the United States, among them one to provide a temporary government, 33 Stat. 429, another, fixing the status of merchandise coming into the United States from the Canal Zone, 33 Stat. 843, another, prescribing the type of canal, 34 Stat. 611. These show a full ratification by Congress of what has been done by the Executive. Their concurrent action is conclusive upon the courts.

The Supreme Court opinion in this area is summarized in the words, "It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation. . . ."

Second, the United States did not pressure the Panamanians. It would be more accurate to say that they pressured us.

Following liberation from Spain at the beginning of the nineteenth century, Panama joined Venezuela and Ecuador in uniting with Colombia. The union did not work. Venezuela and Ecuador split off first and Panama subsequently became disenchanted with the behavior of Colombia because of its exploitation of the people of the Panamanian region. Beyond this, the Panamanians were fearful that a canal would be built across Nicaragua instead of Panama, because of Colombian in competence and lethargy. Consequently, the Panamanians were more than glad to negotiate a profitable agreement with the United States.

As an element of their agreement with the United States, Panama was paid fairly for the United States, Panama was paid fairly for both the right to build the Canal ($35 million) and for clear title to the Canal Zone ($160 million). The country has flourished in the ensuing seventy-two years and now, largely due to Canal-related employment, the one and one-half million Panamanians have an annual per capita income of $1,000 and a living standard equally by few other Latin American states.

Finally, the allegation that the U.S. is robbing Panama of Canal revenues is totally without foundation. We give Panama a voluntary $2 million a year payment (up from an original $430,000). And there are no profits. Although toll collections exceed $114 million annually, the Canal has been a losing venture for us during the last few years.

Significance of the Canal

Quite apart from the sophistry that characterizes the campaign of those who want to see us out of Panama, Americans need to take a hard look at just what it would mean to us were the authority over the vital lifeline actually conveyed to the present government of Panama.

It is a Communist government. The Communist Party is the only party recognized in the country. Others are outlawed. The principal government officials are all Marxists—including the chief of state, Omar Torrijos, a National Guard lieutenant colonel who seized power by force from the elected president, Dr. Arnulfo Arias, in 1968.

Freedom of speech and of the press have been totally stifled, the Church harassed, the national Congress closed, and national elections have been suspended indefinitely.

Hatred and defamation of the United States are as much a national policy as are close ties with the Communist world, most particularly the Soviet Union and Cuba.

The attitude of the military government is one of inflexible determination to achieve total authority over the Canal, or to punish everyone involved if this effort is unsuccessful. In late 1974 the acting ambassador to the United States from Panama, speaking in a television interview, was unequivocal. He said that if the Panamanian government is unsuccessful in its treaty negotiations with the U.S. "there will be no Canal for anybody, not for us, not for the United States, not for the world."

Torrijos mirrored this view last August, when he said, "We're going to make ourselves independent. What we have to decide is at what price. The day the people begin acts of sabotage nobody can control them. Because the Canal is as indefensible as a newborn child."

All of this is a thinly disguised threat of violence that neither the United States nor the rest of the world can tolerate, for the 14,000 ships that transit the Canal annually are an important element of the world's lifeline.

The fact is, Torrijos and his followers cannot be regarded as reponsible men, and if they were ever in a position to exercise authority over the operation of the Canal, they could capriciously bring about major changes in both the economy and the security of the United States. Nor is there any indication from their current behavior that they would not be willing to do so.

By jacking up the Canal tolls to American shipping they could add substantially to transportation costs, and thus to the cost of end items in our marketplace.

Alternatively, by closing down the Canal at their own whim, they could double the cost of maritime fuel for a voyage from the west to the east coast of the United States, and more than double the average transit time from coast to coast. When it is realized that fully 8,000 ships a year carry cargo through the Canal, destined for U.S. ports, the resultant increase in retail costs of the commodities is evident.

A common argument is that the Canal has largely lost its strategic value to the United States because our principal combatant ships are too large to get through the locks. Actually, a total of only thirteen ships in the U.S. Navy have beams too great to permit passage through the waterway. The remainder of the fleet, some 470 ships—not to speak of an equal number in reserve—can use the Canal, and do so, beneficially.

In the past two and one-half years some 750 U.S. Navy ships transited the waterway bound east or west on affairs related to our national security. Had all these ships—for any reason—been obliged to take the Cape Horn route, the increased fuel requirement would have been on the order of 26,000 barrels, which is to say about $20 million worth of precious petroleum. And were a combatant crisis also involved, the additional thirty to thirty-five days of steaming could well be of decisive tactical importance.

In truth, the Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a bare bones, one-ocean navy.

However, without absolute control of the Canal and the essential contiguous land, the United States could not accept the hazard of a one-ocean navy. It would be essential at once to initiate construction of fleets independently able to meet a crisis in either the Atlantic or the Pacific—a massive expenditure which we are now spared only because of our control of the Canal.

These factors are appreciated throughout Latin America, where all but the far left gov-

ernments see it as something quite different from the issue of anticolonialism that has swept around the world. The Canal Zone does not share the history of Portuguese, French or British mercantile colonialism in Africa. It is not a Nigeria or a Chad. The Panama Canal is a sensitive trust—one which the United States has never sought to exploit for its own exclusive advantage.

Most Latin Americans understand this. In their own interest they realize that the critical strip, measuring only 5 per cent of the total area of the Republic of Panama, must never be permitted to fall into irresponsible hands.

Strategic realities

At a recent meeting of the Inter-American Press Association in Sao Paulo, Brazil, the attitude of Latin American publishers and editors was cold and clear. It was best expressed by a Chilean who said, "You would be doing yourself and us a major disservice if you were to back off one centimeter from your present position in Panama."

And a Venezuelan, in speaking of the concessions the U.S. has already offered, made pointed reference to the futility of appeasing communism, quoting Aleksandr Solzhenitsyn on the subject of what he calls, "shortsighted concession; a process of giving up and giving up and giving up, and hoping that perhaps at some time the wolf will have eaten enough."

Even more to the point, these strategic and economic realities are generally understood by the American people at large and, through this understanding, there is a very substantial popular sentiment against any action which would diminish our sovereignty over the Canal Zone.

What is less well known is the fact that since 1968 the United States has been involved in negotiations with Panama over our position in the Canal Zone. Between 1970 and 1975 the U.S. has proposed a number of concessions—relinquishment of the "in perpetuity" clause of the 1903 treaty, increase in dollar payments and cession of certain port facilities. Then, in 1974, the U.S. agreed to sit down with representatives of Panama and work out a comprehensive agreement that would initially give the Panamanians jurisdiction over the Canal Zone and, ultimately, would actually transfer both ownership and operating responsibility of the Canal to Panama.

We are doing exactly that right now. Ambassador Ellsworth Bunker, operating under those guidelines, is at work on a Caribbean island, developing the details with representatives of Panama.

Ultimately, of course, it will all have to come before the U.S. Congress for ratification, and no American legislative body in history has had a more sobering task than the one the legislators will face when they contemplate a treaty that diminishes or relinquishes our precious sovereignty in Panama. If the Congress concludes that the U.S. can risk sharing those fifty vital miles of lifeline with a hostile Communist government; even worse, if it agrees to give the Canal away, it will have done this country more harm than a dozen succeeding Congresses could repair.

ASSISTANCE TO THE STAINLESS STEEL INDUSTRY—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under authority of the order of April 29, 1976, the following message from the President of the United States was received on April 30, 1976, and today was referred to the Committee on Finance:

To the Congress of the United States:

As required by section 203(b)(2) of the Trade Act of 1974, I am transmitting this report to the Congress setting forth my determination to provide adjustment assistance to the U.S. stainless steel table flatware industry producing flatware covered by the affirmative finding of March 1, 1976 of the United States International Trade Commission (USITC) under section 201(d)(1) of the Trade Act. As my decision does not provide import relief to that industry, I am setting forth both the reasons why I have determined that import relief is not in the national economic interest and other actions I am taking to help the flatware industry, workers, and communities.

I have decided, considering the interests of both the American consumers and producers, that expedited adjustment assistance is the most effective remedy for the injury to the U.S. stainless steel table flatware industry and its employees as a result of imports.

My decision was based upon my evaluation of the national economic interest. A remedy involving import restraints would have resulted in higher prices for American consumers at a time when lowering the rate of inflation is essential.

Import restraints would also have exposed industrial and agricultural trade to compensatory import concessions or retaliation against U.S. exports. This would have been detrimental to American jobs and damaged U.S. exports.

Adjustment assistance can benefit the smaller enterprises which have been seriously injured. Import relief would disproportionately benefit firms which produce a substantial part of domestic output, and which are able to compete with imports.

Adjustment assistance is consistent with the President's efforts to control inflation, including costs to all consumers, which import restrictions would raise.

In considering the effect of import restraints on the international economic interests of the United States, as required by the Trade Act of 1974, I have concluded that such restraints would be contrary to the U.S. policy of promoting the development of an open, nondiscriminatory and fair world economic system. The goal of this policy is to expand domestic employment and living standards through increased economic efficiency.

I have directed the Secretaries of Commerce and Labor to give expeditious consideration to any petitions for adjustment assistance filed by stainless steel flatware firms producing articles covered by the USITC report, and their workers, and communities.

GERALD R. FORD.

THE WHITE HOUSE, *April 30, 1976.*

REPORT OF THE U.S. SINAI SUPPORT MISSION—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under authority of the order of April 29, 1976, the following message from the President of the United States was received on April 30, 1976, and today was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am transmitting herewith the First Report of the United States Sinai Support Mission. The Report describes the manner in which the Support Mission is carrying out its mandate to implement the United States' responsibility for the early warning system in the Sinai, as specified in the Basic Agreement between Egypt and Israel of September 4, 1975, and the Annex to the Basic Agreement. This Report is provided to the Congress in conformity with Public Law 94–110 of October 13, 1975.

The Report includes an account of American participation in the establishment of the Sinai early warning system during the first six months following the enabling legislation, a report on the current status of the early warning system, and a discussion of the actions now under way which will permit the Sinai Support Mission to conclude its construction and installation phase by early summer. When this preparatory period has been completed and we have had an opportunity to observe the ongoing operations of the early warning system, we will be better able to assess the feasibility of making technological or other changes that could lead to a reduction in the number of American civilians assigned.

As you know, the functions which the American volunteers are performing were requested by the Governments of Egypt and Israel. We have accepted responsibility for these functions, with the concurrence of both Houses of the Congress, because we believe the United States has an important stake in a stable Middle East.

The early warning system in the Sinai is an important investment in peace. It helps support the Basic Agreement between Egypt and Israel which represents a significant step toward an overall settlement. Continuing presence of the system provides in itself an important contribution to stability in the area and to the creation of a climate of confidence so necessary for further progress toward a just and durable peace.

GERALD R. FORD.

THE WHITE HOUSE.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under authority of the order of April 29, 1976, a message from the House of Representatives was received on April 30, 1976, stating that the Speaker had signed the following enrolled bill:

H.R. 10230. An act to establish a science and technology policy for the United States, to provide for scientific and technological advice and assistance to the President, to provide a comprehensive survey of ways and means for improving the Federal effort in scientific research and information handling, and in the use thereof, to amend the National Science Foundation Act of 1950, and for other purposes.

The enrolled bill was signed by the Vice President on April 30, 1976.

MESSAGES FROM THE HOUSE

At 12:03 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 371) to provide for the striking of medals commemorating the contributions by indi-

viduals of various ethnic backgrounds who contributed to the founding of the United States of America, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the concurrent resolution (S. Con. Res. 109) setting forth the congressional budget for the U.S. Government for the fiscal year 1977 (and revising the congressional budget for the transition quarter beginning July 1, 1976), with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 7108) to authorize appropriations for environmental research, development, and demonstration; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. TEAGUE, Mr. BROWN of California, Mr. AMBRO, and Mr. WINN were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 365. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain firefighters who die in the performance of duty;

H.R. 366. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty;

H.R. 12987. An act to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes; and

H.R. 13294. An act to provide for the striking of medals commemorating the American Indian heritage.

At 2:50 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 9721) to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and the Mr. REUSS, Mr. GONZALEZ, Mr. STEPHENS, Mr. TSONGAS, Mrs. BOGGS, Mr. JOHNSON of Pennsylvania, and Mr. HYDE were appointed managers of the conference on the part of the House.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HASKELL) laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE ASSISTANT COMPTROLLER GENERAL—(S. DOC. NO. 94-178)

A letter from the Assistant Comptroller General of the United States reporting, pursuant to law, on the release of budget authority; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Agriculture and Forestry, and Armed Services, and ordered to be printed.

PROPOSED LEGISLATION ON NARCOTIC DRUGS

A communication from the President of the United States transmitting a draft of proposed legislation to increase the effectiveness of the criminal justice system in protecting the American people from narcotic drugs (with accompanying papers); to the Committee on the Judiciary.

PROPOSED LEGISLATION BY THE DEPARTMENT OF THE NAVY

A letter from the Secretary of the Navy transmitting a draft of proposed legislation to approve the sale of certain naval vessels and for other purposes (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

A letter from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to authorize appropriations for the procurement of naval vessels and research, development, test and evaluation for the Armed Forces (with accompanying papers); to the Committee on Armed Services.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Additional Costs of Stationing U.S. Forces in Europe (with an accompanying report); to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE SMALL BUSINESS ADMINISTRATION

A letter from the Administrator of Small Business transmitting a draft of proposed legislation to amend the Small Business Investment Act of 1958 (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE OFFICE OF FEDERAL PROCUREMENT POLICY

A letter from the Administrator, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report of the activities and accomplishments of the Office of Federal Procurement Policy, Office of Management and Budget, for the year ending December 31, 1975 (with an accompanying report); to the Committee on Government Operations.

PROPOSED NEW SYSTEMS OF RECORDS

Four letters reporting, pursuant to the Privacy Act of 1974, on proposed new systems of records; one from the Deputy Assistant Secretary of Defense; two from the Assistant Secretary of Health, Education, and Welfare; and one from the Secretary of the Postal Rate Commission (with accompanying papers); to the Committee on Government Operations.

REPORT OF THE FEDERAL ENERGY ADMINISTRATION

A letter from the Administrator of Federal Energy reporting, pursuant to law, on changes in market shares for petroleum products for the period January 1972—December 1975; to the Committee on Interior and Insular Affairs.

PROPOSED CONTRACT FOR RESEARCH PROJECT

A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a proposed contract for a research project entitled "Development of Skip and Guide Designs" (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED ACTS ADOPTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA

Three letters from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of three proposed acts adopted by the Council (with accompanying papers); to the Committee on the District of Columbia.

PROPOSED LEGISLATION BY THE DEPARTMENT OF STATE

A letter from the Assistant Secretary of State transmitting a draft of proposed legislation for the relief of Mary Vance Trent (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Computer-Related Crimes in Federal Programs" (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE OFFICE OF MANAGEMENT AND BUDGET

A letter from the Deputy Director of the Office of Management and Budget transmitting, pursuant to law, a report relating to recommendations contained in the Annual Report of the National Advisory Council on Adult Education for March 1975 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF THE ADMINISTRATIVE OFFICE OF THE U.S. COURTS

A letter from the Director of the Administrative Office of the United States Courts transmitting, pursuant to law, the annual report of the Director relating to interception of wire or oral communications during calendar year 1975 with an accompanying report); to the Committee on the Judiciary.

PROPOSED AMENDMENTS TO THE BUDGET REQUEST FOR THE DEPARTMENT OF DEFENSE

A letter from the General Counsel of the Department of Defense transmitting information relevant to proposed amendments to the budget with the fiscal year 1977 for the Department of Defense (with accompanying papers); to the Committee on Armed Services.

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. HASKELL) laid before the Senate the following petitions which were referred as indicated:

Senate Concurrent Resolution No. 59 adopted by the Legislature of the State of Hawaii; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION NO. 59

"Requesting the Congress of the United States to enact legislation to cancel the indebtedness of the States to the Federal account in the unemployment compensation trust fund for advances to pay unemployment benefits

"Whereas, unemployment is not unique to Hawaii but is a nation-wide problem reflecting the economic ills confronting the United States; and

"Whereas, Congress early recognized that unemployment and the alleviation of the suffering occasioned therefrom was a federal, as well as a state, problem with the enactment of Titles III and IX of the Social Security Act in 1935, thereby fostering the development of our federal-state cooperative system of unemployment compensation

under the aegis of the U.S. Department of Labor; and

"Whereas, a crisis has developed in this federal-state cooperative system because the present economic recession has extended over an unduly long period and has caused the depletion of state trust fund accounts maintained for the payment of unemployment benefits within the Unemployment Compensation Trust Fund, a pooled federal fund where all employer contributions are deposited for subsequent payment of benefits; and

"Whereas, at least thirty-two states, including Hawaii, have already been compelled to request advances from the Federal Unemployment Account in the Unemployment Compensation Trust Fund to pay benefits to their citizens because the amounts credited to their own accounts in the trust fund have already been depleted and more states will undoubtedly be compelled to seek such advances; and

"Whereas, Congress has reiterated its position that unemployment and the alleviation of suffering occasioned therefrom is a federal, as well as a state, problem by extending the payment of unemployment benefits through Congressional action; and

"Whereas, the repayment of the funds advanced will be an undue burden for the states during this period of economic adversity and they will be unable to repay such advances without assessing substantially higher taxes against employers; and

"Whereas, if employers in Hawaii and the other states are assessed these additional amounts to repay the advances, it will undoubtedly further compound the economic problems presently confronting the states and the nation; now therefore,

"Be it resolved by the Senate of the Eighth Legislature, Regular Session of 1976, the House of Representatives concurring, that the Congress of the United States be respectfully requested to enact legislation cancelling or forgiving the indebtedness of the states to the Federal Unemployment Account in the Unemployment Compensation Trust Fund for funds advanced to the states for the payment of unemployment compensation benefits; and

"Be it further resolved that certified copies of this Senate Concurrent Resolution be transmitted to the Speaker of the House of Representatives of the United States Congress, the President of the Senate of the United States Congress, members of the Hawaii's Congressional delegation, and the Secretary of Labor of the United States."

House Concurrent Resolution No. 57 adopted by the Legislature of the State of Hawaii; to the Committee on Interior and Insular Affairs:

"HOUSE CONCURRENT RESOLUTION NO. 57

"Requesting the U.S. Congress to enact legislation to compensate or to make reparation to Hawaiians for damages suffered by them at the time of annexation

"Whereas, prior to the annexation of Hawaii by the United States of America, the administering of all lands of Hawaii was provided for by the monarchy; and

"Whereas, such lands were historically used by and for the benefit of all the Hawaiian people; and

"Whereas, the Hawaiian life style is intertwined with the land and since the Hawaiian people have been deprived of the use of the land, the Hawaiian lifestyle has been seriously altered; and

"Whereas, after the overthrow of the monarchy, the government of the United States displayed a blatant disregard and disrespect for the Hawaiian heritage by acquiring lands which heretofore provided for the benefit, liberal use, and enjoyment of the aborigine or native Hawaiians; and

"Whereas, aborigine or native Hawaiians were deprived of certain property or property rights as the result of the annexation of these islands by the United States of America without compensation; now, therefore,

"Be it resolved by the House of Representatives of the Eighth Legislature, State of Hawaii, Regular Session of 1976, that the Congress of the United States of America be respectfully requested to enact legislation to compensate the aborigine or native Hawaiians, deemed entitled thereto, for damages suffered by them as a result of the annexation of the Hawaiian Islands to the United States of America; and

"Be it further resolved that duly certified copies of this Resolution be transmitted to the President of the United States of America; the Vice President of the United States of America; the President Pro Tem of the Senate of the Congress of the United States of America; the Speaker of the House of Representatives of the Congress of the United States of America; to the Chairman of the Interior and Insular Affairs Committee of the Senate of the Congress of the United States of America; to the Chairman of the Interior and Insular Affairs Committee of the House of Representatives of the Congress of the United States of America; to the Honorable Hiram L. Fong, and the Honorable Daniel K. Inouye, Senators from the State of Hawaii, and to the Honorable Spark M. Matsunaga, and the Honorable Patsy T. Mink, Representatives from the State of Hawaii of its United States of America."

House Concurrent Resolution No. 59 adopted by the Legislature of the State of Hawaii; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION NO. 59

"Requesting congressional action to establish adjustable quotas for immigration without restriction for immediate family

"Whereas, currently 380,000 immigrants enter the United States each year, thereby expanding the labor supply and inflating unemployment; and

"Whereas, immigrant problems place a heavy burden on public education and welfare agencies and cause substantial costs to U.S. taxpayers; and

"Whereas, those 'gateway' states receiving the largest number of immigrants bear a disproportionately large share of the cost and effort in assimilating the new arrivals into American society; and

"Whereas, for 15 years the State of Hawaii has had the nation's highest per capita rate of immigration, a rate which in 1974 was 4.4 times the U.S. average; and

"Whereas, in the last five years the Department of Education has enrolled 14,152 foreign-born students in Hawaii's public schools; and

"Whereas, the International Longshoremen's and Warehousemen's Union has made a policy statement in favor of adjusting immigration quotas and granting federal assistance to gateway states; and

"Whereas, the State Commission on Manpower and Full Employment has made similar recommendations to the federal government; now, therefore,

"Be it resolved by the House of Representatives of the Eighth Legislature of the State of Hawaii, Regular Session of 1976, the Senate concurring, that the Congress of the United States is requested to amend the Immigration Act in the following ways:

"(1) to make immigration quotas adjustable to current employment conditions, so as to prevent an oversupply of labor in any U.S. job market, such determination to be made by the U.S. Department of Labor in consultation with the unions of the affected workers; and

"(2) to restrict the categories of eligibility for immigration, especially those that contribute to the 'brain drain' from the less developed countries but excepting those that pertain to the immediate relatives (as defined by the U.S. Immigration and Naturalization Service) of U.S. citizens and resident aliens; and

"Be it further resolved that the Congress of the United States be requested to appropriate special funds for social, health and economic services for immigrants to states and localitites having more immigrants per population than the national average, the amount of funding to be set according to both the number of immigrants and the amount of services provided by the particular state or locality; and

"Be it further resolved that copies of this Concurrent Resolution be sent to the Presiden of the United States, the Vice-President, the Speaker of the U.S. House of Representatives, the Attorney General of the United States, the Director of the Immigration and Naturalization Service, the Secretary of the Department of Labor, U.S. Senators Hiram L. Fong and Daniel K. Inouye, and U.S. Representatives Spark M. Matsunaga and Patsy T. Mink."

A resolution relating to the right-to-life group, adopted by the Council of the City of Bedford, Ohio; to the Committee on the Judiciary.

A resolution adopted by the National Advisory Council on Health Professions Education relating to administration of health manpower grant proposals; to the Committee on Labor and Public Welfare.

A resolution adopted by the Council of the City of Youngstown, Ohio, relating to disclosure of price information by pharmacies; to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PASTORE, from the Joint Committee on Atomic Energy, with amendments:

S. 3107. A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes (Rept. No. 94–772).

By Mr. HUMPHREY, from the Committee on Foreign Relations, without amendment:

S. 3103. A bill to provide for increased participation by the United States in the Asian Development Fund (Rept. No. 94–773).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 2996. A bill to authorize the Secretary of the Interior to permit the relocation of the John Witherspoon statue, and for other purposes (Rept. No. 94–774).

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H. 365. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain firefighters who die in the performance of duty; and

H.R. 366. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the perfomance of duty; to the Committee on the Judiciary.

H.R. 12987. An act to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes; to the Committee on Labor and Public Welfare.

H.R. 13294. An act to provide for the striking of medals commemorating the American

Indian heritage; to the Committee on Banking, Housing and Urban 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. CHILES:

S. 3359. A bill to establish a Commission on Federal Aid Reform. Referred to the Committee on Government Operations.

By Mr. NELSON:

S. 3360. A bill to authorize employees and agencies of the Government of the United States to experiment with flexible and compressed work schedules. Referred to the Committee on Post Office and Civil Service.

By Mr. PEARSON:

S. 3361. A bill to provide for the striking of medals commemorating the American Indian heritage. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SPARKMAN (by request):

S. 3362. A bill to provide authorization for a United States contribution to the International Atomic Energy Agency in support of its safeguards activities and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. STEVENS:

S. 3363. A bill to amend title 5 of the United States Code to provide vacation leave for residents of Alaska serving a tour of duty at a hardship station in Alaska. Referred to the Committee on Post Office and Civil Service.

By Mr. KENNEDY (for himself, Mr. BUCKLEY, Mr. PHILIP A. HART, and Mr. HUGH SCOTT):

S. 3364. A bill to revise the economic regulation of air transportation. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHILES:

S. 3359. A bill to establish a Commission on Federal Aid Reform. Referred to the Committee on Government Operations.

COMMISSION ON FEDERAL AID REFORM

Mr. CHILES. Mr. President. Today I am introducing another piece of legislation designed to bring a new sense of order and control over Federal spending—a bill to create the Commission on Federal Aid Reform.

SCOPE OF FEDERAL AID SPENDING

The legislation is important, first, simply because it involves the outlay of over $60 billion a year in Federal aid, assistance and grant outlays now pouring out to States, counties, local governments, colleges, nonprofit groups and other recipients.

Federal aid to States and localities alone rose from $2.2 billion in 1950; to $6.8 billion in 1960; to over $60 billion this fiscal year.

When grants to nongovernmental institutions such as private organizations, universities, and individuals are added to these figures, the growth is even more apparent.

There are now over 500 different authorizations enacted by Congress. The Catalog of Federal Domestic Assistance lists 1,030 separate programs that have evolved from these authorizations.

PROBLEMS

But, to my mind, this legislation is still more significant because of the problems arising from Federal aid spending.

First, Federal assistance suffers from phenomenal bureaucratic waste and inefficiency. One State witness recently told the subcommittee that 30 percent of the Federal money was going to nonproductive overhead.

Second, the redtape has created regulatory and management knots, tying up programs and preventing delivery of needed services to the public.

Finally, and perhaps most important in my mind, Federal aid programs have caused unplanned and unwanted changes in the relative roles, responsibilities and authorities of Federal, State, and local government.

SHIFTS IN GOVERNMENTAL POWERS

Far too many recipients of Federal aid are starting to feel that Federal authority—often unseen and often unappreciated—comes wrapped in green.

They sense that Federal aid, no matter how important the goals, is not simply given: It seems to be exchanged for sacrificed control autonomy, and independence of State and local government.

This situation has gone too far. We see the same kind of negative reactions we have seen in Federal contracts, where most of the subcommittee's reforms have been concentrated.

Business circles have developed a folklore warning about taking a Federal contract: Take it and you also take the Federal Government's way of doing business—your accounting, property, buying, and management systems must become federalized.

The same fear of back-door federalized control cannot continue to grow with recipients of Federal aid and assistance.

Especially in this campaign year, these fears have grown into real, yet somehow vague concerns over the power of the Federal Government. Some conservatives call out to castrate Washington's power. Some liberals insist we should expand it to serve more valid needs. And moderates tend to call to make the use of that power more efficient.

I do not feel comfortable with that level of debate.

What we all deeply feel is the need to rationalize and control the shifting balance of authorities between Federal, State, and local government. We need to say clearly who is responsible for setting the goals, structuring the programs, administering the actions and evaluating the results.

Today, we cannot do that because Federal aid and assistance seems to be a beast without a brain. We see only a mass of bureaucratic tentacles sprouting from each agency, from each categorical program, from each block grant.

NEED TO DO MORE

The President has cast his lot with block grants as the answer to these problems.

But look at the 5-foot stack of Government regulations Governor Askew showed us that came along with one block grant for safe streets from the Law Enforcement Assistance Administration—LEAA.

And look at the second 5-foot pile of Florida regulations needed to comply with the Federal regulations.

In theory, I think the concept of block grants is good. State and local managers do need more flexibility to meet local needs. The categorical nature of many grant programs is one problem.

But the glaring lack of and central management control over Federal bureaucrats promotes the incredible redtape we see in many programs, both block grants and categoricals.

I asked State witnesses recently whether they found themselves still stuck with unnecessary redtape and regulations in block grant programs. The answer was that they continue to struggle with the same problems you have in categoricals.

What they stressed was the need to have the Federal Government manage itself, and not have the agencies going off on their own divergent ways.

Today, *nobody* can find an "M" in "OMB" and the administration again objected to my legislation (S. 1437) to take just a first step to controlling assistance transactions.

This legislation to create a Federal Aid Reform Commission is, more than anything else, a step toward building a controllable brain for Federal assistance, a system of policies and procedures that we can understand, control, and make responsive to democratic inputs.

PROVISIONS OF THE BILL

The bill would establish a 15-member Commission on Federal Aid Reform to develop a comprehensive Government-wide policy for Federal assistance.

The Commission would be composed of two Members from the Senate; two from the House; two from State government; two from local government; the Comptroller General; the Director of Office of Management and Budget; a college or university administrator; and four members from outside government.

The Commission would study all statutes, policies, procedures, and related practices followed by executive agencies with respect to the delivery of Federal assistance to be aimed at developing a comprehensive system of control for Federal aid and assistance.

In so doing, the Commission would examine how functional program consolidations, increased recipient flexibility, and decentralization of program authority to State and local governments could be facilitated under a system of Government-wide guidance.

Organizational arrangements within the executive and the Congress will be considered to insure the continuing administration of such a system.

A final report would come to the Congress and the President within 2 years after the Commission's first meeting. Six months after submission, the Office of Management and Budget would be required to coordinate the views of the executive branch on recommendations made, implement accepted recommendations within executive authority, pro-

pose needed legislation, and inform Congress of the reasons for any rejections.

The Comptroller General would also report at least once every 6 months for 2 years on the status of actions taken on the Commission's final report, just as they have done to prompt reform on the Procurement Commission's recommendations.

PROPECTS FOR A COMMISSION

I believe we have already made substantial progress in building a new, more efficient system for controlling the Federal Government's $70 billion a year in contracting.

The congressional Commission on Government Procurement laid the foundation for the reforms we have pushed for the past 3 years. Now, we are saving over $100 million a year with the potential for billions as the new structure goes into effect. We passed a law to create a central White House Office of Federal Procurement Policy to bring uniformity to the maze of regulations and redtape. We have new policies going into effect for major systems acquisition. We have made legal and procedural moves to put mission controls over spending, with a clear focus on basic national needs.

Of the Procurement Commission's 149 recommendations, 6 are now in law, 25 are in pending legislation, and another 71 recommendations have been adopted by the executive branch.

I believe we need the same basic review of our Federal aid and assistance policies and I further believe this Commission can build a new foundation with meaningful results.

The need for a Government-wide system of guidance for Federal assistance programs is analogous to the need for the Office of Federal Procurement Policy for procurement. The primary concern is to get a "handle" on the entire process for Federal assistance and to promote better understanding and guidance.

Compared to the Federal procurement system, the so-called grant system is primitive, underdeveloped.

This bill to create a Commission on Federal Aid Reform should bring some sunshine to an area which is presently clouded over with complexity and confusion.

Mr. President, I ask unanimous consent that S. 3359 be printed in the RECORD following this statement. There being no objections, the bill was ordered to be printed in the RECORD, as follows:

S. 3359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Aid Commission Act".

FINDINGS

SEC. 2. The Congress hereby finds that—

(a) Spending through Federal aid and assistance programs to State and local government and other recipients has grown to comprise a substantial portion of the Federal budget and to become a primary means to promote national policies.

(b) The growth in size and number of Federal assistance programs has shifted and confused the relative roles, responsibilities, and authorities between the Federal government and recipients. Many of these changes are unplanned, unproductive and unintended.

(c) These shifts in relative roles, responsibilities and authorities, prompted by federal aid spending practices, raise fundamental issues over the ability of Federal, State, and local government to execute their respective responsibilities for meeting public needs.

(d) Federal aid programs, viewed as a whole, are fragmented, complex, inconsistent, and confused with respect to accountability and responsibility for performance. Piecemeal, incremental growth of bureaucratic conditions and red tape has placed an undue and costly burden on those state and local governments and other recipients of federal aid and the taxpayers who pay for it.

(e) The Commission on Government Procurement recognized and documented the differences between federal procurement and federal grant-type assistance and recommended studying the feasibility of developing a comprehensive system of guidance for all federal assistance programs.

(f) Federal aid and assistance programs require a rational system of guidance in order to rebalance the authorities of Federal, state and local government and other recipients and to provide for the efficient and effective delivery of public services.

DECLARATION OF POLICY

SEC. 3. It is hereby declared to be the policy of the Congress to—

(a) Establish a comprehensive system of guidance for Federal aid and assistance designed to—

(1) Eliminate unnecessary administrative requirements, red tape and regulation of State and local governments and other recipients of Federal assistance;

(2) Provide more effective and efficient delivery of Federal aid intended to meet public needs; and

(3) Enable the Federal executive branch, Congress, State and local governments, and other recipients to rebalance and control their respective roles, responsibilities, and authorities;

(b) Provide for effective organizational arrangements within the executive and legislative branches of the Federal Government to insure the continuing implementation, administration and oversight of a comprehensive system of guidance for Federal aid and assistance.

DEFINITIONS

SEC. 4. For the purposes of this Act, the term—

(1) "Federal aid and assistance" means those agreements and relationships entered into by the Federal Government with State and local governments, private organizations; or any other recipients, the primary purpose of which is the transfer of money, property, services, or anything of value in order to accomplish a public purpose of support or stimulation authorized by Federal statute, and not the acquisition of property or services for the direct benefit or use of the Federal Government, including but not limited to those programs referred to in the Catalog of Federal Domestic Assistance;

(2) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(3) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other intrastate government entity, or any other instrumentality of a local government;

(4) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance and includes any charitable or educational institution.

ESTABLISHMENT OF THE COMMISSION

SEC. 5. To accomplish the policy set forth in Section 3 of this Act, there is hereby established a Commission to be known as the Commission on Federal Aid Reform (hereafter referred to as the "Commission").

FUNCTIONS OF THE COMMISSION

SEC. 6. (a) The Commission shall study and investigate statutes, policies, rules, regulations, procedures, and practices followed by the departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities and other authorities of the Federal Government involving Federal aid and assistance and the extent to which these facilitate or impede the policy set forth in section 3 of this Act.

(b) To accomplish the policy set forth in section 3 of this Act, the Commission shall consider—

(1) the manner in which alternative Federal aid and assistance relationships can be designed to clarify the roles, responsibilities and authorities of the Federal government, State and local government, and other recipients;

(2) means to accommodate and improve the special management capacities of state and local government and other recipients;

(3) means to improve the quality, efficiency, economy and performance of organizations and personnel engaged in Federal assistance activities;

(4) the legal status, responsibilities, and liabilities, of the parties and participants in assistance programs and the legal procedures which apply. Such consideration shall include gaps, omissions, duplications, and inconsistencies in laws, regulations, and directives relating to assistance programs which discourage state and local government and other recipient initiative and flexibility in assistance programs;

(5) the nature, extent, and utility of competition in Federal aid and assistance awards;

(6) the extent to which profit-making organizations should qualify for Federal aid and assistance awards;

(7) recommendations of the Commission on Government Procurement, the Advisory Commission on Intergovernmental Relations, and the Commission on Federal Paperwork; and

(8) other matters as the Commission may decide affect Federal aid and assistance.

(c) The Commission shall examine how functional program consolidations, increased recipient flexibility, and federal decentralization of program authority will be facilitated by a system of government-wide guidance for Federal aid and assistance programs.

(d) The Commission shall make a final report to the Congress and the President within two years of the date of the first meeting of the Commission. The final report shall contain a review of its findings and its recommendations for changes in organizational arrangements, statutes, policies, rules, regulations, procedures, and practices. In the event Congress is not in session at the end of such two-year period, the final report shall be submitted to the Clerk of the House of Representatives and the Secretary of the Senate. The Commission may make such interim reports and recommendations as it deems advisable.

(e) Not later than six months after submission of the Commission's final report, the Office of Management and Budget, in coordination with other authorities of the Executive Branch, shall

(1) formulate the views of the Executive Branch agencies on the recommendations of the Commission;

(2) to the extent permitted by law, im-

plement recommendations of the Commission which are accepted by the President; and

(3) propose legislation needed to carry out other recommendations of the Commission which are accepted and notify the Congress of the reasons for those recommendations which are rejected.

(f) At least once every six months for two years after submission, the Comptroller General shall report to the Congress on the status of actions taken on the Commission's final report.

MEMBERSHIP OF THE COMMISSION

SEC. 7. (a) The Commission shall be composed of 15 members consisting of—

(1) three members appointed by the President pro tempore of the Senate, two from the Senate who will not be members of the same political party and one from outside government;

(2) Three members appointed by the Speaker of the House of Representatives, two from the House of Representatives who shall not be members of the same political party and one from outside government;

(3) Two members, appointed by the President of the United States, from officials of State government who shall not be members of the same party;

(4) Two members, appointed by the President of the United States, from officials of local government who shall not be members of the same party;

(5) the Comptroller General of the United States;

(6) the Director of the Office of Management and Budget;

(7) One member appointed by the President of the United States, from the community of College and University administrators;

(8) Two members, appointed by the President of the United States from outside government who shall have a publicly recognized expertise in the management of governmental services from the journalistic, legal or other professions.

(b) The Commission shall select a Chairman and a Vice Chairman from among its members.

(c) Eight members of the Commission shall constitute a quorum.

(d) Any vacancies in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 8. (a) Except as provided in subsection (b), members of the Commission shall each receive as compensation the daily equivalent of the annual rate of basic pay in effect for grade GS–18 for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(b) Members of the Commission who are Members of Congress or who are full-time officers or employees of the United States shall receive no additional compensation for their service on the Commission.

(c) While away from their homes or regular places of business in the performance of service for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

POWERS OF THE COMMISSION

SEC. 9. (a) The Commission, or at its direction, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of the Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence and administer such oaths, as the Commission or such subcommittee or member may deem advisable. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such subcommittee or member.

(b)(1) The Commission may require by subpoenas the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers and documents as the Commission may deem advisable. Subpoenas may be issued under the signature of the Chairman or Vice Chairman and may be served by any person designated by the Chairman or Vice Chairman. The subpoenas of the Commission shall be served in a manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(2) If a person issued a subpoena under paragraph (1) is guilty of contumacy or refuses to obey such subpoena, any district court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may, upon application made by the Attorney General of the United States, order such person to appear before the Commission or a subcommittee or member thereof, to produce evidence or to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by such court as a contempt thereof.

(3) Notwithstanding paragraphs (1) and (2), a person shall be excused from testifying or from producing such books, records, correspondence, memoranda, papers or documents or other evidence in obedience to a subpoena if such person states in writing to the court offering his attendance and testimony that the required testimony or evidence may tend to incriminate him or subject him to a criminal penalty.

(c) The Commission may appoint and fix the compensation of such personnel as it deems advisable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not to exceed the maximum rate authorized by the General Schedule. In addition, the Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for the maximum rate authorized by the General Schedule.

(d) The Commission is authorized to negotiate and enter into contracts with public or private organizations and educational institutions to carry out such studies and prepare such reports as the Commission determines are necessary in order to carry out its duties.

SUNSHINE PROVISIONS

SEC. 10. (a) Each meeting of the Commission, or any committees or subcommittees thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the Commission or committee or subcommittee, when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of Commission staff personnel or internal staff management and procedures;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

Whenever any hearing conducted by the Commission or committee or subcommittee thereof is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the Commission may adopt.

(b) Whenever disorder arises during a Commission meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a member. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the Commission may act in closed session for so long as there is doubt of the assurance of order.

(c) The Commission shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceedings of each meeting whether or not such meeting or any part thereof is closed unless the majority of the members of the Commission or committee or subcommittee thereof vote to forgo such a record.

(d) Public notice of all Commission meetings for the purpose of establishing recommendations shall be given not less than ten days prior thereto.

(e) To the maximum extent practicable, the Commission shall provide for public review of recommendations to be made in its final report prior to submission as provided for in section 3 of this Act.

COOPERATION WITH FEDERAL AGENCIES

SEC. 11. (a) Each department, agency, instrumentality or other authority of the Federal Government is authorized and directed to furnish to the Commission, upon request made by the Chairman, such data, reports, and other information not otherwise prohibited by law as the Commission deems necessary to carry out its functions under this Act.

(b) The head of each department, agency, instrumentality or other authority of the Federal Government is authorized to provide

to the Commission such services as the Commission requests on such basis, reimbursable or otherwise, as may be agreed between the department or agency and the Chairman or Vice Chairman of the Commission. All such requests shall be made by the Chairman or Vice Chairman of the Commission.

TERMINATION OF THE COMMISSION

SEC. 12. One hundred and twenty days after submission of the final report provided for in section 6 of this Act, the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. There are hereby authorized to be appropriated to the Commission such sums as may be necessary to carry out the provisions of the Act.

By Mr. NELSON:

S. 3360. A bill to authorize employees and agencies of the Government of the United States to experiment with flexible and compressed work schedules. Referred to the Committee on Post Office and Civil Service.

COMPRESSED AND FLEXIBLE WORK SCHEDULE EXPERIMENTS IN FEDERAL AGENCIES

Mr. NELSON. Mr. President, today I am introducing legislation to provide for a 3-year experimental study of flexible and compressed work schedules in executive agencies of the Government. The House Post Office and Civil Service Committee already has considered similar legislation and on April 12, 1976, reported a bill to the full House (Rept. No. 94–1033).

The use of a flexible or compressed work hours program is not a new idea or concept. It has been tested and is being used in many Western European and Scandinavian countries. In this country, the General Accounting Office has reported that 3,000 organizations employing over 1 million workers have implemented a 4-day, 40-hour workweek. Statistics from the Civil Service Commission show that the Federal Government has 28,000 employees from 30 different organizations engaged in limited flexible work hours programs. And various efforts to establish alternative working schedules in the private sector also are well underway.

Just a few weeks ago, for example, three corporations—the Nestle Co., Control Data, and Northwestern Mutual Insurance Co.—testified about their flexible work hours programs at a hearing of the Senate Labor and Public Welfare's Subcommittee on Employment, Poverty, and Migratory Labor. Each of these companies expressed satisfaction with their flexitime programs, and in the words of one of the witnesses, "everybody gained, nobody loses" with a flexible work hours program.

As measured by absenteeism, job satisfaction and staff turnover, each of the companies reported favorable results with their flexitime programs. And, each of the companies was very optimistic about the application of alternative work schedules to the public sector.

Under current Federal statutes, however, the use of flexible and compressed work hours employment in the Federal sector is limited because the Fair Labor Standards Act and title 5 of the United States Code require overtime pay for work in excess of 8 hours a day and 40 hours a week. This bill, in part, will modify certain provisions of these laws that prohibit experimentation of flexible and compressed hours programs in governmental agencies. This will allow the Federal Government to study, under carefully controlled conditions, alternatives to traditional work schedules. The General Accounting Office, the Civil Service Commission, and numerous individuals, private organizations and Government agencies all have recommended changing these provisions of the law.

With the establishment of an experimental program, it will be possible to evaluate the effects of flexible and compressed work schedules on energy usage, commuter traffic, utilization of mass transit facilities, service to the public and efficiency of Government operations.

The initiation of such an experimental program also would give individuals with special problems such as physical handicaps, child-care or other family responsibilities an opportunity for gainful exployment in executive agencies. Right now, many of these individuals cannot conform to traditional work schedules and therefore are excluded from the Federal work force.

Mr. President, a rather succinct emplanation of alternative work schedules was printed in the House report filed with H.R. 4093 on April 12. So that Members and the public understand what kinds of experiments would be possible under this legislation, I ask unanimous consent that this explanation be printed in the RECORD.

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

EXPLANATION OF ALTERNATIVE WORK SCHEDULES

The flexible work schedule

The basic concept of flexible work schedules is a simple one. Fixed times of arrival and departure are replaced by a working day which is composed of two different types of time: core time and flexible time. Core time is the designated number of hours during which all employees must be present. Flexible time is all the time designated as part of the schedule of work hours within which employees may choose their time of arrival and departure from the office within limits consistent with the duties and requirements of their positions.

The two basic elements of flexible work schedules are that (1) the employee must be present during core time and (2) the employee must account for the total number of required hours within a specified time period. Beyond this, the precise working hours are established consistent with the accomplishment of the organization's operational responsibilities and providing for some degree of employee choices consistent with these responsibilities. There can be many variations of flexible work schedules. Currently, however, the configurations which may be introduced in the Federal Government are extremely limited because of statutory constraints.

While only the best basic versions of flexible work schedules can presently be introduced, these offer flexibility and advantages not available under fixed-hour schedules. Following are examples of the flexible hour schedules currently being tested within the Federal Governmnt. For the sake of illustration, the following hours of operation will be presumed: Office open from 6:00 a.m. to 6:00 p.m. and a core time established each day from 10:00 a.m. to 2:00 p.m.

(a) *The scheduled floating day.*—The employee pre-selects his or her arrival time within the flexible time band, in this case 6:00 a.m. to 10:00 a.m. Once selected, this becomes the employee's fixed schedule until the next selection period.

(b) *The flexible floating day.*—Just as in the previous instance, the employee selects an arrival and departure time within the flexible time band; however, he or she is free to vary this time between the hours of 6:00 a.m. and 10:00 a.m. to the extent this is consistent with and supportive of the mission of the organization, so long as the employee is present during the core time and completes an eight-hour day.

No additional flexibility is permissible under current law. Even the concept of the Flexible Floating Day has been implemented through regulations and laws which never envisioned this type of arrangement and are not particularly well suited to its implementation.

The following are examples of the major types of variations which could be tested. For purposes of these examples the same hours of operation as were used earlier will be presumed.

(a) *The flexible or variable day.*—A core time may be established on each day on which the organization will be open for business, or it may be established only on certain of these days, depending upon the degree of flexibility which is desired. The employee is permitted to vary the length of each day within prescribed limits within the hours of operation, so long as he or she is present during the core time and completes the basic 40 hours within the work nine hours one day and seven hours the next in order to more effectively perform the job and to permit accommodation to a particular requirement in his or her personal life.

(b) *The flexible or variable biweekly pay period.*—This is perhaps the most flexible of the work schedules and may be particularly well suited to research and development activities and jobs requiring little interaction with others or where interaction is largely self-initiated by the employee. In this configuration, the employee has the option to vary within prescribed limits, not only the length of each day, outside of the prescribed core time, but also the length of each workweek. This is accomplished by building up an account of "credit hours," within a biweekly pay period which may be applied against the required number of hours in succeeding weeks. For example, an employee might choose to work 50 hours in one week in order to work 30 hours the following week.

In each of these illustrations it is assumed that the establishment of the operational hours and the core times are consistent with organizational requirements and mission objectives.

The compressed work schedule

The compressed work schedule is distinctly different in concept from a flexible work schedule, but each represents an alternative to the traditional, scheduled five-day workweek.

The most popular form of the compressed work schedule is the four-day, ten-hours per day model. However, a compressed work schedule can be any schedule which is established over less than five full days each week. It may be three, four or four and one-half days. Among the newer configurations of compressed work schedules is the "5-4/9 plan." In this arrangement, the employee works approximately nine hours per day for five days the first week and nine hours per day for four days the second week. Under

this model, the employee receives 26 additional days off each year and each work day is extended by only one hour. By alternating the work force as to days off under any compressed work schedule, service can be maintained five days a week if that is considered desirable. The compressed work schedule has the practical effect of extending the length of each work day to some level beyond eight hours, while reducing the total number of days or portions of days during which work is performed by an individual employee.

Mr. NELSON. There are two key features of this bill which are different from the one approved by the House Post Office and Civil Service Committee on April 12.

First of all, the House Committee bill mandates that every executive agency initiate a program to provide flexibility in the scheduling of work hours. This provision has been strongly objected to by the Civil Service Commission because it would violate the purposes of a carefully controlled study and make the systematic administration of such a program difficult. Based on these considerations, the bill I have introduced allows Federal agencies to determine voluntarily whether or not they will participate in the experimental program.

Second, in the House Committee bill, the Civil Service Commission is given authority only to provide educational material, technical aids, and assistance to participating executive agencies in establishing an alternative work hours program. That authority, in my opinion, is insufficient to insure the effective and efficient implementation of a test program.

This bill gives the Civil Service Commission direct responsibility for the development, installation, and evaluation of the 3-year test program.

As this legislation is written, the Civil Service Commission would be required to develop, within 6 months after enactment of the legislation, a comprehensive plan to provide for the establishment of flexible and compressed work schedule experiments within executive agencies. While developing the comprehensive plan, the Civil Service Commission would be required to consult with the Federal Energy Administration, the Environmental Protection Agency, the Department of Transportation, the General Services Administration, the Department of Labor, and the Department of Housing and Urban Development.

In developing the comprehensive plan, the Civil Service Commission would have to include a sufficient number of program experiments to provide a representative sample of organizations of different activity, size, and geographic location and to permit adequate testing of the impact of these schedules on such factors as Government operations, service to the public, mass transit facilities, energy consumption, and increased full-time, part-time and job-sharing opportunities. And, the Commission would be required to take into account the present and past efforts in the private and public sectors to rearrange work schedules. This provision would provide a procedural safeguard to help prevent repetitious and unproductive efforts from occurring.

In order to insure the successful implementation of an experimental alternative work hours program, the Civil Service Commission is required by this legislation to monitor and modify the comprehensive plan on a continuing basis.

After the comprehensive plan is completed and approved by the Civil Service Commission, every executive agency head and chief personnel officer would receive a copy of the plan to help them determine whether or not that agency should participate in the experimental program. Every agency would be required to reply back to the Civil Service Commission within 45 days after the receipt of the plan insuring that every agency would at least consider the possibility and potential of a flexible or compressed work hours program.

Both of these provisions—making the flexible hours program in executive agencies voluntary and giving the Civil Service Commission authority to develop, install, and evaluate such an experimental program—make improvements on what already is a very good bill. And I am hopeful the Senate Post Office and Civil Service Committee can focus on these two provisions when it considers this legislation.

Like the House bill, this legislation permits Federal employees flexibility in the scheduling of their work hours only to the extent consistent with the fulfillment of the duties and requirements of their positions. It insures that an employee receives premium pay for any work which constitutes overtime under the flexible or compressed schedule and it prohibits Federal employees from being coerced into participating in a flexible or compressed schedule experiment. And, the bill also includes a provision that makes these alternative work schedules the province of collective bargaining where employees are organized into an exclusively recognized labor unit.

Mr. President, the need for this kind of legislation has been well documented in congressional hearings before the House and the Senate. With a 2.8-million-person work force, the Federal Government is the largest employer in the United States. Potentially, it is one of the most fertile testing grounds for experimenting with programs that improve the quality of working life. Right now there is a very good opportunity to test flexible and compressed work schedules in the Federal Government, and I am hopeful this legislation can move forward in the Senate Post Office and Civil Service Committee as soon as possible.

By Mr. PEARSON:

S. 3361. A bill to provide for the striking of medals commemorating the American Indian heritage. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. PEARSON. Mr. President, today, I am introducing legislation that would authorize the U.S. Bureau of the Mint to strike a commemorative medal to recognize the historical, cultural, and social contributions of American Indians.

This commemorative medal will be used to commemorate the opening of the Mid-America All-Indian Center in Wichita, Kans. This center is a nonprofit organization formed by members of the Indian community. Its purpose is to serve the needs of all Indian people and to perpetuate and share the Indian cultural heritage with the non-Indian community. The Mid-America All-Indian Center is significant not only to the people of Kansas but to all native American Indians and has been officially recognized by the American Revolution Bicentennial Administration for its Bicentennial significance.

The Mid-America All-Indian Center will provide a National Center for Indian Social Services and Cultural Heritage through an Urban Social Services Center and a National Cultural Center. The Urban Social Services Center is designed to stimulate the educational and economic advancement of American Indian people through programs in manpower training, health related services, social services, and Indian arts and crafts programs.

The National Cultural Center will serve to preserve and perpetuate the cultural heritage and current tribal cultures of all Indian people. It will provide a National Museum and Library of North American Indians, programs for instruction and exhibition of Indian arts and crafts, arenas for social and cultural activities, and a permanent outdoor exhibition area for displaying authentic Indian lodging and living areas representative of tribal cultures nationwide.

Today, there is an increasing interest in Indian culture as an increasing number of Indian people are looking for involvement and cultural identity. The National Cultural Center and Urban Social Service Centers will serve to meet these needs by preserving the cultural heritage of the Indian people both locally and nationally. Moreover, it will provide for improved education and understanding between Indian and non-Indian cultures.

Mr. President, commemorative medals must be national in character, significant to all people, and they must honor events contributing to the advancement of the history of the country or individuals who have performed superior deeds or achievements in their services to the Nation. Certainly, no single group better fits these criteria than the American Indian.

Presently, there are no other efforts being made for a Bicentennial commemorative medal to honor the Indian people of our Nation. I believe it is appropriate that we have such a medal; and, in doing so, to provide for the preservation and dissemination of our Indian culture through a National Indian Center.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD.

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

S. 3361

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

America in Congress assembled, That (a) in commemoration of the American Indian heritage, the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall strike and deliver to the Mid-America All-Indian Center, Incorporated, of Wichita, Kansas (hereinafter in this Act referred to as the "center"), not more than one hundred thousand sterling silver and bronze medals 1-5/16 inches in diameter, with suitable emblems, devices, and inscriptions to be determined by the center, subject to approval by the Secretary.

(b) Such medals—

(1) are national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368); and

(2) may be disposed of by the center at a premium.

SEC. 2. (a) Except as provided in subsection (b), the medals authorized to be struck and delivered under section 1 shall be delivered at such times as may be required by the center in quantities of not less than two thousand, but no such medals shall be struck after December 31, 1977.

(b) The Secretary shall deliver—

(1) five hundred sterling silver medals, the first two hundred and fifty of which shall be numbered in sequence, and

(2) five thousand bronze medals,

by May 23, 1976, or as soon thereafter as is feasible, in order that such medals may be used in conjunction with the center's grand opening week.

SEC. 3. The Secretary shall cause the medals authorized to be struck and delivered under section 1 to be struck and delivered at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, and security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for the full payment of such costs.

By Mr. SPARKMAN (by request):

S. 3362. A bill to provide authorization for a U.S. contribution to the International Atomic Energy Agency in support of its safeguards activities and for other purposes. Referred to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill to provide authorization for a U.S. contribution to the International Atomic Energy Agency in support of its safeguards activities and for other purposes.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their comments and attention.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when it is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill and a justification be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated April 21, 1976.

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

S. 3362

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 "International Atomic Energy Agency Safeguards Activities Act of 1976".

SEC. 2. It is the policy of the United States to strengthen the Safeguards program of the International Atomic Energy Agency and in order to implement this policy to contribute funds to assist the Agency in meeting the challenge of effectively implementing nuclear safeguards at a time when international utilization of nuclear power for growing energy needs is rapidly increasing.

SEC. 3. There is hereby authorized to be appropriated $5,000,000 for contributions to the International Atomic Energy Agency toward its Safeguards activities, which amount is authorized to remain available until expended: *Provided*, That such sums shall be in addition to any other contribution to the International Atomic Energy Agency by the United States pursuant to any other provision of law.

DEPARTMENT OF STATE,
Washington, D.C., April 21, 1976.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith proposed legislation which would implement the President's decision, announced in his Energy Message to Congress of February 26, 1976, "that the US should make a contribution of up to $5 million in the next five years to strengthen the safeguards program of the International Atomic Energy Agency." The proposed legislation would authorize the appropriation of up to $5 million over a period of five years (FY 1977–81) to the Department of State for contribution to the International Atomic Energy Agency to strengthen its safeguards program.

The contribution would promote US national interests by strengthening the capacity of the International Atomic Energy Agency to fulfill its important role in preventing nuclear proliferation by deterring the diversion of nuclear materials to nonpeaceful purposes. A detailed justification explaining the proposed authorization is enclosed.

A budget amendment in the amount of $1 million for fiscal year 1977 to cover the initial installment of the proposed five-year contribution is being prepared for transmittal to the Congress in the near future.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed authorizing legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

JUSTIFICATION

The proliferation of nuclear weapons is one of the most ominous dangers threatening the peace of the world and the security of the United States. The threat of proliferation is growing as more nations, induced by the rise in costs of fossil fuels, look to nuclear energy to satisfy their power needs. Our international nuclear policies are designed to avoid this danger through a cooperative approach which recognizes the need to supply material and equipment to serve nuclear energy needs under strict safeguards and controls. Our principal multilateral instruments for avoiding proliferation remain the Non-Proliferation Treaty and the safeguards of the International Atomic Energy Agency. These safeguards entail techniques to account for nuclear materials reinforced by containment and surveillance measures, including periodic and sometimes continual inspections. They are designed to prevent the diversion of nuclear material by the risk of early detection.

The task of the International Atomic Energy Agency in implementing its safeguards is becoming increasingly more formidable as it is called upon to assume responsibility for more complex facilities and increasing volumes of nuclear material. It is essential that during this growth process the IAEA be capable of maintaining the vigilance necessary to detect any diversion of nuclear material from peaceful purposes.

Accordingly, given the central importance of the Agency's system to US non-proliferation objectives, it is in the US national interest to supplement the regular sums expended on safeguards by the Agency in sufficient amount to strengthen the safeguards program during its period of expansion. The President therefore announced, in his Energy Message to Congress of February 26, 1976, his decision that the US should make a special contribution of up to $5 million in the next five years to strengthen the safeguards program of the International Atomic Energy Agency.

This initiative, designed to enhance the Agency's capability to perform its rapidly expanding safeguards task with increased effectiveness, emphasizes promising technical areas of safeguards development in which the United States would help support defined incremental activities. These include training, safeguards information system modifications and improvements (Automated Data Processing), instrument development and operational testing, safeguards criteria and related studies, and such other activities as experience and consultations with Agency representatives would indicate to be appropriate.

This authorization would provide for the total $5 million cost of the proposed safeguards program over its five-year duration. Annual appropriations of about $1 million each would be required to effectuate the program.

By Mr. STEVENS:

S. 3363. A bill to amend title 5 of the United States Code to provide vacation leave for residents of Alaska serving a tour of duty at a hardship station in Alaska. Referred to the Committee on Post Office and Civil Service.

Mr. STEVENS. Mr. President, today I am introducing legislation which would end the current inequitable treatment accorded certain civil service employees in Alaska by the Federal Government.

Presently, a Federal employee recruited outside the State of Alaska for duty in my State is provided a trip back to his home in the "lower 48" for himself and his family every 2 years, at Federal expense, after his initial tour of duty. This authorization is contained in subsection 5728(a) of title 5 which provides that, under such regulations as the President may prescribe, an agency shall pay the expenses of round-trip travel of an employee and the transportation of his immediate family from his post of duty outside the continental United States to the place of his actual residence at the time of appointment or transfer for vacation leave when he has satisfactorily completed a prescribed tour of duty and has agreed to serve another at the same or another post of duty outside the continental United States.

Unfortunately, Alaskans who sign up for a tour of duty in a remote section of my State are not accorded this same benefit. Consequently, there is an untenable situation in which two Federal employees, working side by side in a remote section of my State, doing the

same job, working the same number of hours, are treated and paid differently. The employee recruited in the "lower 48" has transportation for him and his family to his home in the "lower 48" paid. This transportation cost or special benefit for these employees can be considerable, depending on the employee's family.

Now, the Alaskan who may have signed up, say in our largest city of Anchorage, for a remote duty assignment at Adak on the Aleutian chain does not have this fringe benefit. He is not paid the same salary for the same work. This policy has created a second-class citizen of certain Federal employees simply because they happen to have been residents of the State of Alaska prior to their signing up for service in a remote area.

This situation has created a serious morale problem, causing friction between Alaskans and the non-Alaskans.

My bill would allow for this same citizen from Anchorage who signed up for duty in Adak to receive this turnaround leave benefit to his point of origin, Anchorage, under the same rules and guidelines as now governs those Federal employees recruited outside my State. The remedy for this inequity is too long overdue. The General Accounting Office has stated:

> Limiting the benefits to persons with original residences in the continental United States appears to be inequitable to native Alaskans who are employed by the Government.

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

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

S. 3363

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5728 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Under such regulations as the President may prescribe, an agency shall pay from its appropriations to an employee whose actual place of residence is in Alaska at the time of his appointment or transfer to a post of duty in Alaska which is designated as a hardship station the expenses of round-trip travel of such employee, and the transportation of his immediate family, but not household goods, from such post of duty to such place of residence after such employee has satisfactorily completed an agreed period of service at such post of duty and is returning to such place of residence to take leave before serving another tour of duty at the same or another post of duty at a hardship station in Alaska or at another post of duty outside of the continental United States and Alaska under a new written agreement made before departing from such post of duty.".

(b) The amendment made by subsection (a) applies to employees serving at a post of duty at a hardship station in Alaska on and after the date of enactment of this Act.

By Mr. KENNEDY (for himself, Mr. BUCKLEY, Mr. PHILIP A. HART, and Mr. HUGH SCOTT):

S. 3364. A bill to revise the economic regulation of air transportation. Referred to the Committee on Commerce.

AIR TRANSPORTATION ACT OF 1976

Mr. KENNEDY. Mr. President, I am today introducing the Air Transportation Act of 1976. This bill is designed to reform Federal economic regulation of the airline industry.

The Subcommittee on Administrative Practice and Procedure, which I chair, spent 18 months studying how the Civil Aeronautics Board regulates entry, pricing and other aspects of the airlines industry. The subcommittee found that most scheduled air fares are much higher than they would be without rigid regulation and that strict price and entry controls serve no important public purpose. The subcommittee issued a unanimous report in February of this year. The subcommittee report concluded that Congress should enact legislation designed to encourage price competition, and easier entry into the industry. The report further recommended that a policy that relies heavily upon competition should be introduced gradually to allow a reasonable transition period for the industry to adjust. The Air Transportation Act of 1976 implements the major recommendations of the subcommittee report.

The Senate Aviation Subcommittee on April 6 began hearings on legislative proposals to reform CAB regulation. I testified before the Aviation Subcommittee on that date at which time I presented an earlier but essentially similar draft of the Air Transportation Act. There is no need to repeat here, Mr. President, what was said there. I would like to point out, however, that since my testimony before the Aviation Subcommittee, the CAB itself has endorsed the major recommendations of the Administrative Practice and Procedure Subcommittee's report. The CAB also recommended congressional action to implement new competitive policies.

Since these concepts have long since been endorsed by President Ford and the administration, there is now unanimity among the branches and agencies of Government which have recently studied airline regulation. The only area of question concerns the precise form legislation should take. President Ford, the CAB, and I have presented legislation proposals. The bill I am introducing today, Mr. President, is, in my view, more comprehensive and better designed to bring about the low air fares and healthy industry that is in everyone's interest. I hope that the legislation I introduce today will be acted upon in this Congress.

I ask unanimous consent to have printed in the RECORD the Air Transportation Act of 1976, its summary and section-by-section analysis, and my remarks of April 6 before the Senate Aviation Subcommittee.

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

S. 3364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Air Transportation Act of 1976".

TABLE OF CONTENTS OF THE AIR TRANSPORTATION ACT OF 1976

TITLE I—GENERAL PROVISIONS

Sec. 101. Amendments to the Federal Aviation Act of 1958.

Sec. 102. New Definitions to Expand Charter Air Transportation.

(a) Advance purchase charter.

(b) Inclusive tour charter.

(c) Supplemental air carrier.

(d) Supplemental air transportation.

(e) Renumbering of definition paragraphs.

Sec. 103. Revision of Declaration of Policy.

Sec. 104. Effective date of this title.

TITLE II—REVISION OF PRESENT REGULATION AND LIMITATION TO FOREIGN AIR TRANSPORTATION

Sec. 201. Redesignation of present "Title IV" as "Title IV–A".

Sec. 202. Limitation of Title IV–A to Foreign Air Transportation.

Sec. 203. Revision of the certificates of public convenience and necessity—Section 401 of the Act.

(a) Notice and disposition of application.

(b) Deletion of limitation imposed on 401 (d) (1) and (2) certificates.

(c) Joint supplemental and scheduled authority.

(d) Certain conditions prohibited.

(e) Certain restrictions upon charter service prohibited.

Sec. 204. Revision of postal ratemaking elements.

Sec. 205. Effective dates of provisions of this title.

TITLE III—ECONOMIC REGULATION OF DOMESTIC AIR TRANSPORTATION: NEW SUBTITLES IV–B (PERMANENT) IV–C—(TRANSITION)

Sec. 301. Amendment to Table of Contents.

Sec. 302. Addition of new subtitles IV–B (permanent provisions relating to interstate and overseas air transportation) and IV–C (transitional provisions relating to interstate and overseas air transportation).

Sec. 303. Amendments to Subtitle 10 of the Act—Repeal of certain subsections of section 1002—Board Ratemaking Authority.

Sec. 304. Expansion of Postal Service Contract Authority.

Sec. 305. Effective Dates of Provisions of this title.

TITLE I—GENERAL PROVISIONS

AMENDMENT TO THE FEDERAL AVIATION ACT OF 1958

SEC. 101. Except as otherwise provided, wherever in this Act an amendment is expressed in terms of an amendment to or deletion of or addition after a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Aviation Act of 1958, 72 Stat. 731, as amended.

NEW DEFINITIONS TO EXPAND CHARTER AIR TRANSPORTATION

Advance purchase charter

SEC. 102. (a) Section 101 is amended by renumbering paragraphs (2) through (19) thereof as paragraphs (3) through (20) and by inserting after paragraph (1) the following new paragraph:

"(2) 'Advance-purchase charter' means a charter trip arranged pursuant to a contract between an air carrier or foreign air carrier and a person acting as a charter organizer, and sold by such charter organizer to members of the general public on an advance purchase basis."

Inclusive tour charter

(b) Section 101 is further amended by renumbering paragraphs (20) through (34) as paragraphs (22) through (36), and by inserting after paragraph (20) the following new paragraph:

"(21) 'Inclusive tour charter' means a charter trip which combines air transportation, pursuant to a contract between an air carrier or foreign air carrier and a person selling inclusive tours, and land arrangements at one or more points of destination, sold to members of the public."

Supplemental air carrier

(c) Section 101 is further amended by amending paragraph (35) to read as follows:

"(37) 'Supplemental air carrier' means an air carrier holding a certificate authorizing it to engage in supplemental air transportation."

"SUPPLEMENTAL AIR TRANSPORTATION

(d) Section 101 is further amended by amending paragraph (36) to read as follows:

"(38) 'Supplemental air transportation' means charter trips, including advance-purchase charter trips, inclusive tour charter trips, and other types of charter trips as authorized by the Board."

"RENUMBERING OF DEFINITION PARAGRAPHS

(e) Section 101 is further amended by renumbering paragraphs (37) through (38) as paragraphs (39) through (40).

REVISION OF DECLARATION OF POLICY

SECTION 103. (a) Section 102 is amended to read as follows:

"DECLARATION OF POLICY: THE CIVIL AERONAUTICS BOARD

"SECTION 102. In the exercise and performance of its powers and duties under this Act, the Civil Aeronautics Board shall consider the following among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(a) The encouragement and development of a sound air transportation system responsive to the public need for adequate, efficient, low-cost service, and adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

"(b) The regulation of air transportation in such manner so as to provide reasonable wages, costs, working conditions, and profits in, and to provide reliable public service from air transportation and coordinate transportation by air carriers;

"(c) The promotion of adequate, economical, and efficient service by air carriers at reasonable prices, primarily through maximum feasible reliance upon price and service competition both among existing air carriers and with new air carriers.

"(d) Regulation in a manner that encourages to the extent practicable maximum reliance on price and service competition in foreign air transportation, with appropriate recognition of the differences between interstate and overseas air transportation on the one hand, and foreign air transportation, on the other;

"(e) The promotion, encouragement and development of safety in air commerce.

EFFECTIVE DATE OF THIS TITLE

SEC. 104. The provisions of this title shall become effective upon enactment of the "Air Transportation Act of 1976".

TITLE II—REVISION OF PRESENT REGULATION AND LIMITATIONS TO FOREIGN AIR TRANSPORTATION

REDESIGNATION OF PRESENT "TITLE IV" AS "SUBTITLE IV–A"

SEC. 201. Strike the words, "Title IV—Air Carrier Economic Regulation," where they appear in the table of contents and immediately before Sec. 401 and insert in their place, "Title IV–A—Economic Regulation: Foreign Air Transportation."

LIMITATION OF SUBTITLE IV–A TO FOREIGN AIR TRANSPORTATION

SEC. 202. Add a new section 400 before section 401 as follows:

"SEC. 400. The provisions of subtitle IV–A shall apply only to the regulation of foreign air transportation."

REVISION OF THE CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

Notice and disposition of application

SEC. 203. (a) Amend section 401(c) to read as follows:

"(c) Upon the filing of such application, the Board shall give notice to the public. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a certificate. To the extent necessary to resolve a genuine and material issue of fact, such application shall be set for a public hearing on the record. Otherwise, it shall be granted or dismissed within 60 days of filing. Any such order of dismissal shall be deemed a final order of dismissal subject to judicial review. The Board shall dispose of any application set for hearing within 240 days of the filing. If the application has not been disposed of within 240 days, it shall be deemed to have been granted, unless the Board finds that the failure to dispose of the application was due in substantial part to the dilatory behavior of the applicant.

Joint supplemental and scheduled authority

(b) Strike out in the first sentence of paragraph (3) of subsection 401(d) the following: ". . . to any applicant not holding a certificate under paragraph (1) or (2) of this subsection . . ."

(c) Add new paragraph (4) at the end of subsection 401(d) to read as follows:

"(4) An air carrier holding or applying for any certificate under this Act may hold or apply for any other certificate under this Act."

Certain conditions prohibited

(d) In paragraph (1) of subsection 401(e) strike the period and insert a colon and at the end thereof add the following new sentence:

"Provided, however, that the Board may not impose a closed-door, single-plane service, mandatory stop, or long-haul restriction in interstate or overseas air transportation on any new certificate or amendment to an existing certificate of an air carrier."

Certain restrictions upon charter service prohibited

(d) Add a new paragraph 401(e)(7) as follows:

"(7) Regulations governing advance purchase charter trips shall not require that participants purchase the transportation or pay any deposit more than thirty days prior to departure, prohibit the charter organizer from selling up to twenty-five percent of the seats at any time prior to the departure date, require a prorated price, prevent the organizer from assuming the commercial risk of the venture, require that the trip exceed three days in the Western Hemisphere or seven days in other areas, impose any maximum length of stay requirements or otherwise unduly restrict the availability or marketability of such charters. An inclusive tour charter trip shall be sold at a price which is just and reasonable for the charter air transportation and just and reasonable for the land arrangements. A supplemental air carrier may not sell or offer for sale an inclusive tour charter trip in air transportation by selling or offering for sale individual tickets directly to members of the general public, and may not control or be under the control of a person authorized by the Board to make such sales unless, upon application and after notice and hearing, the Board approves such selling and offering, or such relationship of control."

REVISION OF POSTAL RATEMAKING ELEMENTS

SEC. 204. Strike subsection 405(b) and insert in lieu thereof the following new subsection 405(b):

"(b) Each air carrier shall, from time to time, file with the Board and the Postmaster General a statement showing the points between which such air carrier is authorized to engage in air transportation and all schedules, and all changes therein, of aircraft regularly operated by the carrier between such points, setting forth in respect to each such schedule the points served thereby and the time of arrival and departure at each such point. The Postmaster General may designate any such schedule for the transportation of mail between the points between which the air carrier is authorized by its certificate to transport mail or otherwise serves. No change shall be made in any schedules designated except upon ten days' notice thereof as herein provided. No carrier shall transport mail in accordance with any schedule other than a schedule designated under this subsection for the transportation of mail."

EFFECTIVE DATES OF PROVISIONS OF THIS TITLE

SEC. 205. The provisions of this title shall become effective 180 days after enactment of this Act, except as otherwise provided by sections 480 and 481 of the Federal Aviation Act of 1958, as amended by section 302 of this Act.

TITLE III—ECONOMIC REGULATION OF DOMESTIC AVIATION: SUBTITLES IV–B—(PERMANENT) AND IV–C—(TRANSITIONAL)

AMENDMENT TO TABLE OF CONTENTS

SEC. 301. Insert in the table of contents at the appropriate point the following new listings:

"SUBTITLE IV–B—ECONOMIC REGULATION: DOMESTIC AIR TRANSPORTATION

"SEC. 450. Limitation to domestic air transportation.
"SEC. 451. Certificate of fitness.
"(a) Certificate required.
"(b) Application.
"(c) Notice and hearing.
"(d) Issuance of certificate.
"(e) Terms and conditions.
"(f) Effective date and duration.
"(g) Continuing requirements.
"(h) Suspension and revocation.
"(i) Transfer of certificate prohibited.
"(j) Certain rights not conferred by certificate.
"(k) Compliance with labor legislation.
"Sec. 452. Insurance and Bonding.
"(a) Insurance.
"(b) Bonding.
"SEC. 453. Accounts, records, and reports.
"(a) Filing of reports.
"(b) Disclosure of stock ownership.
"(c) Disclosure of stock ownership by officer or director.
"(d) Form of accounts.
"(e) Inspection of accounts and property.
"SEC. 454. Filing of intercarrier agreement.
"(a) Power to inquire and obtain reports.
"(b) Prohibited interlocking relationships.
"(c) Profit from transfer of securities.
"SEC. 455. Tariffs of air carriers.
"Sec. 456. Tariffs of air carriers.
"(a) Filing of tariffs required.
"(b) Observance of tariffs.
"(c) Changes in tariffs.
"(d) Filing of divisions of rates and charges.
"(e) Flexible tariffs.
"(f) Board authority to prescribe maximum rates and practices of air carriers.
"(g) Standards for Board ratemaking.
"(h) Suspension of rates.
"(i) Authority to prescribe divisions of rates.
"(j) Authority to establish through air transportation service.
"Sec. 457. Filing of schedules.
"Sec. 458. Common carrier duties.
"Sec. 459. Air carrier conduct.
"(a) Unfair and deceptive practices prohibited.
"(b) Regulations.
"(c) Certain practices prohibited.
"(d) Authority to investigate.
"SEC. 460. Alteration or discontinuance of air service.

"SEC. 461. Transportation of mail.
"(a) Postal rules and regulations.
"(b) Mail schedules.
"(c) Maximum mail load.
"(d) Tender of mail.
"(e) Foreign Postal Arrangement.
"(f) Transportation of Foreign Mail.
"(g) Evidence of performance of mail service.
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"SEC. 462. Rates for transportation of mail.
"(a) Authority to fix rates.
"(b) Ratemaking elements.
"(c) Payment.
"(d) Treatment of proceeds of disposition of certain property.
"(e) Statement of Postmaster General and carrier.
"(f) Weighing of mail.
"(g) Availability of appropriations.
"Sec. 463. Classification and exemption of carriers.
"(a) Classification.
"(b) Exemptions.
"SUBTITLE IV–C—ECONOMIC REGULATION: TRANSITION PERIOD
"Sec. 480. Continuance of certificates of public convenience and necessity until the fourth anniversary of the Air Transportation Act of 1976.
"(a) Continued Effectiveness of Section 401.
"(b) Effective Date of Section 451.
"Sec. 481. Continuance of Special Operating authorizations until the fourth anniversary of the Air Transportation Act of 1976.
"Sec. 482. Discretionary Expansion of Scheduled Service.
"(a) Effective date.
"(b) Limited discretionary authority for passenger carriers.
"(c) Limited discretionary authority for cargo carriers.
"(d) Carriage of mail and cargo.
"(e) Combination of discretionary authority and other authority.
"(f) Permissible rates.
"(g) Limitations upon rate increases.
"(h) Limitations upon reductions in service.
"(i) "Scheduled air transportation" defined.
"SEC. 483. Permanent certification for continuous operations.
"SEC. 484. Liberalization of authority to serve new routes.
"(a) Application.
"(b) Applicability of terms and conditions of section 401.
"(c) Grandfather rights.
"Sec. 485. Relaxation of restrictions on entry into the domestic airline industry.
"(a) Application.
"(b) Restrictions on operations of new entrants.
"(c) Applicability of section 482.
"(d) Exclusion of certain carriers.
"(e) Disposition of applications.
"(f) Effective date of this section.
"Sec. 486. Grandfather rights for obtaining certificates of fitness upon the fourth anniversary of the Air Transportation Act of 1976.
"Sec. 487. Carrier obligations regarding points served in March 1976 until the fourth anniversary of enactment of the Air Transportation Act of 1976.
"(a) Effective date.
"(b) Restrictions on reduction of service.
"(c) Filing of complaints.
"(d) Cooperation between air carriers.
"(e) Authority to require essential minimum service.
"(f) 'Direct costs' defined.
"Sec. 488. Carrier obligations regarding points served in March 1976 during the period from the fourth anniversary of the Air Transportation Act of 1976 until the tenth anniversary of that Act.
"(a) Effective date.
"(b) Restrictions on reduction of service.
"(c) Authority to require essential minimum service.
"(d) Carrier's right to recover losses.
"Sec. 489. Requirements regarding tariff filings.
"(a) Effective date.
"(b) Notice of certain tariff changes.
"(c) Board notice of tariff suspensions.
"Sec. 490. Guarantee of service to points served in March 1976 until the tenth anniversary of the Air Transportation Act of 1976.
"(a) Effective date.
"(b) Maintaining essential service.
"(c) General definition of essential air service.
"(d) Determination of essential minimum service to specific points.
"(e) Contract subsidy authority.
"(f) Procedure for awarding contracts.
"(g) Terms of subsidy contracts.
"(h) Encouragement of noncontract essential service.
"(i) Ineligibility for other subsidy payments.
"(j) Eligible participants.
"(k) Termination of contracting authority.
"Sec. 491. Review of the local service subsidy program.
"Sec. 492. Consolidation, merger, and acquisition of control of domesic air carriers until the tenth anniversary of the Air Transportation Act of 1976.
"(a) Effective date.
"(b) Acts prohibited.
"(c) Power of Board.
"(d) Interests in ground facilities.
"(e) Jurisdiction of accounts of noncarriers.
"(f) Investigation of violations.
"(g) Presumption of control.
"Sec. 493. Pooling and other agreements until the tenth anniversay of the Air Transportation Act of 1976.
"(a) Effective date.
"(b) Authority of the Attorney General and Secretary of Transportation.
"(c) Approval by Board.
"(d) Burden of proof.
"Sec. 494. Antitrust law immunity until the tenth anniversary of the Air Transportation Act of 1976.
"(a) Effective date.
"(b) Immunity conferred.
"(c) Projection of employees.
"Sec. 495. Transitional Board authority to prescribe rates and tariffs of air carriers until the fourth anniversary of the Air Transportation Act of 1976.
"(a) Effective date.
"(b) Board authority and fare flexibility."

ADDITION OF NEW SUBTITLES IV–B—(PERMANENT PROVISIONS RELATING TO INTERSTATE AND OVERSEAS AIR TRANSPORTATION) AND IV–C—(TRANSITIONAL PROVISIONS RELATING TO INTERSTATE AND OVERSEAS AIR TRANSPORTATION)

SEC. 302. Add new subtitles IV–B and IV–C, immediately following subtitle IV–A, as designated by sec. 201 of this Act, to read as follows:

"SUBTITLE IV–B—ECONOMIC REGULATION: DOMESTIC AIR TRANSPORTATION

"LIMITATION TO DOMESTIC AIR TRANSPORTATION

"SEC. 450. The provisions of this subtitle IV–B shall apply only to the regulation of interstate and overseas air transportation.

"Certificate of fitness

"Certificate Required

"SEC. 451. (a) No air carrier, except any air carrier exempted herefrom, shall engage in any interstate or overseas air transportation unless there is in effect a certificate of fitness issued by the Board authorizing such air carrier to engage in air transportation.

"Application

"(b) Application for a certificate of fitness shall be made in writing to the Board and shall be so verified, in such form, contain such information, and accompanied by such proof of service upon interested persons, as the Board shall by regulation require.

"Notice and Hearing

"(c) Upon the filing of such application, the Board shall give due notice to the public. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a certificate. To the extent necessary to resolve a genuine and material disputed issue of fact, such application shall be set for a public hearing on the record. Otherwise, it shall be granted or dismissed within 60 days of filing. Any order of dismissal shall be deemed a final order of dismissal subject to judicial review. The Board shall dispose of any application for a certificate of fitness within 180 days of the filing. If the application has not been disposed of within 180 days, it shall be deemed to have been granted, unless the Board finds that the failure to dispose of the application was due in substantial part to the dilatory behavior of the applicant.

"Issuance of Certificate

"(d) The Board shall issue a certificate of fitness upon a finding that the applicant is fit, willing, and able to perform the air transportation applied for.

"Terms of Certificate

"(e) Each certificate issued under subsection (d) shall authorize the holder to engage in scheduled and supplemental interstate and overseas air transportation between any points and shall not be restricted as to the type, nature, or frequency of service which may be provided between such points.

"Effective Date and Duration

"(f) Each certificate shall be effective until suspended or revoked, as hereinafter provided, or until the Board shall certify that operation thereunder has ceased.

"Continuing Requirements

"(g) Every holder of a certificate of fitness shall be under a continuing obligation to maintain its fitness, willingness, and ability to perform air transportation for which it has applied and which it holds itself out to the public as performing, and to conform to the provisions of this Act, and the rules and regulations thereunder.

"Suspension and Revocation

"(h)(1) The Board shall by order, entered after notice and hearing on the record, suspend or revoke any certificate for failure of the holder to fulfill the requirements as set forth in subsection (g) of this section; *Provided*, That no such certificate shall be suspended or revoked, except as provided in paragraph (h)(2) of this section, unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the requirements of subsection

(g) or to the order (other than an order issued in accordance with this provision), rule, or regulation found by the Board to have been violated.

"(2) If the Board determines that the failure of a carrier to fulfill the requirements as set forth in subsection (g) requires, in the interest of the rights, welfare, or safety of the public, immediate suspension of such carrier's certificate, the Board shall temporarily suspend such certificate without notice or hearing, for not more than 30 days.

"(3) Upon temporarily suspending a carrier's certificate pursuant to paragraph (h)(2), the Board shall immediately enter upon a hearing on the record to determine whether such certificate should be suspended or revoked and, pending the completion of such hearing, the Board may further temporarily suspend such certificate for additional 30 day periods aggregating not more than an additional 60 days.

"(4) If a carrier whose certificate has been suspended pursuant to paragraph (h)(2) removes the disability which occasioned the emergency suspension, the Board shall immediately terminate the suspension of such certificate and may terminate any pending proceeding commenced under parargaph (h)(3), but nothing in this paragraph shall preclude the Board from conducting proceedings pursuant to paragraph (h)(1) of this subsection or from imposing on such carrier a civil penalty for any violation of the provisions of this title or the regulations or orders of the Board thereunder.

"Transfer of Certificate Prohibited

"(i) No certificate may be transferred.

"Certain Rights Not Conferred by Certificate

"(j) No certificate shall confer any proprietary, property, or exclusive right in the use of any airspace, Federal airway, landing area, or air-navigation facility.

"Compliance With Labor Legislation

"(k)(1) Every air carrier shall maintain rates of compensation, maximum hours, and other working conditions and relations of all of its pilots and copilots who are engaged in interstate air transportation within the continental United States (not including Alaska) so as to conform with decision numbered 83 made by the National Labor Board on May 10, 1934, notwithstanding any limitation therein as to the period of its effectiveness.

"(2) Every air carrier shall maintain rates of compensation for all of its pilots and copilots who are engaged in overseas or foreign air transportation or air transportation wholly within a Territory or possession of the United States, the minimum of which shall be not less, upon an annual basis, than the compensation required to be paid under said decision 83 for comparable service to pilots and copilots engaged in interstate air transportation within the continental United States (not including Alaska).

"(3) Nothing herein contained shall be construed as restricting the right of any such pilots or copilots, or other employees, of any such air carrier to obtain by collective bargaining higher rates of compensation or more favorable working conditions or relations.

"(4) It shall be a condition upon the holding of a certificate by any air carrier that such carrier shall comply with sections 181–188 of Title 45.

"(5) The term 'pilot' as used in this subsection shall mean an employee who is responsible for the manipulation of or who manipulates the flight controls of an aircraft while under way including take-off and landing of such aircraft, and the term 'copilot' as used in this subsection shall mean an employee any part of whose duty is to assist or relieve the pilot in such manipulation, and who is properly, qualified to serve as, and holds a currently effective airman certificate authorizing him to serve as, such pilot or copilot.

"Insurance and bonding

"Insurance

"Sec. 452. (a) Each air carrier shall comply with regulations issued by the Board governing the filing and approval of policies of insurance or plans for self-insurance, in the amounts prescribed by the Board, conditioned to pay, within the amount of such insurance, amounts for which the certificate holder may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft.

"Bonding

"(b) The Board may, by regulation or otherwise, require any air carrier to file a performance bond or equivalent security arrangement, in such amount and upon such terms as the Board shall prescribe, to be conditioned upon such air carriers making appropriate compensation to travelers and shippers by aircraft, as prescribed by the Board, for failure on the part of such carrier to perform air transportation services in accordance with agreements therefor.

"Accounts, Records, and Reports

"Filing of Reports

"Sec. 453. (a) The Board is empowered to require annual, monthly, periodical, and special reports from any air carrier; to prescribe the manner and form in which such reports shall be made; and to require from any air carrier specific answers to all questions upon which the Board may deem information to be necessary. Such reports shall be under oath whenever the Board so requires. The Board may also require any air carrier to file with it a true copy of each or any contract, agreement, understanding, or arrangement, between such air carrier and any other carrier or person, in relation to any traffic affected by the provisions of this Act.

"Disclosure of Stock Ownership

"(b) Each air carrier shall submit annually, and at such other times as the Board shall require, a list showing the names of each of the stockholders or members holding more than 5 per centum of the entire capital stock or capital, as the case may be, of such air carrier, together with the name of any person for whose account, if other than the holder, such stock is held; and a report setting forth a description of the shares of stock, or other interest, held by such air carrier, or for its accounts in persons other than itself. Any person owning, beneficially or as trustee, more than 5 per centum of any class of the capital stock or capital, as the case may be, of an air carrier shall submit annually, and at such other times as the Board may require, a description of the shares of stock or other interest owned by such person, and the amount thereof.

"Disclosure of Stock Ownership by Officer or Director

"(c) Each officer and director of an air carrier shall annually and at such other times as the Board shall require transmit to the Board a report describing the shares of stock or other interests held by him in any air carrier, any person engaged in any phase of aeronautics, or any common carrier, and in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, air carriers, other persons engaged in any phase of aeronautics, or common carriers.

"Form of Accounts

"(d) The Board shall prescribe the forms of any and all accounts, records, and memorandums to be kept by air carriers, including the accounts, records, and memorandums of the movement of traffic, as well as of the receipts and expenditures of money and the length of time such accounts, records, and memorandums shall be preserved; and it shall be unlawful for air carriers to keep any accounts, records, or memorandums other than those prescribed or approved by the Board: *Provided*, That any air carrier may keep additional accounts, records, or memorandums if they do not impair the integrity of the accounts, records, or memorandums prescribed or approved by the Board and do not constitute an undue financial burden on such air carrier.

"Inspection of Accounts and Property

"(e) The Board shall at all times have access to all lands, buildings, and equipment of any air carrier or foreign air carrier and to all accounts, records, and memorandums, including all documents, papers, and correspondence, now or hereafter existing and kept or required to be kept by air carriers, foreign air carriers, or ticket agents, and it may employ special agents or auditors who shall have authority under the orders of the Board to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memorandums. The provisions of this section shall apply, to the extent found by the Board to be reasonably necessary for the administration of this Act, to persons having control over any air carrier, or affiliated with any air carrier within the meaning of section 5(8) of the Interstate Commerce Act, as amended.

"Inquiry into air carrier management

"Power to inquire and obtain reports

"Sec. 454. (a) For the purpose of exercising and performing its powers and duties under this Act, the Board is empowered to inquire into the management of the business of any air carrier and, to the extent reasonably necessary for any such inquiry, to obtain from such carrier, and from any person controlling or controlled by, or under common control with, such air carrier, full and complete reports and other information.

"Prohibited Interlocking Relationships

"(b) It shall be unlawful, unless such relationship shall have been approved by order of the Board upon due showing, in the form and manner prescribed by the Board, that the public interest will not be adversely affected thereby—

"(1) for any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics;

"(2) for any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

"(3) for any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics;

"(4) for any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

"(5) for any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in

any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics; or

"(6) for any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

"Profit From Transfer of Securities

"(c) It shall be unlawful for any officer or director of any air carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof.

"Filing of intercarrier agreements required

"SEC. 455. Every air carrier shall file with the Board a true copy or, if oral, a true and complete memorandum, of every contract or agreement or any modification or cancellation thereof, (whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise) affecting air transportation and in force on the effective date of this section or hereafter entered into, between such air carrier and any other air carrier, foreign air carrier, or other carrier.

"Tariffs of air carriers

"Filing of Tariffs Required

"SEC. 456. (a) Each air carrier and each foreign air carrier shall file with the Board, and maintain for public inspection, tariffs showing all rates, fares, and charges for air transportation between points served by it, and between points served by it and points served by any other air carrier or foreign air carrier when through service and through rates have been established, and showing to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with such air transportation. Tariffs shall be filed, posted, and published in such form and manner, and shall contain such information, as the Board shall by regulation prescribe. The Board is empowered to reject any tariff so filed which is not consistent with this section and such regulations. Any tariff so rejected shall be void. The rates, fares, and charges shown in any tariff shall be stated in terms of lawful money of the United States, but such tariffs may also state rates, fares, and charges in terms of currencies other than lawful money of the United States.

"Observance of Tariffs

"(b) No air carrier nor any ticket agent shall charge or collect a different compensation for air transportation, or for any service connected with air transportation, than the rates, fares, and charges specified in the currently effective tariffs of such air carrier.

"Changes in Tariffs

"(c) No change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff or any air carrier except after notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section. Such notice shall plainly state the change proposed to be made and the time such change will take effect.

"Filing of Divisions of Rates and Charges Required

"(d) Every air carrier shall keep currently on file with the Board, if the Board so requires, the established divisions of all joint rates, fares, and charges for air transportation in which such air carrier participates.

"Flexible Tariffs

"(e) A carrier may file and specify in a tariff a reasonably definite procedure or formula providing for flexible pricing of air transportation.

"Board Authority to Prescribe Maximum Rates and Practices of Air Carriers

"(f) Whenever, upon complaint or its own initiative and after notice and hearing on the record the Board finds that (i) competition from actual or potential carriers is insufficient to maintain a just and reasonable the rate, fare, or charge actually charged or by a carrier between two points and that (ii) the rate, fare or charge actually charged or collected for air service between such points is unjust or unreasonable, the Board shall determine and prescribe the just and reasonable maximum rate, fare, or charge for air service between such points.

"Standards for Board Ratemaking"

"(g) In exercising and performing its powers and duties under subsection (f) of this section the Board shall take into consideration, among other factors—

"(1) the need in the public interest for adequate and efficient transportation of persons and property by air carriers at the lowest cost consistent with the furnishing of such services;

"(2) the quality and type of service required or preferred by the public in each market;

"(3) the need of each carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service;

"(4) the effect of rates upon the movement of traffic;

"(5) the desirability of a variety of price and service options such as peak and off-peak pricing or other pricing mechanisms to improve economic efficiency; and

"(6) the desirability that individual air carriers determine prices in response to the particular competitive market conditions experienced by the individual carrier.

"Suspension of Rates

"(h) Whenever any air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers) rate, fare, or charge for interstate or overseas air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with such tariff, and delivering to the air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge or such classification, rule, regulation, or if the proceeding has not been concluded and a final order made within such period, the Board may, from time to time, extend the period of suspension, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when such tariff would otherwise go into effect; and, after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practices goes into effect, the Board may make such order with reference thereto as would be proper in a proceeding instituted after such rate, fare, charge, classification, rule, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect at the end of such period: *Provided,* That this subsection shall not apply to any initial tariff filed by any air carrier: *And Provided, further,* That the Board shall not suspend any proposed tariff because of the proposed rate, fare, or charge stated therein unless the Board is empowered to find such proposed rate, fare, or charge unjust or unreasonable and empowered to determine and prescribe the lawful fare, rate, or charge under section 456(f).

"Authority To Prescribe Divisions of Rates

"(i) Whenever, after notice and hearing, upon complaint or upon its own initiative, the Board is of the opinion that the divisions of joint rates, fares or charges for air transportation are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the air carriers or foreign air carriers parties thereto, the Board shall prescribe the just, reasonable, and equitable divisions thereof to be received by the several air carriers. The Board may require the adjustment of divisions between such air carriers from the date of filing the complaint or entry of order of investigation, or such other date subsequent thereto as the Board finds to be just, reasonable, and equitable.

"Authority To Establish Through Air Transportation Service

"(j) The Board shall, whenever required by the public convenience and necessity, after notice and hearing, upon complaint or upon its own initiative, establish through service and the maximum joint rates, fares, or charges for interstate or overseas air transportation, or the classifications, rules, regulation, or practices affecting such rates, fares or charges, and the terms and conditions under which such through service shall be operated.

"FILING OF SCHEDULES

"SEC. 457. Each air carrier engaging in scheduled air transportation shall, from time to time, and in accordance with such regulations as may be adopted by the Board, publish and file with the Board a statement showing the points between which such air carrier proposes to engage or is engaging in scheduled air transportation, and all schedules, and all changes therein of aircraft regularly operated by the carrier between such points, setting forth in respect of each such schedule the points served thereby and the time of arrival and departure at each such point.

"COMMON CARRIER DUTIES

"SEC. 458. Every air carrier shall provide and furnish interstate and overseas air transportation upon reasonable request therefor and, to the extent it holds itself out to the public as engaging in such air transportation, shall provide reasonable through service in such air transportation in connection with other air carriers, including establishment and equitable division of joint fares, and shall provide safe and reasonable service, equipment, and facilities in connection with such transportation.

"AIR CARRIER CONDUCT

"Unfair and Deceptive Practices Prohibited

"SEC. 459 (a) No air carrier or its agent, or foreign air carrier or its agent shall engage in unfair or deceptive practices in air transportation or the sale of air transportation.

"Regulations

"(b) The Board shall adopt rules and regulations defining unfair or deceptive practices within the meaning of this section and providing for the enforcement of this section and the rules and regulations thereunder.

"Certain Practices Prohibited

"(c) Unfair or deceptive practices within the meaning of subsection (a) of this sec-

tion shall include, but not be limited to the following:

"(1) failure to provide to purchasers reasonable information concerning lower cost air service which is available from the same air carrier and which would substantially fulfill the needs of the purchaser;

"(2) failure to provide reasonable information to passengers about schedule delays;

"(3) failure to offer reasonable compensation for lost, misplaced, delayed or damaged baggage while such baggage was under the custody or control of an air carrier or its agent.

"(4) limiting legal liability for death, injury or loss due to negligence; and

"(5) other acts or omissions which the Board shall determine by rule or regulation.

"Authority to Investigate

"(d) Upon its own initiative, or upon complaint by any person, the Board may investigate and determine whether any air carrier has been or is engaged in activities prohibited by this section or by regulations of the Board issued hereunder. If the Board shall find, after notice and hearing, that any air carrier is or has been engaged in such activities, it shall order such air carrier to cease and desist therefrom and may pursue such other remedies, including the assessment of civil penalties; as authorized by law.

"ALTERATION OR DISCONTINUANCE OF AIR SERVICE

"SEC. 460. Except as otherwise specifically provided in this Act, each air carrier may reduce, increase or otherwise alter the level of air service, or cease all air service to a point it is authorized to serve.

"TRANSPORTATION OF MAIL

"POSTAL RULES AND REGULATIONS

"SEC. 461. (a) The Postmaster General is authorized to make such rules and regulations, not inconsistent with the provisions of this Act, or any order, rule, or regulation made by the Board thereunder, as may be necessary for the safe and expeditious carriage of mail by aircraft.

"Mail Schedules

"(b) Each air carrier shall, from time to time, file with the Board and the Postmaster General a statement showing the points between which such air carrier is authorized to engage in air transportation, and all schedules, and all changes therein, of aircraft regularly operated by the carrier between such points, setting forth in respect to each such schedule the points served thereby and the time of arrival and departure at each such point. The Postmaster General may designate any such schedule for the transportation of mail between the points between which the air carrier is authorized by its certificate to transport mail or otherwise serves. No change shall be made in any schedules designated except upon ten days' notice thereof as herein provided. No air carrier shall transport mail in accordance with any schedule other than a schedule designated under this subsection for the transportation of mail.

"Maximum Mail Load

"(c) The Board may fix the maximum mail load for any schedule or for any aircraft or any type of aircraft; but, in the event that mail in excess of the maximum load is tendered by the Postmaster General for transportation by any air carrier in accordance with any schedule designated or ordered to be established by the Postmaster General under subsection (b) of this section for the transportation of mail, such air carrier shall, to the extent such air carrier is reasonably able as determined by the Board, furnish facilities sufficient to transport, and shall transport, such mail as nearly in accordance with such schedule as the Board shall determine to be possible.

"Tender of Mail

"(d) From and after the issuance of any certificate authorizing the transportation of mail by aircraft, the Postmaster General shall tender mail to the holder thereof, to the extent required by the Postal Service, for transportation between the points named in such certificate for the transportation of mail, and such mail shall be transported by the air carrier holding such certificate in accordance with such rules, regulation, and requirements as may be adopted by the Postmaster General under this section.

"Foreign Postal Arrangement

"(e)(1) Nothing in this Act shall be deemed to abrogate or affect any arrangement made by the United States with the postal administration of any foreign country with respect to transportation of mail by aircraft, or to impair the authority of the Postmaster General to enter into any such arrangement with the postal administration of any foreign country.

"(2) The Postmaster General may, in any case where service may be necessary by a person not a citizen of the United States who may not be obligated to transport the mail for a foreign country, make arrangements, without advertising, with such person for transporting mail by aircraft to or within any foreign country.

"Transportation of Foreign Mail

"(f)(1) Any air carrier holding a certificate to engage in foreign air transportation and transporting mails of foreign countries shall transport such mails subject to control and regulation by the United States. The Postmaster General shall from time to time fix the rates of compensation that shall be charged the respective foreign countries for the transportation of their mails by such air carriers, and such rates shall be put into effect by the Postmaster General in accordance with the provisions of the postal convention regulating the postal relations between the United States and the respective foreign countries, or as provided hereinafter in this subsection. In any case where the Postmaster General deems such action to be in the public interest, he may approve rates provided in arrangements between any such air carrier and any foreign country covering the transportation of mails of such country, under which mails of such country have been carried on scheduled operations prior to January 1, 1938, or in extensions or modifications of such arrangements, and may permit any such air carrier to enter into arrangements with any foreign country for the transportation of its mails at rates fixed by the Postmaster General in advance of the making of any such arrangement. The Postmaster General may authorize any such air carrier, under such limitations as the Postmaster General may prescribe, to change the rates to be charged any foreign country for the transportation of its mails by such air carrier within that country or between that country and another foreign country.

"(2) In any case where such air carrier has an arrangement with any foreign country for transporting its mails, made or approved in accordance with the provisions of paragraph (1) of this subsection, it shall collect its compensation from the foreign country under its arrangement, and in case of the absence of any arrangement between the air carrier and the foreign country consistent with this subsection, the collections made from the foreign country by the United States shall be for the account of such air carrier: *Provided*, That no such air carrier shall be entitled to receive compensation both from such foreign country and from the United States in respect of the transportation of the same mail or the same mails of foreign countries.

"Evidence of Performance of Mail Service

"(g) Air carriers transporting or handling United States mail shall submit, under signature of a duly authorized official, when and in such form as may be required by the Postmaster General, evidence of the performance of mail service; and air carriers transporting or handling mails of foreign countries shall submit, under signature of a duly authorized official, when and in such form as may be required by the Postmaster General, evidence of the amount of such mails transported or handled, and the compensation payable and received therefor.

"Emergency Mail Service

"(h) In the event of emergency caused by flood, fire, or other calamitous visitation, the Postmaster General is authorized to contract, without advertising, for the transportation by aircraft of any or all classes of mail to or from localities affected by such calamity, where available facilities of persons authorized to transport mail to or from such localities are inadequate to meet the requirements of the Postal Service during such emergency. Such contracts may be only for such periods as may be necessitated, for the maintenance of mail service, by the inadequacy of such other facilities. No operation pursuant to any such contract, for such period, shall be deemed air transportation within the purview of this Act. Payment of compensation for services performed under such contracts shall be made, at rates provided in such contracts, from appropriations for the transportation of mail by the means normally used for transporting the mail transported under such contracts.

"Experimental Airmail Service

"(i) Nothing contained in this Act shall be construed to repeal in whole or in part the provisions of section 6 of the Act entitled "An Act to provide for experimental airmail service, to further develop safety, efficiency, economy, and for other purposes", approved April 15, 1938, as amended. The transportation of mail under contracts entered into under such section shall not, except for section 451(j) and 463(b), be deemed to be air transportation as used in this Act, and the rates of compensation for such transportation of mail shall not be fixed under this Act.

"Free Travel for Postal Employees

"(j) Every air carrier carrying the mails shall carry on any plane that it operates and without charge therefor, the persons in charge of the mails when on duty, and such duly accredited agents and officers of the Post Office Department, and post office relating to the transportation of mail by aircraft, as the Board may by regulation prescribe, upon the exhibition of their credentials.

"Rates for transportation of mail

"Authority To Fix Rates

"SEC. 462. (a) The Board is empowered and directed, upon its own initiative or upon petition of the Postmaster General or an air carrier, (1) to fix and determine from time to time, after notice and hearing, the fair and reasonable rates of compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith (including the transportation of mail by an air carrier by other means than aircraft whenever such transportation is incidental to the transportation of mail by aircraft or is made necessary by conditions of emergency arising from aircraft operation), by each holder of a certificate authorizing the transportation of mail by aircraft, and to make such rates effective from such date as it shall determine to be proper; (2) to prescribe the method or methods, by aircraft-mile, pound-mile, weight, space, or any combination thereof, or otherwise, for ascertaining such rates of compensation for each air carrier or class of air carriers; and (3) to publish the same.

"Ratemaking Elements

"(b) In fixing and determining fair and reasonable rates of compensation under this

section, the Board, considering the conditions peculiar to transportation by aircraft and to the particular air carrier or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors, (1) the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; (2) such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and (3) the need of each such air carrier for compensation for the transportation of mail sufficient to ensure the performance of such service, and, together with all other revenues of the air carrier, to enable such air carrier under honest, economical, and efficient management, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense. In applying clause (3) of this subsection, the Board shall take into consideration any standards and criteria prescribed by the Secretary of Transportation, for determining the character and quality of transportation required for the commerce of the United States and the national defense.

"Payment

"(c) The Postmaster General shall make payments out of appropriations for the transportation of mail by aircraft of so much of the total compensation as is fixed and determined by the Board under this section without regard to clause (3) of subsection (b) of this section. The Board shall make payments of the remainder of the total compensation payable under this section out of appropriations made to the Board for that purpose.

"Treatment of Proceeds of Disposition of Certain Property

"(d) In determining the need of an air carrier for compensation for the transportation of mail, and such carrier's 'other revenue' for the purpose of this section, the Board shall not take into account—

"(1) gains derived from the sale or other disposition of flight equipment if (A) the carrier notifies the Board in writing that it has invested or intends to reinvest the gains (less applicable expenses and taxes) derived from such sale or other disposition in flight equipment, and (B) submits evidence in the manner prescribed by the Board that an amount equal to such gains (less applicable expenses and taxes) has been expended for purchase of flight equipment or has been deposited in a special reequipment fund, or

"(2) losses sustained from the sale or other disposition of flight equipment.

Any amounts so deposited in a reequipment fund as above provided shall be used solely for investment in flight equipment either through payments on account of the purchase price or construction of flight equipment or in retirement of debt contracted for the purchase or construction of flight equipment, and unless so reinvested within such reasonable time as the Board may prescribe, the carrier shall not have the benefit of this paragraph. Amounts so deposited in the reequipment fund shall not be included as part of the carrier's used and useful investment for purposes of section 462 until expended as provided above: *Provided*, That the flight equipment in which said gains may be invested shall not include equipment delivered to the carrier prior to April 6, 1956, with respect to the sale or other disposition of flight equipment whether or not the Board shall have entered a final order taking account thereof in determining all other revenue of the air carrier.

"Statement of Postmaster General and Carrier

"(e) Any petition for the fixing of fair and reasonable rates of compensation under this section shall include a statement of the rate the petitioner believes to be fair and reasonable. The Postmaster General shall introduce as part of the record in all proceedings under this section a comprehensive statement of all service to be required of the air carrier and such other information in his possession as may be deemed by the Board to be material to the inquiry.

"Weighing of Mail

"(f) The Postmaster General may weigh the mail transported by aircraft and make such computations for statistical and administrative purposes as may be required in the interest of the mail service. The Postmaster General is authorized to employ such clerical and other assistance as may be required in connection with proceedings under this Act. If the Board shall determine that it is necessary or advisable, in order to carry out the provisions of this Act, to have additional and more frequent weighing of the mails, the Postmaster General, upon request of the Board shall provide therefor in like manner, but such weighing need not be for continuous periods of more than thirty days.

"Availability of Appropriations

"(g) The unexpended balances of all appropriations for the transportation of mail by aircraft pursuant to contracts entered into under the Air Mail Act of 1934, as amended, and the unexpended balances of all appropriations available for the transportation of mail by aircraft in Alaska, shall be available, in addition to the purposes stated in such appropriations, for the payment of compensation by the Postmaster General, as provided in this Act, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between points in the continental United States or between points in Hawaii or in Alaska or between points in the continental United States and points in Canada within one hundred and fifty miles of the international boundary line. The unexpended balances of all appropriations for the transportation of mail by aircraft pursuant to contracts entered into under the Act of March 8, 1928, as amended, shall be available, in addition to the purposes stated in such appropriations, for payment to be made by the Postmaster General, as provided by this Act, in respect of the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between points in the United States and points outside thereof, or between points in the continental United States and Territories or possessions of the United States, or between Territories or possessions of the United States.

"Classification and exemption of carriers

"CLASSIFICATION

"SEC. 463. (a) The Board may from time to time establish such just and reasonable classifications or groups of air carriers for the purposes of this title as the nature of the services performed by such air carriers shall require; and such just and reasonable rules and regulations, pursuant to and consistent with the provisions of this title, to be observed by each such class or group, as the Board finds necessary in the public interest.

"Exemptions

"(b) (1) The Board, from time to time and to the extent necessary, may (except as provided in paragraph (3) of this subsection) exempt from the requirements of this title or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any air carrier or class of air carriers, if it finds that the enforcement of this title or such provision, or such rule, regulation, term, condition, or limitation is or would be an undue burden on such air carrier or class of air carriers by reason of the limited extent of, or unusual circumstances affecting the operations of such air carrier or class of air carriers and is not in the public interest.

"(2) Any air carrier that engages in interstate or overseas air transportation solely with aircraft having a capacity of less than 56 passengers or sixteen thousand pounds of property shall not be required to obtain a certificate from the Board if that carrier conforms to such reasonable financial responsibility and reporting requirements as the Board may by regulation impose, and the appropriate regulations of Federal Aviation Administration. The Board shall by regulation increase the passenger or property capacities specified in or determined pursuant to this paragraph when consistent with the public interest. The Board shall review the passenger and property capacities specified or determined pursuant to this paragraph a minimum of once every 4 years.

"(3) The Board shall not exempt any air carrier from any provision of subsection (k) of section 451 of this title, except that (A) any air carrier not engaged in scheduled air transportation, and (B), to the extent that the operations of such air carrier are conducted during daylight hours, any air carrier engaged in scheduled air transportation, may be exempted from the provisions of paragraphs (1) and (2) of such subsection if the Board finds, after notice and hearing, that, by reason of the limited extent of, or unusual circumstances affecting, the operations of any such air carrier, the enforcement of such paragraphs is or would be such an undue burden on such air carrier as to obstruct its development and prevent it from beginning or continuing operations, and that the exemption of such air carrier from such paragraphs would not adversely affect the public interest: *Provided*, That nothing in this subsection shall be deemed to authorize the Board to exempt any air carrier from any requirement of this title, or any provisions thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder which provides for maximum flying hours for pilots or copilots."

"SUBTITLE IV–C—ECONOMIC REGULATION: TRANSITION PERIOD

"Continuance of certificates of public convenience and necessity until the fourth anniversary of the Air Transportation Act of 1976

"Continued Effectiveness of Section 401

"SEC. 480. (a) Notwithstanding section 400 of this Act, and except for subsections 401 (g), (h) and (j), section 401 shall continue to apply to interstate and overseas air transportation, until the fourth anniversary of the enactment of the Air Transportation Act of 1976.

"Effective Date of Section 451

"(b) Section 451 shall not become effective until the fourth anniversary of enactment of the Air Transportation Act of 1976.

"Continuance of special operating authorizations until the fourth anniversary of the Air Transportation Act of 1976

"SEC. 481. Notwithstanding section 400 of this Act, Board authority to issue special operating authorizations under section 417 of this Act shall continue to apply to interstate and overseas air transportation, as well as foreign air transportation, until the fourth anniversary of the enactment of the Air Transportation Act of 1976.

"Discretionary expansion of scheduled service

"EFFECTIVE DATE

"SEC. 482. (a) This section shall be effective 180 days after enactment and shall expire on the fourth anniversary of enactment.

"Limited Discretionary Authority for Passenger Carriers

"(b) Any air carrier certificated under section 401(d)(1) of the Act and which operated in excess of 50 million available seat-miles in air service pursuant to its certificate in the previous calendar year, any supplemental air carrier certificated pursuant to section 401(d)(3) and which provided in excess of 500 million available seat-miles in supplemental passenger air transportation in the previous calendar year, and any intrastate air carrier certificated or licensed by a state regulatory authority which operated in excess of 100 million available seat-miles in scheduled passenger air service in the previous calendar year and which reports its available seat-miles to the Board may perform interstate and overseas scheduled air transportation to any and all points of its choosing in addition to that transportation otherwise authorized, subject to the following limitations on the level of such additional operations—

"(1) After 180 days but before the first anniversary of enactment of this provision, each air carrier may perform service authorized under this section in an amount that does not exceed 500 million available seat-miles;

"(2) After the first anniversary but before the second anniversary of enactment of this provision, each air carrier may perform service authorized under this section in an amount not to exceed 1.5 billion available seat-miles;

"(3) After the second anniversary but before the third anniversary of enactment of this provision, each air carrier may perform service authorized under this section in an amount not to exceed 3 billion available seat-miles;

"(4) After the third anniversary but before the fourth anniversary of enactment of this provision, each air carrier may perform service authorized under this section in an amount not to exceed 4 billion available seat-miles.

"Limited discretionary authority for cargo carriers

"(c) Any all-cargo carrier certificated under the Act may engage in interstate and overseas scheduled cargo air transportation in addition to that which it is certificated to perform to any and all points of its choosing, subject to the following limitations:

"(1) After 180 days but before the first anniversary of enactment of this provision, each all-cargo carrier may perform service authorized by this section in an amount not to exceed 25 million available ton-miles;

"(2) After the first anniversary but before the second anniversary of enactment of this provision each all-cargo carrier may perform service authorized under this section in an amount not to exceed 40 million available ton-miles;

"(3) After the second anniversary but before the third anniversary of the enactment of this provision each all-cargo carrier may perform service authorized under this section in an amount not to exceed 60 available ton-miles;

"(4) After the third anniversary but before the fourth anniversary of enactment of this provision each all-cargo carrier may provide service authorized under this section in an amount not to exceed 75 million available ton-miles.

"Carriage of mail and cargo

"(d) All air carriers designated in subsections (b) or (c) of this section shall be permitted to carry mail and cargo on any flights performed pursuant to this section.

"Combination of discretionary authority and other authority

"(e)(1) Operations conducted pursuant to this section may be combined with any other authority held by the carrier to permit single-plane and single carrier services and otherwise to allow carriers to perform services using combinations of the carrier's existing authority and the authority conferred in this section.

"(2) Carriers performing operations under this section must in connection with those operations comply with the provisions of the Act governing interstate and overseas scheduled air transportation performed pursuant to section 401(d)(1), such additional reasonable reporting requirements that the Board may require; and the provisions of this section. Nothing in this section shall modify the privileges or obligations of air carriers in connection with air transportation performed pursuant to authority other than that conferred in this section.

"Permissible rates

"(f) No air carrier performing air service pursuant to this section may charge, collect or demand a rate, fare or charge for that service that is not authorized to be charged, collected or demanded for service performed pursuant to a certificate of public convenience and necessity as governed by sections 456 and 495 of the Act.

"Limitations upon rate increases

"(g)(1) Air carriers providing service under this section shall not with respect to such service increase any fare, rate, or charge for that service except upon 30 days notice thereof filed with the Board.

"(2) The Board may, if the public interest so requires, order an air carrier filing such notice not to implement the proposed increase for a period not to exceed 180 days, except that the Board shall allow the proposed increase to be implemented if and to the extent it is reasonably intended to provide revenues for increases in costs incurred since the implementation of the then effective rate, fare, or charge.

"Limitations upon reductions in service

"(h)(1) Air carriers providing service pursuant to this section shall not with respect to such service substantially reduce the level of capacity between any two points except upon 30 days notice thereof filed with the Board.

"(2) The Board may, if the public interest so requires, order the air carrier filing such notice not to implement the proposed substantial capacity reduction between such points for a period not to exceed 180 days, except that the Board shall allow the proposed reduction to be implemented if and to the extent it is reasonably intended to adjust capacity to reflect a general decline in demand for air service between such points that occurred since the then current level of capacity was initially offered.

"Scheduled air transportation defined

"(i) For purposes of this section (scheduled air transportation) means air transportation performed between two or more points, with a minimum of five round trips per week, pursuant to published flight schedules which specify the time, days of the week and places between which such flights are performed.

"PERMANENT CERTIFICATION FOR CONTINUOUS OPERATION

"SEC. 483. Any carrier engaging continuously for twelve consecutive months in nonstop scheduled air transportation between any two points pursuant to the authority conferred in section 482 and with respect to which the Board has not suspended a proposed fare increase under subsection 482(g), nor suspended a proposed substantial capacity reduction under subsection 482(h), may apply to the Board for a certificate authorizing unrestricted nonstop scheduled air transportation between such points. The Board shall process applications under this paragraph for certificates in accordance with the provisions of subsections 451 (b), (c), and (d) as if those subsections were in full force and effect. In the case of a certificate applied for and granted pursuant to this paragraph, the particular operations conducted hereunder shall be governed by the provisions applicable to scheduled interstate and overseas service provided pursuant to section 401(d)(1). Any carrier holding a certificate pursuant to this paragraph on the fourth anniversary of the enactment of Section 451 shall be issued a certificate of fitness pursuant to section 486. Breaks in service occasioned by labor disputes or by factors beyond the control of the carrier shall be deemed not to break the continuity of services rendered before and after the break in service, but such periods of time shall not be counted toward meeting the requirement that service be offered for twelve months.

"LIBERALIZATION OF AUTHORITY TO SERVE NEW ROUTES

"Application

"SEC. 484. (a) Any person may apply for a certificate under this paragraph to perform nonstop scheduled air transportation between any two points not receiving nonstop schedule air transportation pursuant to certificated operations under section 401(d)(1), section 483, or this section. The Board shall process applications under this paragraph in accordance with the provisions of subsections 451 (b), (c), and (d), as if those subsections were in full force and effect.

"Applicability of terms and conditions of section 401

"(b) In the case of a certificate applied for and granted pursuant to subsection (a) of this section, the particular operations conducted pursuant to such certificate shall be governed by the provisions applicable to scheduled interstate and overseas service provided pursuant to section 401(d)(1).

"Grandfather rights

"(c) Any carrier holding a certificate pursuant to this section on the fourth anniversary of the enactment of section 451 shall be issued a certificate of fitness pursuant to section 486.

"RELAXATION OF RESTRICTIONS ON ENTRY INTO THE DOMESTIC AIRLINE INDUSTRY

"Application

"SEC. 485. (a) The Board shall process and dispose of applications for certificates of fitness as if section 451 were in full force and effect, according to the following limitations:

"(1) After the first anniversary but before the second anniversary of enactment of this provision, the Board shall issue no more than two certificates of fitness;

"(2) After the second anniversary but before the third anniversary of enactment of this provision, the Board shall issue no more than three certificates of fitness;

"(3) After the third anniversary but before the fifth anniversary of enactment of this provision, the Board shall issue no more than five certificates of fitness.

"Restrictions on Operations of New Entrants

"(b) An air carrier holding a certificate of fitness pursuant to this section shall not perform operations prior to the fourth anniversary of enactment of this provision except to the extent air carriers are authorized to perform discretionary operations under subsection 482 (b).

"Applicability of Section 482

"(c) Operations performed pursuant to this section shall be governed by the provisions governing discretionary operations pursuant to section 482.

"Exclusion of Certain Carriers

"(d) Air carriers authorized to provide discretionary scheduled service under subsection 482(b) shall not be eligible to receive certificates of fitness under paragraph (a)(2) of this section.

"Disposition of Applications

"(e) Applications for certificates of fitness filed prior to the fourth anniversary of enactment of section 451 shall be processed and disposed of in the chronological order in which they were filed. In the event that more than one application is filed on the same day, the Board shall by lot assign the relative order by which such applications filed on the same day shall be processed and disposed of.

"Effective Date

"(f) This section shall be effective upon enactment and shall terminate on the fourth anniversary after enactment.

"GRANDFATHER RIGHTS FOR OBTAINING CERTIFICATES OF FITNESS UPON THE FOURTH ANNIVERSARY OF THE AIR TRANSPORTATION ACT OF 1976

"SEC. 486. On the fourth anniversary of enactment of the Air Transportation Act of 1976, the Board shall reissue in the form of certificates of fitness under section 451 all existing certificates then in effect, under which service is being provided, and granted pursuant to sections 401(d)(1), 483, 484, and 485.

"Carrier Obligations Regarding Points Served in March 1976 Until the Fourth Anniversary of Enactment of the Air Transportation Act of 1976

"EFFECTIVE DATE

"SEC. 487. (a) This section shall become effective 180 days after enactment of the Air Transportation Act of 1976 and shall terminate upon the fourth anniversary of the enactment of that Act.

"Restrictions on Reductions of Service

"(b) An air carrier certificated may not reduce the level of air service to a point if to do so would result in less than essential air service (as generally defined pursuant to subsection 490(c) of the Act) being provided to a point receiving scheduled interstate air service during the month of March 1976 from a carrier certificated under § 401(d)(1) and named in such certificate, unless upon application by the carrier the Board authorizes such reduction. The Board shall, after notice and hearing, authorize such reduction if:

"(1) the carrier has operated the service at issue below fully allocated costs (including a reasonable return on investment), considering subsidy payments made pursuant to this Act, for a period immediately preceding the application of at least one year, except that the Board may require continuation of service for a period of time necessary to complete procurement proceedings under section 490 of this Act, but in no event to exceed 180 days;

"(2) if the carrier has operated the service at issue below the direct costs for that service for a period of at least three months immediately preceding the application, except that the Board may order the air carrier to continue to provide essential air service, as specified by the Board, for a period of time necessary to complete procurement proceedings under this Act but in no event to exceed 90 days, in which case the air carrier providing the specified essential air service pursuant to Board order to do so shall be reimbursed by the Board in an amount equal to the direct costs incurred by the carrier in providing the service reduced by the revenues and subsidies, if any, received by such carrier for providing the service; or

"(3) if essential air service will be provided by another carrier.

"Filing of Complaints

"(c) Any interested person may file with the Board a protest or memorandum of opposition to or in support of any application under this section.

"Cooperation Between Air Carriers

"(d) The Board may require any air carrier reducing its service to a level below essential air service, or ceasing all air service to a point to establish reasonable cooperative working relationships with any air carrier providing replacement services.

"Authority to Require Essential Minimum Service

"(e) The Board may require the carrier to continue providing air service to a point if the local community or State or other public body agrees to provide sufficient support to assure that the carrier's total revenues, including any subsidy payments pursuant to this Act, for the route or part thereof, cover fully allocated costs (including reasonable return on investment) for the specific service at issue.

"'Direct Costs' Defined

"(f) As used in this section, 'direct costs' means the direct operating cost of providing the service to which a rate, fare, or charge applies, and shall not include such items as general and administrative expenses, depreciation, interest payments, amortization, capital expenses, costs associated with the development of a new route or service, or other fixed costs or costs which do not vary immediately and directly as a result of the service at issue.

"Carrier Obligations Regarding Points Served in March 1976 During the Period From the Fourth Anniversary of the Air Transportation Act of 1976 until the Tenth Anniversary of that Act

"EFFECTIVE DATE

"SEC. 488. (a) This section shall become effective upon the fourth anniversary of the enactment of the Air Transportation Act of 1976 and shall terminate upon the tenth anniversary of that Act.

"Restrictions on Reductions of Service

"(b) No implementation of any schedule change may be made by any air carrier except upon 30 days' notice of such schedule change filed with the Board as provided in this section if such schedule change would result in less than essential air service (as generally defined in subsection 490(c)) being provided to a point receiving scheduled interstate air srevice during the month of March 1976 from a carrier certificated under paragraph 401(d)(1) and named in such certificate.

"Authority To Require Essential Minimum Service

"(c) If, upon application of any interested person or its own initiative, the Board reasonably believes that the implementation of a notice of schedule change filed pursuant to this Act will result in less than essential air service being provided to a point receiving scheduled interstate air service during the month of March 1976 from a carrier certificated under paragraph 401(d)(1) and named in such certificate, it may within 30 days of the filing such notice order the carrier to provide essential air srevice, as specified by the Board, to that point for a period not to exceed 90 days from the day of filing such notice, or until essential air service is provided by another carrier, or until the Board withdraws an order under this subsection, whichever comes first.

"Carrier's Right To Recover Losses

"(d) Any air carrier that provides the specified essential air service pursuant to Board order to do so under subsection (c) of this section shall be reimbursed by the Board in an amount equal to the fully allocated costs incurred by the carrier in providing the specified essential air service (including a reasonable return on investment but not including opportunity costs) reduced by the revenues received by such carrier in providing the specified essential air service.

"Requirements Regarding Tariff Filings

"EFFECTIVE DATE

"SEC. 489. (a) This section shall become effective upon enactment and shall terminate on the fourth anniversary of enactment.

"Notice of Certain Tariff Changes

"(b) If the effect of any proposed tariff change would be to institute a rate, fare, or charge that is not within the zone of fares which the Board is prohibited by law from suspending under section 495, then such proposed change shall not be implemented except after 60 days' notice filed in accordance with subsection 456(a).

"Board Notice of Tariff Suspensions

"(c) In exercising its power to suspend tariffs under subsection 456(h), the Board shall file and deliver the statement in writing of its reasons for such suspension, as required under subsection 456(h), at least 30 days before the time when the affected tariff would otherwise go into effect.

"Guarantee of Service to Points Served in March 1976 Until the Tenth Anniversary of the Air Transportation Act of 1976

"EFFECTIVE DATE

"SEC. 490. (a) This section shall become effective upon enactment of the Air Transportation Act of 1976 and shall terminate upon the tenth anniversary of the enactment of that act.

"Maintaining Essential Service

"(b) The Board shall, according to the provisions of this section, insure that each point receiving interstate scheduled air transportation during the month of March 1976 by an air carrier holding a certificate issued pursuant to section 401(d)(1) and named in such certificate shall receive essential air service.

"General Definition of Essential Air Service

"(c) Within 180 days of enactment of this section, the Board, after notice and hearing pursuant to section 553 of title 5, United States Code, shall establish general definitions of 'essential air service', including maximum and minimum levels, types, and other characteristics of such service, for the class of points referred to in subsection (a) of this section.

"Determination of Essential Minimum Service to Essential Points

"(d) If, upon application of any interested person or its own initiative, the Board determines that there is probable cause to believe that a point referred to in subsection (a) of this section is or will be receiving less than essential air service as generally defined under subsection (b) of this section, the Board shall specifically determine what is essential air service for such point. The Board shall specifically determine the essential air service for such point with due regard for the following factors:

"(1) the general definition of essential air service under subsection (c) of this section;

"(2) the alternative modes of transportation available to the affected communities and the extent to which these alternative modes substantially fulfill the needs of those communities;

"(3) the present and future needs of the affected communities;

"(4) the extent to which the affected communities or States or other public bodies are able or willing to provide financial assistance to support, in whole or in part, essential air service to the affected communities;

"(5) the frequency, timing, and type of

equipment for air service economically appropriate to the affected communities;

"(6) the cost of service to such point;

"(7) the integration of air service to such point with air service to other points; and

"(8) the views of the affected communities, the appropriate agencies of the government of each State of which the affected communities are a part, and the Secretary of Transportation.

"Contract Subsidy Authority

"(e) If the Board determines that a point is or will be receiving less than essential air service as specifically determined pursuant to subsection (d) of this section, the Board is authorized to and shall enter into an essential air service contract with an air carrier by which such air carrier undertakes to provide essential air service to the point.

"Procedure for Awarding Contracts

"(f) The Board shall award contracts hereunder in accordance with the provisions of title III the Federal Property and Administrative Services Act of 1949 as amended (41 U.S.C. 251 et seq.), except that: (1) no contract under this section may exceed three years or be renewed; (2) no increase in contract price may be made for the benefit of an air carrier after the contract has been entered into except for increases in costs attributable to governmental action; (3) in any negotiation pursuant to this section no preference shall be given to a carrier because of prior service to the point, or prior service under this section; (4) the Board shall require in each contract reasonable assurance of reimbursement in the event of default by the air carrier, including reimbursement for the cost of obtaining another air carrier to provide the air service which the defaulting carrier undertook to provide; and (5) the Board shall not be bound by those provisions of title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251 et seq.) that the Board, after notice and hearing under section 553 of title 5, United States Code, determines are not consistent with the purposes of this section.

"Terms of Subsidy Contracts

"(g) A contract betwen the Board and an air carrier under this section shall specifically include:

"(1) the minimum frequency required to be performed by the carrier;

"(2) the maximum rates and fares the air carrier may charge;

"(3) minimum passenger capacity requirements in respect to the aircraft to be operated by the carrier; and

"(4) such other specifications, conditions or requirements that the Board may deem to be in the public interest.

The Board shall determine the specifications required or permitted under paragraphs (1) through (4) herein so that, to the maximum extent practicable, the specifications are substantially similar to the Board's specific determination of essential air service pursuant to subsection but in no event shall the specifications or other terms of the contract obligate the Board to pay for service that significantly exceeds the level of service received by the particular point during the calendar year 1976.

"Encouragement of Noncontract Essential Service

"(h) The Board shall not inhibit in any way the provision of nonsubsidized air service; nor shall the Board award or negotiate contracts for air service where essential air service will otherwise be available.

"Ineligibility for Other Subsidy Payments

"(i) Air service provided pursuant to contract under this section shall not be eligible for Federal subsidy payment under any other provision of this Act.

"Eligible Participants

"(j) Any air carrier authorized or eligible to provide air service under any provision of this Act, or any air carrier fit, willing, and able to provide air service pursuant to this section may be eligible to provide service under this section.

"Termination of Contracting Authority

"(k) This section shall terminate on the tenth anniversary of enactment of this section. The termination of this section shall not affect the disbursement of funds under, or the carrying out of, any contract commitment, or other obligation entered into pursuant to this section prior to the date of termination."

"REVIEW OF THE LOCAL SERVICE SUBSIDY PROGRAM

"SEC. 491. It is the policy of the Congress to seek means by which the air carrier local service subsidy program may be altered, by eliminating or avoiding the payment of subsidy where other means are available to finance service or where service is not required or consistent with the public interest. To this end, the Secretary of Transportation shall undertake a study of the current local service carrier subsidy program and potential alternative subsidy plans and make recommendations to Congress for any necessary or desirable changes in the subsidy system or exclusive adoption of alternative subsidy plans within 18 months of the date of enactment of this section. The Secretary shall consult with leaders of the communities now receiving subsidized or contract air service and with those of other interested communities, the local service air carriers, the commuter air carriers exempt from certification requirements, carriers who have submitted bids or otherwise participated in the contract service procedure under section 490, representatives of the employees of those carriers, the Chairman of the Civil Aeronautics Board, the appropriate transportation authorities of the several States, and the relevant committees of the Congress. As part of this study and with the assistance of the Board, the Secretary shall identify the current cost of local service subsidy involved in providing service at each point and determine a recommended specific quantity and quality of service to each point for which subsidy should be paid and the estimated cost of providing the specific service at each point.

"Consolidation, Merger, and Acquisition of Control of Domestic Air Carriers Until the Tenth Anniversary of the Air Transportation Act of 1976

"EFFECTIVE DATE

"SEC. 492. (a) This section shall become effective upon the enactment of the Air Transportation Act of 1976 and shall terminate upon the tenth anniversary of the enactment of that Act.

"Acts Prohibited

"(b) It shall be unlawful unless approved by order of the Board as provided in this section—

"(1) For two or more air carriers, or for any air carrier and any other common carrier or any person engaged in any other phase of aeronautics, to consolidate or merge their properties, or any part thereof, into one person for the ownership, management, or operation of the properties theretofore in separate ownerships;

"(2) for any air carrier, any person controlling an air carrier, any other common carrier, or any person engaged in any other phase of aeronautics, to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any carrier;

"(3) for any air carrier or person controlling an air carrier to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any person engaged in any phase of aeronautics otherwise than as an air carrier;

"(4) for any foreign air carrier or person controlling a foreign air carrier to acquire control, in any manner whatsoever, of any citizens of the United States engaged in any phase of aeronautics;

"(5) for any air carrier or person controlling an air carrier, any other common carrier, any person engaged in any other phase of aeronautics or any other person to acquire control of any air carrier in any manner whatsoever: *Provided*, That the Board may by order exempt any such acquisition of a non-certificated air carrier from this requirement to the extent and for such periods as may be in the public interest;

"(6) for any air carrier or person controlling an air carrier to acquire control, in any manner whatsoever, of any person engaged in any phase of aeronautics otherwise than as an air carrier; or

"(7) for any person to continue to maintain any relationship established in violation of any of the foregoing subdivisions of this subsection.

"Power of Board

"(c) Any person seeking approval of a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, shall present an application to the Board, and thereupon the Board shall notify the persons involved in the consolidation, merger, purchase, lease, operating contract, or acquisition of control, and other persons known to have a substantial interest in the proceeding, of the time and place of a public hearing. Unless, after such hearing, the Board finds that the consolidation, merger, purchase, lease operating contract, or acquisition of control will not be consistent with the public interest or that the conditions of this section will not be fulfilled, it shall by order approve such consolidation, merger, purchase lease, operating contract, or acquisition of control, upon such terms and conditions including appropriate conditions for the protection of labor, as it shall find to be just and reasonable and with such modifications as it may prescribe: *Provided*, That the Board shall not approve any consolidation, merger, purchase, lease, operating contract, or acquisition of control which would tend to create a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the consolidation, merger, purchase, lease, operating contract, or acquisition of control; and the Board shall not approve such a transaction—

"(1) if it would tend to create a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of air transportation in any part of the United States; or

"(2) whose effect in any section of the country may be to lessen competition substantially unless the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by significant transportation needs that cannot be substantially satisfied in any less restrictive way. Parties attacking the transaction shall have the burden or proving anticompetitive effects; those defending the transaction shall have the burden of proving significant transportation needs that cannot be substantially satisfied in any less restrictive way. Any reviewing court shall apply its independent judgments when reviewing on an agency record the application of the standards in paragraphs (c)(1) or (c)(2) of this section: *Provided further*, That if the applicant is a carrier other than an air carrier, or a person controlled by a carrier other than an air carrier or affiliated therewith within the mean-

ing of section 5(8) of the Interstate Commerce Act, as amended, such applicant shall for the purposes of this section be considered an air carrier and the Board shall not enter such an order of approval unless it finds that the transaction proposed will promote the public interest by enabling such carrier other than an air carrier to use aircraft to public advantage in its operation and will not restrain competition: *Provided further*, That, in any case in which the Board determines that the transaction which is the subject of the application does not effect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition, and determines that no person disclosing a substantial interest then currently is requesting a hearing, and determines that neither the Department of Justice nor the Department of Transportation is requesting a hearing, the Board, no sooner than 30 days after publication in the Federal Register of notice of the Board's intention to dispose of such application without a hearing (a copy of which notice shall be furnished by the Board to the Attorney General and the Secretary of Transportation not later than the day following the date of such publication), may determine that the public interest does not require a hearing and by order approve or disapprove such transaction, *Provided further*, That the Board shall dispose of all applications filed pursuant to subsection 492(c) within 240 days of filing.

"Interests in Ground Facilities

"(d) The provisions of this section and subsections (b) and (c) of section 454 shall not apply with respect to the acquisition or holding by any air carrier, or any officer or director thereof, of (1) any interest in any ticket office, landing area, hangar, or other ground facility reasonably incidental to the performance by such air carrier of any of its services, or (2) any stock or other interest or any office or directorship in any person whose principal business is the maintenance or operation of any such ticket office, landing area, hangar, or other ground facility.

"Jurisdiction of Accounts of Noncarriers

"(e) Whenever, after the effective date of this section, a person, not an air carrier, is authorized, pursuant to this section, to acquire control of an air carrier, such person thereafter shall, to the extent found by the Board to be reasonably necessary for the administration of this Act, be subject, in the same manner as if such person were an air carrier, to the provisions of this Act relating to accounts, records, and reports, and the inspection of facilities and records, including the penalties applicable in the case of violations thereof.

"Investigation of Violations

"(f) The Board is empowered, upon complaint or upon its own initiative, to investigate and, after notice and hearing, to determine whether any person is violating any provision of subsection (a) of this section. If the Board finds after such hearing that such person is violating any provision of such subsection, it shall by order require such person to take such action, consistent with the provisions of this Act, as may be necessary, in the opinion of the Board, to prevent further violation of such provision.

"Presumption of Control

"(g) For the purposes of this section, any person owning beneficially 10 per centum or more of the voting securities or capital, as the case may be, of an air carrier shall be presumed to be in control of such air carrier unless the Board finds otherwise. As used herein, beneficial ownership of 10 per centum of the voting securities of a carrier means ownership of such amount of its outstanding voting securities as entitles the holder thereof to cast 10 per centum of the aggregate votes which the holders of all the outstanding voting securities of such carrier are entitled to cast.

"Pooling and Other Agreements Until the Tenth Anniversary of the Air Transportation Act of 1976

"EFFECTIVE DATE

"SEC. 493. (a) This section shall become effective upon the enactment of the Air Transportation Act of 1976 and shall terminate upon the tenth anniversary of the enactment of that Act.

"Authority of Attorney General and Secretary of Transportation

"(b) After any agreement is filed, in accordance with section 455 of this Act, the Board shall give notice of the agreement to the Attorney General and the Secretary of Transportation within 10 days of the receipt of the agreement. The Attorney General or the Secretary of Transportation may request the Board to hold a hearing on the record to determine if the agreement is consistent with the provisions of this Act, and if so requested, the Board shall hold such a hearing. If the Attorney General or the Secretary of Transportation believes that any agreement which has been previously approved by the Board has anticompetitive implications or no longer serves a transportation need, the Attorney General or the Secretary of Transportation may request the Board to hold a hearing on the record to determine whether the agreement remains consistent with the provisions of this Act. If so requested, the Board shall hold such a hearing, and may, after such a hearing disapprove the agreement.

"Approval by Board

"(c) The Board shall by order disapprove any contract or agreement whether or not previously approved by it—

"(1) that fixes rates, charges, fares, or commissions or otherwise fixes prices (except for joint rates, fares, or charges) or divides markets, including any agreement controlling capacity;

"(2) that restrains trade or may lessen competition substantially unless the anticompetitive effects of the contract or agreement are clearly outweighted in the public interest by significant transportation needs that cannot be susbtantially satisfied in any less restrictive way; or

"(3) that it finds to be contrary to the policies of this Act, adverse to the public interest, or in violation of this Act.

The Board shall approve all other agreements.

"Burden of Proof

"(d) In any proceeding before the Board involving the application of the standards set forth in paragraphs (c)(1) or (c)(2) of this section the parties attacking the proposed contract or agreement shall have the burden of proving anticompetitive effects, and the parties defending the proposed contract or agreement shall have the burden of proving significant transportation needs that cannot be substantially satisfied in any less restrictive way. Any reviewing court shall apply its independent judgment when reviewing on an agency record the application of the standards set forth in paragraphs (c)(1) or (c)(2) of this section.

"Antitrust Law Immunity Until the Tenth Anniversary of the Air Transportation Act of 1976

"EFFECTIVE DATE

"SEC. 494. (a). This section shall become effective upon enactment of the Air Transportation Act of 1976 and shall terminate upon the tenth anniversary of the enactment of that Act.

"Immunity Conferred

"(b) Any person affected by any order made under sectons 454(b), 492, or 493 of this Act shall be, and is hereby, relieved from the operations of the antitrust laws, as designated in section 1 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, and of all other restraints or prohibitions made by, or imposed under, authority of law, insofar as may be necessary to enable such person to do anything in air transportation authorized, approved, or required by such order; *Provided*, That no approval granted under section 492 shall provide immunity from attack under section 2 of the Sherman Act (15 U.S.C. 2); *Provided further*, That no approval granted under section 493 shall provide immunity from the antitrust laws after the tenth anniversary of enactment of the "Air Transportation Act of 1976".

"Protection of Employees

"(c) Appropriate labor protective conditions shall be attached to any Board order issued pursuant to sections 492 and 493, if such conditions are consistent with the public interest.

"Transitional Board Authority To Prescribe Rates and Practices of Air Carriers Until the Fourth Anniversary of the Air Transportation Act of 1976

"EFFECTIVE DATE

"SEC. 495. (a) This section shall become effective upon enactment and shall terminate on the fourth anniversary of enactment.

"Board Authority and Fare Flexibility

"(b) Whenever, after notice and hearing upon complaint or its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected or received by any air carrier for interstate or overseas air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjust or unreasonable, the Board shall determine and prescribe the lawful rate, fare, or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received, or the lawful classification, rule, regulation, or practice thereafter to be made effective: *Provided*, That as to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum, rate fare, or charge. The Board may in no event find any proposed rate, fare, or charge to be unjust or unreasonable or otherwise unlawful unless:

"(1) with respect to any proposed increase filed after 180 days but before the fourth anniversary of enactment of this provision, the proposed tariff would be more than 10 per centum higher than the tariff in effect one year prior to the filing of the proposed tariff;

"(2) with respect to any proposed decrease filed within 180 days of the enactment of this provision, the proposed tariff would be more than 20 per centum lower than the tariff in effect on the day of the enactment of this paragraph; or

"(3) with respect to any proposed decrease filed after 180 days but before the first anniversary of the enactment of this provision, the proposed tariff would be more than 40 per centum lower than the tariff in effect on the day of enactment of this paragraph; or

"(4) with respect to any proposed decrease filed after the first anniversary but before the fourth anniversary of the enactment of this provision, the propsed tariff would be more than 60 percent lower than the tariff in effect on the day of enactment of this paragraph.

AMENDMENTS TO SUBCHAPTER 10, SECTION 1002

SEC. 303. Stike subsections (d), (e), (g), (h), and (i) of Section 1002.

POSTAL SERVICE CONTRACT AUTHORITY

SEC. 304. Section 5402(a) of title 39, United States Code, is amended to read as follows:

"(a) If the Postal Service determines that service by certificated carriers between any two points is not sufficiently adequate, efficient or economical for its purposes, it may contract for the transportation of mail by air with such carriers in such manner and under such terms and conditions it deems appropriate.

EFFECTIVE DATES OF PROVISIONS OF THIS TITLE

SEC. 305. (a) The provisions of subtitle IV–B of the Federal Aviation Act of 1958, as amended by section 302 of this Act, shall become effective 180 days after enactment of this Act, except that sections 455 and 456 of subtitle IV–B shall become effective upon enactment, and except as modified by sections 480 and 481 of title IV–C of the Federal Aviation Act of 1958, as amended by section 302 of this Act.

(b) The provisions of subtitle IV–C of the Federal Aviation Act of 1958, as amended by section 302 of this Act, shall become effective as provided in each provision of subtitle IV–C.

(c) Sections 303 and 304 of this Act shall become effective upon enactment of this Act.

(d) Notwithstanding the applicability to interstate and overseas air transportation of the appropriate provisions of subtitle IV–A of the Federal Aviation Act of 1958, as amended by Title II of this Act, during the first 180 days after enactment of this Act, sections 455, 456, 489, 492, 493, 494, and 495 of the Federal Aviation Act of 1958, as added by Title III of this Act, shall govern interstate and overseas air transportation upon enactment of this Act.

THE AIR TRANSPORTATION ACT OF 1976—INTRODUCED BY SENATOR EDWARD M. KENNEDY: STATEMENT OF NEED AND SUMMARY

INTRODUCTION

The Air Transportation Act of 1976, proposed by Senator Edward M. Kennedy would over a period of four years introduce fundamental changes into federal economic regulation of domestic air transportation. It is the product of an 18-month study of airline regulation by the Senate Subcommittee on Administrative Practice and Procedure, chaired by Senator Kennedy. In February 1976 the Subcommittee produced a unanimous Report on the subject supported by nine volumes of hearings, studies, and other data. The Air Transportation Act of 1976 is based on the evidence of the Subcommittee's record and reflects the Report's major policy recommendations. That report urged Congress to enact legislation to lessen economic regulation over the airline industry. It demonstrated that increased reliance upon price competition and market forces would bring lower air fares and a healthier airline industry.

Since the draft of that report was released last summer, President Ford has proposed legislation intended to reform airline regulation (Aviation Act of 1975—S. 2551). The Administration bill would be one mechanism to implement the policy recommendations contained in the Subcommittee report and deserves serious consideration. The Air Transportation Act of 1976—the Kennedy bill—is nevertheless more comprehensive in its revision of aviation law and better implements the major recommendations of the Administrative Practice Subcommittee.

Last month, the agency responsible for current regulation—the Civil Aeronautics Board—forcefully endorsed the policy of moving from economic regulation to reliance on competition. In addition, the Board unaminously recommended that Congress enact legislation to accomplish the change-over in a gradual but comprehensive fashion. With the Board itself urging fundamental change, there is a clear and convincing unaminity among all branches and units of government that have recently studied the issue. This unanimity cuts across ideological and political party lines.

BACKGROUND

The Civil Aeronautics Board today regulates the economic activity of domestic air transportation. Created in 1938 as an independent agency, the Board was charged to promote a then infant airline industry and to encourage its development. Over the years the Board succeeded in fulfilling these functions and today the airline industry is a mature and significant participant in the commerce of the nation. Although the Board's regulation of the industry in past years may have embodied the appropriate policy for that era, the realities of today's economy demand that outmoded regulation be revised and in most respects discarded.

The Board interpreted its charge to promote and encourage the airline industry to mean the promotion and encouragement of existing airline firms. Although never contemplated or intended by Congress in 1938, the CAB has since its creation never allowed a new trunk carrier to enter the industry, although the route networks of the existing carriers have grown dramatically over the years. The only significant entry since 1938 has been the emergence of the so-called local service carriers and the supplemental carriers: the former received permanent certification by an act of Congress over the objections of the CAB, and the latter are not allowed by the Board to perform scheduled service.

Entry, then, has been limited only to deciding which existing certificated airline firm receives authority to fly a particular route, rather than which new firms should be certificated to provide scheduled service. Although the CAB since 1950 has received 79 applications for trunk service from companies who wanted to enter the domestic scheduled airline industry, it has granted none of them.

The Board's record on route awards to existing certificated carriers is also troubling. Beginning in the late 1960's, after a private meeting with airline executives, the Board instituted a route moratorium. The moratorium was a device by which the Board refused to set for hearing competitive route applications. The moratorium was implemented without a vote by the Board, without consumer or community input, and continued for over five years despite the Federal Aviation Act's command that the Board must hear route applications as speedily as possible. Apart from the procedural improprieties, the moratorium illustrates the kind of regulatory response we might expect when the current Act is viewed by the Board as a change to protect existing firms from competition. Even before the adoption of the route moratorium, the Board granted between 1964–1969 only 11 percent of the applications of existing carriers to fly major routes.

The CAB has also exercised extraordinary authority over the fares airlines charge the public. Instead of allowing consumer demand and competitive forces to determine price, the CAB exercises its statutory power to regulate both the maximum and minimum prices for interstate air fares. In wielding its authority over air fares, the Board is guided by imprecise, and in some respects conflicting, statutory standards.

The policy statement of the current Federal Aviation Act in effect requires the Board to set low fares for consumers, to ensure efficient service for air travelers and communities, and to set fares high enough to guarantee good profits for air carriers. This has proved to be a nearly impossible task in the 1970s, and promises to become even more difficult in the future. The industry consists of different carriers with different revenues. Cost conditions and consumer demand are volatile and change continuously. The needs of all travelers and all communities are not similar and also change continuously. It is little wonder then that the Board's rate regulation has not produced low fares for consumers, has not tailored air service to particular conditions and needs of different travelers and communities, and is currently not producing reasonable profits for all carriers.

There is an enormous body of practical evidence that indicates what air fares and air service would be like without CAB control over prices. The intrastate airlines of California and Texas which are not regulated by the CAB regularly fly passengers to large and small communities for 30–50 percent less than fares charged by CAB-certificated carriers over comparable routes and, not coincidentally, 30–50 percent less than the fare that would be required if the CAB fare formula were applied. Aircraft manufacturers have produced data showing that their planes could be flown profitably and efficiently at fares 20–50 percent lower than CAB regulated fares. Economic analyses based on actual airline costs show profitable operations could be performed at fares from 30–50 percent lower than actual fares. Finally, charter carriers, using equipment identical to scheduled carriers, continually fly passengers domestically and internationally at fare levels consistent with those of the intrastate carriers, the projections of aircraft manufacturers, and the predictions of economic analyses. The CAB itself firmly stated that regulation has raised air fares above what they would otherwise be.

The need, then, for fundamental reform in federal regulation of domestic aviation is demonstrable and clear. Objective students of regulation agree that reform should move to more liberal entry policies and less restrictive rate control—in short, toward a more competitive airline industry. Simultaneously, a more faithful adherence to the policies of the antitrust laws dealing with mergers and other business arrangements will be required if the competitive forces are to operate beneficially. On this there is substantial agreement.

The question, however, of over what period of time and to what extent these changes should be made invite different responses even from those who agree in principle on the shape reforms should take. Senator Kennedy's Air Transportation Act of 1976 is thus in many respects different than the Administration's bill and the legislative proposals offered by the Board.

SUMMARY OF BILL

First 4 years

The Air Transportation Act of 1976 is intended to gradually reform federal regulation of airlines over a four-year period. During the first four years after the Act becomes effective, existing scheduled and supplemental carriers and large intrastate carriers would be allowed to provide limited levels of scheduled service beyond what they are authorized to provide under current regulation. CAB approval would not be required for them to provide this additional service. Instead, whether or not to utilize this additional authority is within the discretion of each eligible air carrier. The levels of additional service allowed to be offered by each carrier under this discretionary authority provision increase each year. After the first year, for example, an eligible carrier would be able to provide roughly two daily round trips coast-to-coast. By the final year of the transition eligible carriers would be allowed to offer four billion available seat-miles of scheduled service in any markets of their choosing—this would be enough authority for one carrier to provide, for example, a commuter service in the heavily travelled Boston-New York-Washington

corridor as well as offer two round-trips per day coast-to-coast.

In addition, during the transition period, the Board would be allowed to certificate a limited number of new airline companies under vastly liberalized entry standards and procedures. Under this provision the Board would be required to determine whether new applicants meet requisite financial and safety standards before granting a certificate. The Board, however, would not be allowed to deny applications on the ground that an existing carrier deserves protection from competition. A potential maximum of ten new firms could enter the industry in the next four years under this provision. This limited number of new companies could provide service during the four-year transition but could not exceed the levels of additional service allowed to be provided by the eligible carriers under the discretionary authority provision.

Finally, entry and route applications during the transition period could still be filed under current section 401(d), in which case the applicant would have to show that the public convenience and necessity require the service applied for. However, the Board would have to dispose of such applications within 240 days and thus could not allow applications to linger undecided for years.

The transitional entry provisions of the Kennedy bill and the Administration's bill should be contrasted. For example, the Kennedy bill's discretionary authority provision is quite different than a provision in the Ford bill that allows some airlines to increase their service without CAB approval.

First, the provision in this bill would take effect 6 months after enactment, rather than five years as in the Ford bill.

Second, supplemental or charter carriers would be allowed to participate in the route expansion program under this bill but not under the Ford bill. Third, the Ford bill uses a detailed formula and classification system that grants substantially more route authority to the large certificated airlines and thus discriminates against smaller and perhaps more innovative air carriers. The Kennedy bill, on the contrary, treats all carriers equally and allows them to expand equally each year during the transition.

The primary transitional entry mechanism in the Kennedy bill, for moving from a tightly regulated industry to a more competitive industry, is the freedom given all carriers to expand service beyond present levels without Board approval, and the provisions allowing a limited number of new carriers to obtain certificates under liberalized entry standards. The Ford proposal would not liberalize entry or route awards as comprehensively in the next four years. Instead the Ford bill would utilize a route restriction removal program during that period. While removing route and service restrictions would effectively grant substantial additional authority to some of the existing carriers (and much less to others), it would do nothing for large intrastate and certificated supplemental carriers—the carriers most likely to innovate and compete through lower fares. Unreasonable restrictions on certificated carriers should be removed from existing certificates; the provisions of the Kennedy bill also would accomplish this result, but without relying exclusively on restriction removal—with its built-in inequities—as the primary transition mechanism.

The Board's ratemaking authority—especially its current power to suspend and declare unlawful proposed air fares that are below air fares currently charged by existing carriers—is substantially limited during the four-year transition under the Kennedy bill. The Board would be prohibited from preventing carriers from lowering fares below what they are now—20 percent in the first 6 months, 40 percent in the next 6 months and 60 percent in the final 3 years of the transition. The Board would also be prohibited from preventing carriers from increasing prices 10 percent or less above the previous year's prices. During this four-year period, of course, the Board would be free to allow price decreases or increases that do not fall within these precise limits if such price changes meet the ratemaking standards established by the Board. The zone-of-reasonableness proposal in the Kennedy bill goes farther than the Ford bill and allows carriers greater flexibility to offer reduced air fares. The transitional rate provisions of the Kennedy bill also help to insure that travelers and travel agents will receive reasonable notice before fare changes take effect.

The intention of the transitional entry and rate provisions is to introduce effectively but gradually more competition into the industry over the first four-year period, so that air travelers will begin quickly to receive the benefit of lower air fares, additional air service, and new innovations in the offering of air service. The additional but limited entry and route expansion will create an atmosphere in which new air service will be offered to take advantage of the flexible pricing mechanism of the rate provisions. Even if added entry and route expansion occur at very low levels, existing carriers will be motivated nevertheless to utilize the flexible rate mechanism to keep fares low because of the very real threat that potential competitors will enter a market where fares are too high or service is otherwise deficient.

The Kennedy bill contains special regulatory mechanisms to insure stability during the transition period. These give the Board additional powers and impose on carriers unique obligations and limitations insofar as discretionary, new operations are involved. Managerial decisions in the airline industry are presently made in a highly regulated environment. Thus, while the industry is structurally and, to the extent allowed by regulation, behaviorally highly competitive, nearly 40 years of regulatory constraints have shaped the responses and initiatives of those who manage interstate scheduled airlines. Normal economic change and uncertainty that plague all corporate planning may be compounded during the transition by a substantially changed regulatory framework, especially relating to prices and entry. In an exercise of caution particularly adapted to this transition period, the bill therefore imposes constraints intended to reinforce managerial caution regarding potentially disruptive discretionary activities.

The two most important constraints apply to those carriers which choose to avail themselves of the provisions allowing limited scheduled operations without Board approval. These so-called discretionary operations will be subjected to rate and level-of-service requirements that are materially more stringent than those imposed on Board-approved operations. For one thing, the Board will be empowered to suspend any rate increase applying to discretionary operations for a six-month period unless the carrier shows that the increase is cost-related. For another thing, substantial reductions in service with respect to discretionary operations will be subject to filing and suspension provisions. Unless the reduction is due to a decline in demand, the Board may, if the public interest requires, suspend the effectiveness of the proposed reduction for 6 months. The limited number of new carriers certificated during the transition period under the liberalized entry standards would be subject to these constraints also.

Burdening new air operations with requirements more imposing than those applicable to ordinary certificated operations should help make the transition more orderly. Air line managers will be cautious in setting initial fares and levels of service for new discretionary service if lurking in the background is extraordinary CAB power to prevent sudden fare increases or service decreases. Thus the lower prices and additional services expected to be introduced through discretionary operations are more likely to remain permanent features of scheduled operations. The Administration bill does not require discretionary operations to be conducted in this manner.

Another major feature of this bill guarantees that small communities now receiving certificated service will continue to receive scheduled air service during the transition and for 6 years thereafter. Although under CAB regulation the Board has freely allowed certificated carriers to withdraw from markets that are unprofitable, there are some who believe that lessening regulation will somehow lessen the legal or financial motivation for carriers to serve marginal routes and thus hasten the current withdrawal trend. The marginal routes over which this concern has been expressed are estimated to comprise less than 1 percent of total domestic air service. An underlying premise of the bill is that current regulation should not be maintained on 99 percent of air service simply to protect less than the remaining 1 percent, especially when the cost imposed on the 99 percent amounts to hundreds of millions and probably billions of dollars in excess air fares.

Moreover, regulation even with subsidy has not itself done a particularly effective job in providing service to marginal points. Certificated airlines have withdrawn from 173 points in the last 16 years, so that more than 30 percent of the communities receiving certificated air service in 1960 do not receive it today A recent Department of Transportation study demonstrates, in fact, that although service to small communities has actually increased, it has done so as a result of the services provided by commuter air carriers exempted from CAB regulation (and certification requirements). Non-regulated commuter service is growing much faster than certificated service. This service is provided and growing despite the fact that no service obligations are imposed on the unregulated commuter carriers. Also, since lower air fares brought about by less regulation stimulate consumer demand, the level of air service should increase to large and small communities.

Nonetheless, small communities are completely protected in this bill by a service guarantee program that, unlike current CAB regulation, ensures that communities now receiving certificated service will continue receiving air service for the next decade.

Also unlike current CAB regulation, this program ensures that air service will be specifically tailored to the particular needs of particular communities. And finally, unlike current CAB regulation, this program will ensure that federal money will be spent in the most efficient manner, making that subsidy program more economical than it has been in the past.

The service guarantee program in the Kennedy bill requires the CAB to establish general definitions and ranges of 'essential service' to most communities. If service is about to fall or does fall below that level, the Board is required to procure by contract a replacement carrier. The Board also has authority to subsidize temporarily the incumbent carrier to provide continuation of essential service while the Board completes its procurement proceedings.

The current local service subsidy program will, under this bill, continue in effect alongside this new service guarantee program. It is expected, however, that future subsidy will be provided under the new program and that, as the current tendency of carriers to withdraw from routes serving smaller communities continues, disbursements under the old subsidy program will decrease. The bill re-

quires DOT to submit to the Congress in 18 months a comprehensive study on the entire question of federal subsidy of domestic air service. Further legislative change in the subsidy programs may very well be needed.

On March 29, 1976 the Secretary of Transportation announced an amendment to the Ford bill which in most respects is similar to the service guarantee program outlined here.

During the transition period, service obligations of air carriers are clarified. Carriers will be allowed to alter service or withdraw from markets if to do so does not eliminate essential service to the community. Otherwise, to withdraw from any market a carrier must seek approval from the Board—as it must do in all cases under present regulation—and the Board must allow withdrawal if the carrier is operating below cost or if there is a replacement carrier willing to provide service. In effect, a carrier cannot be required to maintain money-losing service on any route under any circumstances, and can only be required temporarily to maintain service it would prefer to drop if it is not losing money and if the result of dropping service would be that a community now receiving certificated service would receive less than essential service. Thus, although existing carriers would be subject to potentially more competition during the transition period, they will not be required to meet that competition with one hand tied behind their backs. Reforming government regulation must be done even-handedly. Airlines should not be required to provide unprofitable service and at the same time be forced to compete in price and services with others who do not have that obligation. The standards for withdrawal for the transition period under the Kennedy bill are similar to those imposed permanently under the Ford bill.

Another major intent of these transition provisions is to minimize potential dislocations of current airline employees. Ultimately more competition and less regulation should increase overall employment. Lower air fares will increase demand and thus air traffic will grow at a much larger rate than it otherwise would. Air carriers will have new passengers to service and additional employment opportunities should result. The work force as a whole will be benefited.

Current airline firms, however, may alter current operations in response to competitive forces. New firms may enter the industry and perhaps some existing firms will not succeed as well as others in this new environment. Accordingly, fears have been expressed that the transition may become a period of uncertainty for airline employees as well as management. The shorter the period of uncertainty, however, the better it will be. Thus, the transition period provided for in the Kennedy bill is shorter than under the Ford bill. Moreover, the revised functions of the Board under this bill take account of the special problems of airline employees: the policy statement of the bill requires the Board to do just that. This new policy will help shape Board decisions on many matters, including its review of intercarriers agreements. Finally, although the bill requires the Board to apply stricter antitrust standards in reviewing mergers and other carrier agreements, it will allow for approval of mergers in a manner that protects the legitimate needs of airline employees.

The Ford bill, although requiring stricter antitrust standards to be applied by the Board, contains no protection for the legitimate interests of airline employees. If a transition is to protect airline stockholders, managers, towns now receiving scheduled service, and other parties whose interests are in some respects thought to be dependent on current regulation, then it should also treat airline employees with similar sensitivity.

Permanent Reform

At the end of the four-year transition, the regulatory reform measures of the Kennedy bill will become fully effective.

Entry will be governed under a new provision by which the Board is required to allow a carrier to offer domestic air service if the carrier is fit, willing, and able to do so. The fit, willing and able standard is part of present law and is one with which the Board has had considerable experience. Essentially, this standard is met if the carrier can demonstrate it is willing and financially able to perform air service and comply with safety requirements imposed by the FAA. This bill changes present law by omitting the public convenience and necessity standard by which the Board has frozen out new applicants in order to protect the competitive advantages of existing carriers. This new provision also imposes strict procedural and time requirements on the Board to ensure that applicants will receive a decision in a reasonable period of time. When this new entry provision becomes fully effective, those carriers then holding scheduled certificates would automatically receive the new certificate of fitness.

The certificates to be granted under this provision will not be limited to specific routes or city pairs. Instead, under a certificate of fitness a carrier will be authorized to conduct domestic air service in markets of its choosing, provided that it complies with the other provisions of the Act. There is no compelling reason to impose costly procedural and regulatory certification burdens each time an already certificated carrier decides to begin air service on a route it did not previously serve. The original certification decision, the successful performance of certificated service in other markets, and a history of compliance with the continuing duties of certificated carriers establish that the carrier is fit, and able to perform additional certificated service. The carriers initiative in filing schedules and voluntarily assuming common carrier service obligations under the act for a new route—the decision to invest money, equipment, and business reputation in new air service—is sufficient evidence of the carrier's willingness to perform a particular service. Additional economic certification requirements with its delay and costly procedures would serve no substantial purpose. Of course, the Board will be able to readjust insurance and bonding requirements on carriers to reflect the actual operations and route systems served by the carriers. These new certificates of fitness will not be restricted and will be issued to all currently certificated carriers after 4 years. One effect of this provision will be to remove all route restrictions imposed on existing carriers at that time.

The certificate of fitness is fundamentally different than the entry provisions of the Ford bill which would retain the Boards authority to deny certificates on purely protective grounds. By retaining the public convenience and necessity standards under current section 401(d)(1) of the Federal Aviation Act, the Ford bill reduces substantially the prospects for new carriers' being allowed to enter the industry. Moreover, except for a limited discretionary authority provision which does not take effect until 1981, the Ford bill would still require existing carriers to go through costly new certification simply to obtain authority to fly a new route. Although existing carriers would be allowed to sell or transfer their certificates to anyone fit, willing, and able to perform air service, there is no reason to think that this possibility will provide meaningful entry into the industry. The danger of limiting entry to this extent is that the flexible rate provisions of the Ford bill will not be utilized to the extent they otherwise would be to lower air fares. It is the threat of quick entry by a competitor that helps keep prices low, but under the Ford proposal this threat would not be as effective as it should be.

The subsidy and service-guarantee provisions applicable to the transition would continue in effect until 1986. It is contemplated that those communities now receiving certificated service will be self-supporting. In any event, the nation's air service needs can be reassessed at that period and the contract air service program can be reenacted if necessary.

After the transition period, carriers under this bill would be free to alter service without Board approval. In effect, there would be no service obligations imposed on them, except that while the service guarantee program is in effect, 30 days notice will be required before a carrier may reduce service below the essential minimum found to be required by a community. This is to allow the Board time to contract for a replacement carrier.

With the service guarantee provision, there is no need to require carriers to do business in places they choose not to. They should have flexibility to the maximum possible extent consistent with the public interest.

The Ford bill, on the other hand, requires carriers to submit to notice and hearing proceedings before the CAB in order to withdraw from a route, and in some circumstances the Board can force the carriers to remain in the market for up to one year even if service is not profitable.

After the four-year transition this bill would repeal all minimum ratemaking power of the Board. There is no public policy reason why the government should prevent price decreases. The fear expressed by some existing carriers concerning the possibility of predatory pricing is adequately met by the operation of antitrust laws which makes truly predatory pricing illegal. There is absolutely no evidence that there will be predatory pricing in the airline industry. The most recent example of the CAB using the predatory pricing justification for discouraging low fares turned out to be a simple case of protecting the high-priced scheduled carriers from the low-priced supplemental carriers.

This bill further removes Board power to control maximum rates in ordinary circumstances. Under the Kennedy bill the threat of entry will police price increases. There remains, however, an emergency provision by which the Board may set maximum rates in circumstances where there exists no actual or potential competition and where rates are unjust or unreasonable. It is unlikely that such a situation will ever occur, but it is reasonable to include such a provision to protect fully the interests of travelers.

The Ford bill allows the Board to continue to establish maximum and minimum rates to a limited extent. Although the Board would be forbidden from finding a rate unlawful if it is above the direct costs of the carrier, it is potentially burdensome to require carriers to prove their direct costs in order to reduce prices below a level disapproved by the CAB. With regard to authority over maximum rates, however, the Ford bill stands on firmer ground. Since the Ford proposal does not, as pointed out earlier, allow for sufficient entry by new and existing firms, there is the danger that carriers will simply tend to raise their rates if free to do so. Under the Ford reform proposal, therefore, maximum ratemaking authority might be a potentially useful protection for air travelers.

After the four-year transition, the merger and carrier-agreement provisions of the Kennedy bill remain fully effective, thus requiring the Board to view these transactions on stricter antitrust standards than they now do, but allowing otherwise anticompeti-

tive arrangements if they are the only means to achieve an important transportation need. In 1986, however, the Board's power to approve mergers and exempt other transactions from enforcement of the antirust laws shall expire. By that time, the adjustments required by this reform legislation will have been fully made by management, employees, and other interested parties affected by the industry. At that time, there is no reason why the antitrust laws should not be fully applicable to the airline industry. If there still exists in 1986 conditions requiring special treatment for this industry, Congress can act in the appropriate fashion at that time.

AIR TRANSPORTATION ACT OF 1976: SECTION-BY-SECTION ANALYSIS AND COMPARISON WITH CURRENT LAW

TITLE I—GENERAL PROVISIONS

Bill, Sec. 101—Amendment to the Federal Aviation Act of 1958.

This section provides that amendatory language refers to the Federal Aviation Act of 1958, as amended, ("FAA") unless otherwise indicated.

Bill, Sec. 102—New definitions to expand charter air transportation.

These new definitions incorporate the provisions of S. 421 (introduced by Senator Cannon, cosponsored by Senator Kennedy) which expand the availability of charter air service by stating explicitly that "one-stop inclusive tour charters" and "advance purchase charters" and "charter air service" within the meaning of the FAA. In the past, the dreadth of the term "charter" has been the cause of much doubt and litigation, as well as a statutory amendment in 1968.

Bill, Sec. 103—Revision of the declaration of policy.

This section revises the declaration of policy of the FAA and requires the CAB to follow this policy in all actions. The new policy statement places greater emphasis upon "maximum feasible competition" and explicitly recognizes the possible differences between foreign and domestic air transportation. The new policy statement reads as follows:

"(a) The encouragement and development of a sound air transportation system responsive to the public need for adequate, efficient, low-cost service, and adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service and of the National Defense;

"(b) The regulation of air transportation in such manner so as to provide reasonable wages, costs, working conditions, and profits in, and to provide reliable public service from air transportation and coordinate transportation by air carriers;

"(c) The promotion of adequate, economical, and efficient service by air carriers at reasonable prices, primarily through maximum feasible reliance upon price and service competition both among existing air carriers and with new air carriers.

"(d) Regulation in a manner that encourages to the extent practicable maximum reliance on price and service competition in foreign air transportation, with appropriate recognition of the differences between interstate and overseas air transportation on the one hand, and foreign air transportation, on the other.

"(e) The promotion, encouragement and development of safety in air commerce."

Bill, Sec. 104—Effective date of this title.

Title I shall become effective upon enactment of the Bill.

TITLE II—REVISION OF PRESENT REGULATION AND LIMITATION TO FOREIGN AIR TRANSPORTATION

Bill, Sec. 201—Redesignation of present Title IV as "Title IV–A".

This section makes appropriate changes in the table of contents and hearings in the FAA.

Bill, Sec. 202—Limitation of Title IV–A to foreign air transportation.

This section adds a new section 400 to the FAA, which immediately precedes the present subchapter dealing with economic regulation (redesignated subtitles IV–A), and limits the scope of that subtitle to foreign air transportation.

Bill Sec. 203—Revision of the certificates of public convenience and necessity.

These changes will permanently affect international aviation and will affect domestic aviation until the fourth anniversary of the enactment of this Act when certificates of public convenience and necessity are superceded by certificates of fitness under new sec. 451.

Subsection (a) amends current subsection 401(c) to explicitly provide for formal hearings of certificate applications and to require the Board to dispose of such applications within a maximum of 240 days. This provision replaces the "as speedily as possible" standard of current law.

Subsections (b) and (c) amend current subsection 401(d) to permit a carrier to hold both scheduled and supplemental certificates. Present law is unclear on this point.

Subsection (d) amends current paragraph 401(e)(1) to prohibit the Board from imposing certain restrictions upon new operating authority. These restrictions—closed door, single-plane, mandatory stop, long haul—have, in the past, been used primarily to protect carriers from competition among themselves.

Subsection (e) adds new paragraph 401(e)(7) to limit the Board's authority to restrain the natural growth of low-cost charter service by the imposition of artificial barriers. Under this amendment the Board may not require charter passengers to pay a deposit toward their fare more than thirty days before departure, prohibit the last minute sale of up to twenty-five percent of the tickets, require the charter operator to make last minute fare adjustments if a last minute passenger is added or subtracted, require the charter tour operator to cancel a flight rather than accepting a business loss if the tour sells poorly, require minimum stays of more than three days in North America or more than seven days elsewhere, require maximum stays in any case, or impose other conditions upon charter service which unduly restrict their availability. This amendment encompasses the major provisions of S. 42 (authored by Senator Howard Cannon and cosponsored by Senator Kennedy) with some revisions.

Bill Sec. 204—Revision of postal rate making elements.

This section revises subsection 405(b) of the FAA to eliminate the authority of the Postmaster General to compel a carrier to perform additional air service to carry the mail.

Bill Sec. 205—Effective date of provisions of this title

This section provides that this title shall become effective 180 days after enactment except as otherwise provided. The major exceptions are the continued applicability to domestic air transportation of the current "certificates of public convenience and necessity" and the "special operating authority" until the fourth anniversary of enactment, as these are modified by title II of this Act and by other provisions in title III.

TITLE III—ECONOMIC REGULATION OF DOMESTIC AIR TRANSPORTATION: NEW SUBTITLES IV–B (PERMANENT) AND IV–C (TRANSITIONAL)

This title III constitutes a new, final scheme for the regulation of domestic air transportation (subtitle IV–B) and a transitional phasing in of this statutory scheme (subtitle IV–C).

Bill Sec. 301—Amendment to the table of contents

This section adds appropriate new listings to the table of contents of the FAA.

Bill Sec. 302—Addition of new subtitle IV–B

This section inserts new subtitles IV–B and VI–C governing regulation of domestic air transportation. These subtitles are inserted as a long quoted passage which is described section by section in the following material:

New subtitle IV–B—permanent

FAA Sec. 450. Limitation to domestic air transportation

This section limits subtitle IV–B to interstate and overseas air transportation.

FAA Sec. 451. Certificate of fitness

This section provides a new "certificate of fitness" which will replace the current, more restrictive "certificate of public convenience and necessity."

Subsection (a) provides that no one may engage in interstate or overseas air transportation without a certificate of fitness.

Subsection (b) provides that application for a certificate of fitness shall be in writing and in a form prescribed by the Board.

Subsection (c) requires the Board to notify interested parties of an application and to dispose of the application within 60 days if there are not material facts in dispute. If there are material facts in dispute, the application must be set for hearing and disposed of within 180 days. If these time limits are not met, the application shall be deemed granted.

Subsection (d) requires the Board to grant a certificate of fitness if the applicant is "fit, willing, and able" to perform the proposed air transportation.

Subsection (e) provides that a holder of a certificate of fitness may operate between any two points in interstate or overseas air transportation (i.e., domestic commerce). The certificate of fitness may not restrict the type, nature, or frequency of service. Current law restricts certificates of public convenience and necessity to certain routes (terminal points and intermediate points) authorizes the Board to impose restrictive conditions and requires the CAB to separate "charter" service from "scheduled" service. The present law, however, prohibits the CAB from restricting equipment type or schedules.

Subsection (f) provides that the certificate of fitness shall be effective until suspended or revoked.

Subsection (g) provides that each holder of a certificate of fitness shall be under a continuing duty to maintain a level of fitness, willingness, and ability which is appropriate to the service each carrier offers to the public.

Subsection (h) authorizes the Board to hold a hearing on the record to determine whether a carrier has failed to comply with its duty to maintain its fitness, willingness, and ability. If the Board determines that a carrier has failed in this duty, the Board shall order compliance with the specific orders, rules, or regulations found to have been violated. If the carrier fails to comply with such an order to comply within a reasonable time, the Board shall suspend or revoke the carrier's certificate of fitness.

The Board is also authorized to immediately suspend a certificate in the interest of the "rights, welfare, or safety of the public." Such an emergency suspension may last no more than 30 days, to be extended for a total of not more than 60 days, and a hearing on the record shall immediately be undertaken by the Board in such a case.

The suspension and revocation authority in the Bill is similar to that under current law. Sec. 401(g).

The emergency suspension power conforms to the present Board authority with respect to supplemental carriers. Sec. 401(n)(4).

Subsection (i) provides that no certifi-

cate may be transferred. This subsection eliminates current Board authority to approve such a transfer. Sec. 401(h).

Subsection (j) provides that no certificate shall confer any proprietary, property, or exclusive rights in the use of any airspace or airway. This conforms to current law. Sec. 401(i).

Subsection (k) provides that each certificate holder shall comply with appropriate labor legislation. No change is made in current law. Sec. 401(k).

Certain provisions of current certificates of public convenience and necessity have been omitted. Present subsection 401(j) concerning abandonment is superseded by new FAA section 487 (transitional), 488 (transitional) and 460 (permanent) in this Bill. Subsections (l) and (m) dealing with air mail carriage have been eliminated as unnecessary in light of the maturity of the present industry and the Postmaster General's contract authority. Sec. 401(n) regarding supplemental and scheduled carriers is omitted since certificates of fitness shall be applicable to both types of carriers.

FAA Sec. 452. Insurance and bonding

Subsection (a) requires each carrier to comply with Board regulations governing filing and approval of plans of insurance for injuries to person or property that a carrier may cause in providing air service.

Subsection (b) provides that the Board may also require a carrier to file a performance bond to provide appropriate compensation in case a carrier fails to meet its contractural or common carrier obligations.

These sections allow the Board to apply to scheduled carriers the Board's current powers with respect to supplemental carriers concerning insurance and bonding. Sec. 401 (n)(1) and (2).

FAA Sec. 453. Accounts, records, and reports

Subsection (a) provides that the Board may require the carriers to submit whatever accounts, records, and reports may be required to administer the FAA.

Subsection (b) requires each carrier to disclose the names of persons holding more than 5 percent of the carrier's stock or capital.

Subsection (c) requires each carrier to disclose for each officer and director of the carrier the stock held in any air carrier.

Subsection (d) provides that the Board may require uniform accounting by the carriers.

Subsection (e) empowers the Board to inspect the books and property of the carriers as may be necessary to administer the FAA.

This section is the same as current law. Sec. 407.

FAA Sec. 454. Inquiry into air carrier management

Subsection (a) empowers the Board to inquire into the management of any business or person which controls an air carrier. This is the same as current law Sec. 415.

Subsection (b) prohibits, except with Board approval, interlocking relationships between air carriers and other carriers or firms engaged in other phases of aeronautics. No change is made in current law. Sec. 409(a).

Subsection (c) prohibits an air carrier officer or director from accepting personal compensation for the sale of, hypothecation, of or negotiation for transfer of any stock by the company. No change is made in current law. Sec. 409(b).

FAA Sec. 455. Filing of intercarrier agreements

This section requires every carrier to file with the Board a copy of every agreement between or among air carriers or other carriers.

This section is substantially the same as current law. Sec. 412(a). The Board's current authority to immunize such agreements from the antitrust law, sec. 412(b), is modified by the Bill (see FAA section 493 and 494, below), and eventually phased out after 10 years.

FAA Sec. 456. Tariffs of air carriers

Subsection (a) requires each carrier to file with the Board and keep open to the public a list of all rates and fares as well as a description of all other services performed in connection with air transportation, and limitations upon liability arising out of such transportation.

This subsection is the same as current law. Sec. 403(a).

Subsection (b) requires each carrier to adhere to the tariffs filed. Present law, sec. 403(b), permits refunds and discounts in special cases. Removing this provision requires that such special discounts must also be on file with the Board.

Subsection (c) requires that changes in tariffs shall also be filed. Current law requires such changes must be filed at least 30 days in advance of their proposed date of effectiveness. This requirement is eliminated in the Bill.

Subsection (d) requires each carrier to file with the Board divisions of rates and tariffs. This conforms with current law Sec. 403(d).

Subsection (e)3 explicitly permits carriers to file a tariff which provides a reasonably definite procedure for determining a flexible fare. This subsection is intended to permit flexible pricing or stand-by service and other innovative fare proposals without violating subsection (b). No parallel provision exists in current law.

Subsection (f) authorizes the Board to set maximum rates and fares whenever, after notice and hearing on the record, the Board determines that a fare or rate is unjust or unreasonable and that actual or potential competition from other airlines is insufficient to maintain reasonable fares. Current law authorizes the Board to set fares and rates, or maxima or minima. Sec. 1002. The Bill substantially narrows this authority and moves it from the procedural title, title 10, to this section on tariffs.

Subsection (g) prescribes policy considerations which the Board must take into account in setting maximum rates under subsection (f). These criteria differ from the corresponding provision in current law, sec. 1002(e), in placing greater emphasis upon maximum feasible competition, permitting greater flexibility in price/service combinations (such as off-peak pricing), and stressing the need to develop fares appropriate to particular markets.

Subsection (h) provides that the Board may suspend changes in fares in those markets in which it would otherwise be empowered to set fares in accordance with subsection (g). Suspension automatically initiates a hearing into the lawfulness of the fare or rate and such suspension cannot last more than a total of 180 days. This section is the same as current law Sec. 1002(g), except that it is confined to markets within the ambit of the more limited ratemaking authority of the Board.

Subsection (i) authorizes the Board to establish just and reasonable divisions of rates or fares when, after notice and hearing, it determines that existing divisions are unjust or unreasonable. This situation arises when one carrier is selling a "through" ticket for a flight on the carrier itself and a second carrier and the through fare must be divided between the two carriers. This section is the same as current law. Sec. 1002(h).

Subsection (j) authorizes the Board to establish through service and maximum joint rates whenever it determines, after notice and hearing, that such are required by the public interest. This section is substantially the same as current law, except that the Bill limits Board authority to the setting of maximum joint rates.

FAA sec. 457. Filing of schedules

Each carrier performing scheduled service is required to file such schedules with the Board. The duty is presently required by current Sec. 405(b).

FAA Sec. 458. Common carrier duties

This section requires each air carrier to provide air transportation upon a reasonable request therefore and to provide reasonable through service. This section substantially follows current law except that the legal duty to charge just and reasonable rates is eliminated since the Board's authority to establish such fares and rates has largely been eliminated by the Bill.

FAA Sec. 459. Air carrier conduct

Subsection (a) prohibits an air carrier from engaging in unfair or deceptive practices in the provision or sale of air transportation.

Subsection (b) authorizes the Board to issue regulations to define unfair or deceptive practices.

Subsection (c) statutorily defines certain practices as unfair or deceptive: failure to inform passengers of substantially lower priced air service which is available from the same carrier, failure to offer reasonable compensation for loss, damage, or delay of baggage while the baggage was in the custody of the carrier, and limitation of liability for death or loss caused by negligence.

Subsection (d) provides that the Board may initiate an investigation under this section and that if a violation of this section is found, the Board shall, after notice and hearing, issue a cease and desist order or pursue such other remedies as authorized by law.

Current law contains a general proscription against unfair or deceptive practices. The primary innovation of the Bill is to specify certain practices as unfair or deceptive.

FAA Sec. 460. Alteration or discontinuance of air service

This section provides that each air carrier may alter or eliminate its service to any point. This does not substantially alter what has been the practical effect of current law. Sec. 401(e)(4), 401(j), 404. Rather, this section makes explicit what heretofore has been implicit—that a particular airline in a competitive airline industry should not be saddled with regulatory requirements to serve certain points. Service to points is guaranteed in some instances, however, under new section 490.

FAA Sec. 461. Transportation of mail

Subsection (a) authorizes the Postmaster General to make appropriate rules and regulations for the carriage of air mail. No change is made in current law. Sec. 405(a).

Subsection (b) requires each carrier to file with the Board and the Postmaster General a statement of the schedules of all regularly scheduled flights. The Postmaster General is authorized to designate any flight for the carriage of air mail. Current law, sec. 405(b), also authorizes the Postmaster General to disapprove any schedule and to require a carrier to perform additional flights in order to carry the mail. This latter authority has been eliminated in the Bill.

Subsection (c) authorizes the Postmaster General to fix a maximum load. No change has been made in current law. Sec. 405(c).

Subsection (d) requires the Postmaster General to tender air mail to the holder of a certificate authorizing the transport of air mail. No change is made in current law. Sec. 405(d).

Subsection (e) provides that nothing in the FAA changes the authority of the Postmaster General to make arrangements with foreign nations or nationals for the transport of air mail to or within foreign countries. No change is made in current law. Sec. 405(e).

Subsection (f) authorizes the Postmaster General to regulate the carriage of air mail

from foreign countries to the United States in accordance with international agreements. No change is made in current law. Sec. 405 (f).

Subsection (g) requires air carriers to submit proof of carriage of the air mail as the Postmaster General may require. No change is made in current law. Sec. 405(g).

Subsection (h) authorizes the Postmaster General to contract for the carriage of the air mail if a calamity prevents the certificated carrier from so doing. No change is made in current law. Sec. 405(h).

Subsection (i) authorizes the Postmaster General to contract for the carriage of air mail to conduct experiments designed to improve air mail service. No change is made in current law. Sec. 405(j).

Subsection (j) provides for free travel for postal employees on official business. No change is made in current law.

FAA Sec. 462. Rates for transportation of mail.

Subsection (a) authorizes the Board to determine, after notice and hearing, rates for the carriage of air mail. No change has been made in current law. Sec. 406(a).

Subsection (b) provides what criteria shall be used to establish mail rates. Subsection (b)(3) provides for the payments of operating subsidies as part of the mail payment. No change has been made in the current law. Sec. 406(b). Thus, the current local service subsidy program is retained.

Subsection (c) provides that the Postmaster General shall pay compensation for the carriage of the mail and the Board shall pay the operating subsidies. No change has been made in current law. Sec. 406(c).

Subsection (d) prohibits the Board from taking certain revenues into account when determining the carrier's need for mail subsidy. No change has been made in current law. Sec. 406(d).

Subsection (e) provides that the Board may require certain information in any application for change in the mail subsidy rate. No change has been made in current law. Sec. 406(e).

Subsection (f) provides that the Postmaster General may weigh the mail. No change has been made in the present law. Sec. 406(f).

Subsection (g) provides that unexpended money authorized under the 1928 and 1934 air mail acts may be used by the Postmaster General to pay for air mail carriage under the FAA. No change has been made in current law. Sec. 406(g).

FAA Sec. 463. Classification and exemption of carriers.

Subsection (a) authorizes the Board to establish just and reasonable classifications for the purpose of administering the Act. No change is made in current law. Sec. 416(a).

Paragraph (b)(1) authorizes the Board to exempt any air carrier from any part of the Act if such an exemption is in the public interest. No change is made in current law. Sec. 416(b).

Paragraph (b)(2) statutorily exempts a carrier operating aircraft having a capacity of less than 56 seats or less than 16 thousand pounds from regulation if the carrier conforms to reasonable reporting and financial responsibility requirements. This provision is new.

Certain sections of current law have no corresponding sections in the new subtitle IV–B. Current sec. 408 authorizing the Board to approve mergers is phased out in a new section 492 added by new subtitle IV–C. Current sec. 414 granting the Board the authority to immunize certain carrier actions from the antitrust laws is also phased out. New FAA sec. 494. Current sec. 410 authorizing the Board to approve or disapprove certain loans from the United States, is eliminated as anachronistic. No Board action has been undertaken under this section in many years. Lastly, current sec. 413, which provides that "direct control" shall be deemed the same for legal purposes as "indirect control", is eliminated as so obvious as to be unnecessary and superfluous.

New subtitle—IV–C—Transition

FAA Sec. 480. Continuance of certificates of public convenience and necessity until the fourth anniversary of the Air Transportation Act of 1976

This section provides that the certificates of public convenience and necessity, except for subsections 401(g), (h), and (j), shall continue in effect until the fourth anniversary of this Bill. The certificates of fitness under new section 451 of the Act are not made fully effective until then. This means that currently certificated carriers would retain their certificates and, except as otherwise provided below, would be restricted to flying the routes named in their certificates. In addition, during the first four years existing carriers and new firms could still apply for scheduled authority over particular routes under § 401(d)(1).

FAA Sec. 481. Continuance of special operating authorizations until the fourth anniversary of the Air Transportation Act of 1976.

This section provides that special operating authorizations under present section 417 of the FAA shall continue in effect until the fourth anniversary of this Bill.

FAA Sec. 482. Discretionary expansion of scheduled service

Subsection (a) provides that this section shall become effective 180 days after enactment of this Bill and shall terminate on the fourth anniversary of this Bill when the certificates of fitness under new section 451 will become effective.

Subsection (b) provides that all air carriers of substantial size—all the trunk, local service, and the large supplemental and intrastate carriers—may expand their business in a limited manner during the transition period without having to submit to the certification process at the Board. The level of scheduled interstate service allowed under this provision increases during the transition period.

Paragraph (b)(1) provides that during the period 180 days after enactment until one year after enactment of this Bill, each carrier may offer up to 500 million additional "available seat-miles" in markets which the carrier is not authorized to serve. "Available seat-miles" is a measure of the service offered by a carrier; it is obtained by multiplying the number of seats offered for sale times the number of miles of the flight. A billion available seat-miles represents approximately 566 round trips by a Boeing 747 between New York and Los Angeles (less than 2 round trips per day on a yearly basis) or approximately 1356 round trips over that route by a Boeing 707.

Paragraph (b)(2) increases the limitation during the period from the first anniversary to the second anniversary of the Bill to 1.5 billion available seat-miles.

Paragraph (b)(3) increases the limitation during the period from the second anniversary to the third anniversary of the Bill to 3 billion available seat-miles.

Paragraph (b)(4) increases the limitation during the period from the third anniversary to the fourth anniversary to 4 billion available seat-miles.

Subsection (c) provides similar discretionary authority for limited expansion of the all-cargo carriers. Between 180 days after enactment and 1 year after enactment, the all cargo carriers may expand 25 million available ton-miles, from the second to the third anniversary, 60 million available ton-miles, from the third to the fourth anniversary, 75 million available ton-miles.

Subsection (d) authorizes carriage of mail and cargo under the discretionary authority granted by this section.

Paragraph (e)(1) permits carriers to combine discretionary authority with current authority in any manner they deem desirable.

Paragraph (e)(2) provides that new discretionary operations shall be subject to the same rules and conditions as scheduled operations under section 401 (as amended by this Bill).

Subsection (f) requires the carriers offering discretionary authority to conform to the transitional pricing restraints under new section 456 and 495 of the FAA.

Subsection (g)(1) provides that any carrier offering discretionary service under this section must provide 30 days notice of increases in fares, rates, and charges. The Board may delay the effective date of such increases in fares, rates, and charges for up to 180 days, except to the extent that such increases are needed to cover cost increases.

Subsection (h) provides that any carrier offering discretionary service under this section must provide 30 days notice before substantially reducing the level of capacity offered. The Board may delay the effective date of such capacity reductions for up to 180 days, except to the extent that such decreases in capacity may be necessary to reflect a general decline in demand.

Subsection (i) defines scheduled service for the purpose of this section as a minimum of five roundtrips per week between two points in accordance with published schedules.

FAA Sec. 483. Permanent certification for continuous operation

This section provides that any carrier who has performed twelve months continuous nonstop scheduled air transportation along any route under new FAA sec. 482 may acquire certification for such routes under the procedures and standards provided by new FAA sec. 451(b), (c), and (d). However, service with respect to which the Board has delayed a fare increase or capacity reduction shall be ineligible under this section.

Any carrier holding authority under this section at the fourth anniversary of this Bill shall be issued a certificate of fitness under new FAA sec. 451 on that date.

Interruptions in service due to labor disputes shall not be deemed to destroy continuity of service but such periods of interruption shall not be counted toward the requisite twelve month minimum.

FAA Sec. 484. Liberalization of authority to serve new routes

Subsection (a) provides that any person may apply for a certificate to offer nonstop service along any route not currently receiving nonstop service and such applications shall be treated under the procedures and standards of secs. 451(b), (c), and (d).

Subsection (b) provides that such service shall be conducted in accordance with the conditions applicable to certificated authority under 401(d)(1).

Subsection (c) provides that any carrier holding a certificate under this section on the fourth anniversary of the Bill shall receive a certificate of fitness.

FAA Sec. 485. Relaxation of restrictions on entry into the domestic airline industry

Subsection (a) provides that the Board shall process and dispose of applications for certificates of fitness as though sec. 451 were in effect subject to the limitation that no more than 2 certificates shall be granted between the first and second anniversary of the Bill, no more than 3 certificates shall be granted between the second and third anniversaries of the Bill, and no more than five certificates between the third and fourth anniversaries of the Bill.

Subsection (b) provides that the levels of operations under the certificates issued un-

der this section shall be limited in accordance with the provisions of new FAA sec. 482(b).

Subsection (c) further provides that the restrictions upon fare increases and capacity reductions under new FAA sec. 482 shall also apply to service under this section.

Subsection (d) provides that carriers authorized to offer scheduled service under 482 (b) shall be ineligible to offer service under this section.

Subsection (e) provides that applicants under this section shall be processed in chronological order and that applications filed on the same day shall be drawn by lot and disposed of in that order.

Subsection (f) provides that this section shall become effective upon enactment of the Bill and ineffective upon the fourth anniversary of the Bill's enactment.

FAA Sec. 486. Grandfather rights for obtaining certificates upon the fourth anniversary of the Air Transportation Act of 1976

This section provides that on the fourth anniversary of the enactment of the Bill, the Board shall issue certificates of fitness under 451 to all carriers currently holding certificated authority under secs. 401(d)(1), 483, 484, or 485.

FAA Sec. 487. Carrier obligations regarding points served in March 1976 until the fourth anniversary of enactment of the Air Transportation Act of 1976.

Subsection (a) provides that this section shall become effective 180 days after enactment of the Bill and shall terminate upon the fourth anniversary of the enactment of the Bill.

Subsection (b) provides that no air carrier may reduce the level of air service to any point below what the Board determines is "essential air service" unless the Board approves such a service reduction. The levels of "essential air service" are those set by the Board pursuant to new FAA sec. 490(c); they apply only to the points receiving certificated service in March 1976.

Paragraph (b)(1) provides that the Board may approve such a service reduction request if the carrier demonstrates, after notice and hearing, that the revenues from service provided have been less than fully allocated cost (including a reasonable return of investment) for a period of at least one year immediately preceding the request. The Board may also require the carrier to continue service for up to 180 days.

Paragraph (b)(2) provides that the Board may approve such a service reduction request if the carrier demonstrates, after notice and hearing, that the revenues from the service provided have been below direct operating costs for a period of at least three months immediately preceding the request. The Board may also require the carrier to continue service for up to 90 days. In such a case the carrier shall be reimbursed by the Board by the amount direct costs exceed revenues.

Paragraph (b)(3) provides that the Board shall approve such a service reduction request if another carrier will provide the essential service.

Subsection (c) provides that any interested person may file with the Board a protest or memorandum in opposition to or support of any service reduction.

Subsection (d) provides that the Board may require any air carrier reducing air service below the essential level to establish reasonable cooperative working relations with another carrier willing to provide replacement service.

Subsection (e) provides that the Board may require the carrier to continue providing essential service to a community if the community or State or other public body agrees to guarantee that the carrier will cover fully allocated costs (including a reasonable return of investment).

Subsection (f) defines "direct costs" under this section to mean the direct operating cost of providing the service to which the rate, fare, or change applies, excluding general administrative expenses, depreciation, interest payments, amortization, capital expenses, and the like.

FAA Sec. 488. Carrier obligations regarding points served in March 1976 during the period from the fourth anniversary of the Air Transportation Act of 1976 until the tenth anniversary of the act.

Subsection (a) provides that this section shall become effective upon the fourth anniversary of the Bill and terminate upon the tenth anniversary.

Subsection (b) prohibits a carrier from implementing any schedule change which would reduce service below the essential minimum service standards set by the Board except upon 30 days notice. These standards, set pursuant to new FAA sec. 490(c) apply only to points receiving service from a trunk or local service carrier in March 1976.

Subsection (c) authorizes the Board to order a carrier to continue service at the essential service level for up to 90 days from the date of the notice of the schedule change or until service by a replacement carrier is instituted.

Subsection (d) provides that the Board shall reimburse any carrier required to continue service under subsection (c) in the amount by which total allocated costs exceeded revenues.

FAA Sec. 489. Requirements regarding tariff filings.

Subsection (a) provides that this section shall become effective upon enactment of this bill and terminate upon the fourth anniversary of enactment.

Subsection (b) impose a (sec. 403(c)) sixty day notice requirement for filing tariff changes but restricts this requirement to tariff changes which are beyond the zone of fare flexibility provided by new FAA sec. 495.

Subsection (c) requires the Board to exercise its suspension authority under new FAA sec. 456(h) at least 30 days before the tariff change would otherwise become effective.

FAA Sec. 490. Guarantee of service to points served in March 1976 until the tenth anniversary of the Air Transportation Act of 1976.

Subsection (a) provides that this section shall become effective upon enactment of the Bill and shall terminate upon the tenth anniversary of the Bill.

Subsection (b) requires the Board to ensure that each point that received air service from a local service or trunk carrier in March 1976 shall continue to receive "essential air service."

Subsection (c) requires the Board to establish general criteria for "essential air service" to points 180 days after enactment, in accordance with the rulemaking procedures of the Administrative Procedure Act.

Subsection (d) provides that the Board may, upon its own initiative or the application of any interested person, investigate and determine whether a particular point is receiving essential air service. In so doing, the Board shall establish a specific definition of essential air service for that point in accordance with the following criteria: the general criteria set under subsection (c), availability of alternative modes of transport, needs of affected communities, financial assistance the communities are able or willing to provide, cost of air service, integration with other air service, and the views of the affected parties and the appropriate State and Federal officials.

Subsection (e) requires the Board to contract for additional air service to a point if essential air service is found to be lacking.

Subsection (f) provides the contracts under this section shall be drawn in accordance with the Federal Property and Administrative Services Act of 1949, as amended (government procurement provisions) except that: no contract may exceed 3 years or be renewed, no increase in the contract price may be made except to allow for cost increases due to governmental action, no preference shall be given to incumbent carriers, and contracts shall provide for reasonable assurance of reimbursement in the event of default by a carrier (including the cost of obtaining a replacement carrier). The Board may also relieve itself of those requirements of the Federal Property and Administrative Services Act that are found, after notice and hearing, to be inconsistent with the purposes of this section.

Subsection (g) provides that a contract under subsection (f) shall specify the minimum flight frequency, the maximum rate, fare, or charge, the minimum seat capacity of the aircraft, and such other items as the Board may require in the public interest. In no case may the contract provide for services which exceeds the service provided to the point during 1976.

Subsection (h) prohibits the Board from inhibiting the provision of unsubsidized service and prohibits the Board from awarding a contract if essential air service is otherwise available.

Subsection (i) provides that air service provided pursuant to a contract under this section shall be ineligible for a federal subsidy payment under any other section of the FAA.

Subsection (j) provides that any air carrier authorized or eligible to provide air service under any provision of the FAA or any air carrier fit, willing, and able to provide air service pursuant to this section, may be eligible to provide contract service under this section.

Subsection (k) provides that that termination of the effectiveness of this section shall not interfere with outstanding contracts entered into under this section.

FAA Sec. 491. Review of the local service subsidy program.

This section declares that it is the policy of Congress to improve and revise direct subsidy. The Secretary of Transportation is directed to study and evaluate alternative subsidy plans in consultation with all affected parties and report to Congress within 18 months of the enactment of the Bill. The Secretary is also directed to recommend the appropriate level of subsidized service for each point to which subsidized service should be made available.

FAA Sec. 492. Consolidation, merger, acquisition of control of the domestic air carriers until the tenth anniversary of the Air Transportation Act of 1976.

Subsection (a) provides that this section shall become effective upon enactment of the Bill and terminate upon the tenth anniversary of the enactment of the Bill.

Subsection (b) prohibits certain forms of joint control of and merger by two air carriers or by an air carrier and a carrier regulated by the ICC without approval of the Board. No change has been made in current law. Sec. 408(a).

Subsection (c) provides that any person seeking Board approval of a merger or joint control agreement shall apply to the Board, and the Board is required to notify all interested parties and conduct a public hearing. The Board is required to approve all such agreements found to be not inconsistent with the public interest or other provisions of this subsection, subject to such reasonable and appropriate conditions, including employee protective conditions, as the Board may find to be in the public interest. The broad rule is the same as current law, sec. 408(b), except that Board authority to attach appropriate employee protective conditions is made explicit.

The first proviso of subsection (c) provides that the Board may not approve an agreement under this section if it would violate the general standards of the antitrust laws, and the first proviso also states that a reviewing court may "apply its independent judgments" when reviewing Board determination of these antitrust standards. The new first proviso strengthens the current first proviso of sec. 408(b) by substituting the broad antitrust standards for the narrower prohibition against "creating a monopoly" and by providing for expanded court review.

The second proviso of subsection (c) provides that the Board shall not approve an agreement under this section if the applicant is not an air carrier unless such agreement "will promote the public interest by enabling such carrier other than an air carrier to use aircraft to public advantage in its operation and will not restrain competition." This is the same as the second proviso of current sec. 408(b).

The third proviso of subsection (c) provides that in certain de minimus cases the Board may approve an agreement under this section without a public hearing if 30 days notice has been given in the Federal Register and notice has been given directly to the Attorney General and the Secretary of Transportation. This proviso differs from the current third proviso to sec. 408(b) in that 30 days advance notice is required and notification must be made to the Secretary of Transportation as well as to the Attorney General.

The fourth proviso to subsection (c) provides that the Board shall dispose of all applications filed under this subsection within 240 days. No such provision appears in current law.

Subsection (d) exempts from this section and the new subsections 454 (b) and (c) interests in ground facilities such as hangars and ticket offices. No change is made in current law. Sec. 408(c).

Subsection (e) gives the Board jurisdiction over non-air carriers who acquire control of an air carrier pursuant to this section. No change is made in current law. Sec. 408 (d).

Subsection (f) authorizes the Board to investigate any person who may be violating subsection (b) of this section. No change is made in current law. Sec. 408 (e).

Subsection (g) establishes a presumption that any person owning 10 percent of the stock or capital of an air carrier controls the carrier. The Board may find otherwise. No change is made in current law. Sec. 408(f).

FAA Sec. 493. Pooling and other agreements until the tenth anniversary of the Air Transportation Act of 1976

Subsection (a) provides that this section shall become effective upon enactment of this Bill and shall terminate upon the tenth anniversary of the Bill.

Subsection (b) provides that the Board shall notify the Attorney General and the Secretary of Transportation of any agreements filed with the Board pursuant to new FAA sec. 455. If either official requests the Board to hold a hearing to determine whether a pending or already approved agreement will be or remains within the provisions of the FAA, the Board shall hold such a hearing.

Subsection (c) provides that the Board shall disapprove any agreement which fixes fares or commissions, (except for joint rates), divides markets, restrains capacity, substantially lessens competition in a manner which either is more restrictive than necessary or not responsive to transportation needs clearly outweighing the harm to the public interest, or otherwise adverse to the public interest or the policies of the FAA.

Subsection (d) provides that parties attacking a proposed agreement shall have the burden of proving the anticompetitive effects and the parties defending the agreement shall have the burden of demonstrating significant transportation needs that cannot be substantially satisfied by any less restrictive way. A reviewing court shall apply independent judgment when reviewing an agency record in such matters.

Current law, sec. 412(b), only states that the Board shall approve agreements in the public interest and disapprove others.

FAA Sec. 494. Antitrust law immunity until the tenth anniversary of the Transportation Act of 1976

Subsection (a) provides that this section shall become effective upon enactment of the Bill and shall terminate upon the tenth anniversary of enactment of the Bill.

Subsection (b) provides that Board orders under new FAA secs. 454(b), 492, and 493 shall immunize the parties involved from the antitrust laws but that this immunity shall in no case extend beyond the tenth anniversary of enactment of the Bill. This immunity differs from current law, sec. 414, in that the operations immunized must pertain to air transportation, and no immunity is given from the applicability of the criminal conspiracy section of the antitrust law (Sherman Act, sec.1).

Subsection (c) provides that the Board shall attach appropriate labor protective conditions to any order under sec. 492 or 493 of the FAA. No such provision exists in current law.

FAA Sec. 495. Transitional Board authority to prescribe rates and practices of air carriers until the fourth anniversary of the Air Transportation Act of 1976.

Subsection (a) provides that this section shall become effective upon enactment of the Bill and shall terminate upon the fourth anniversary of the Bill.

Subsection (b) continues the Board's current ratemaking power Sec. 1002(d), except that the Board may not find unlawful a fare which is: (1) not more than a 10 percent increase over the fare charged one year previously and (2) certain percentages less than the fares charged at the time of enactment, so that carriers can reduce future fares below current levels 20% in the first 6 months, 40% in the next 6 months, and up to 60% in the next 3 years. The Board's current authority under sec. 1002(d) is also modified by eliminating the language "unjustly discriminatory, or unduly preferential, or unduly prejudicial" as a basis for finding a rate, fare, or charge unlawful.

Bill Sec. 303. Amendments to Subchapter 10, sec. 1002

This section repeals the current subsections dealing with Board regulation of fares and rates.

Bill Sec. 304. Postal service contract authority

This section authorizes the Postmaster General to contract with any carrier for carriage of air mail if he finds that carriage by certificated air carriers between any two points is "not sufficiently adequate, efficient, or economical."

Bill Sec. 305. Effective dates of provisions of this title

This section provides for the effective dates of various provisions of this Title. The practical effect of this is that most of the revisions of regulation of domestic air transportation do not become effective until 6 months after enactment. In the meantime, interstate and overseas air transportation would be governed by and large by current law, except that the provisions regarding rate flexibility and intercarriers mergers and agreements would take effect immediately. After 6 months, the revisions would take effect except that during the transition period authority could still be granted under current section 401(d), as amended.

Testimony of Senator Edward M. Kennedy Before the Senate Subcommittee on Aviation Hearings on Legislation to Reform Federal Airline Regulation

Mr. Chairman, it is a pleasure to be here today to testify on legislative proposals to reform federal economic regulation of the airline industry. This is an issue of significance not only for those connected with the airline industry, but far more broadly, for the American people, who in the last several years have expressed themselves so clearly on the need for regulatory reform.

Since 1938 the CAB has had broad authority over airline fares, entry into the industry and route wards to existing carriers, and mergers and other agreements among air carriers.

For the past 18 months, I have had the opportunity to study CAB regulation of the airlines.

The Subcommittee on Administrative Practice and Procedure held extensive hearings and compiled a vast record on the operations of the CAB. We identified a multitude of procedural irregularities of the CAB's administrative processes and documented numerous violations of fundamental principles of administrative due process. But in the end, the Subcommittee not only recommended procedural reforms to the Board but also concluded that more basic legislative action was needed. Procedural adjustments, while desirable, cannot remedy the underlying defects of federal airline regulation.

It is therefore my firm conclusion that Congress should enact legislation that will drastically reduce the CAB's powers to control prices, to restrict entry and to confer antitrust immunities. The shift from the present system of heavy regulation to a more competitive environment should take place gradually. There should be a reasonable transition time to allow the industry to adjust. These are the objectives of the legislation I am proposing. The reasons for these recommendations are well-documented. The recent investigation of the CAB by the Administrative Practice and Procedure Subcommittee, which I chair, produced a 255-page report and 8 volumes of hearings and appendices. We began our inquiry in late 1974 to determine whether the Board's practices and procedures were both fair and effective. We wanted to know whether the CAB's procedures were fair: Are the CAB's decisions made after adequate public input and are they based on evidence? We also wanted to know whether the Board's practices were effective: Has the Board satisfied the nation's need for air service at the lowest cost consistent with furnishing that service?

We found that in too many cases the Board's practices and procedures were neither fair nor effective.

We found, for example, that the original 16 trunk carriers have shrunk through merger to 10 carriers. Not one new trunk carrier has been allowed into the industry since 1938. Since 1950, there have been 79 applications for trunk authority but not one has been granted and only 4 were granted hearings.

This is in spite of the fact that the industry has grown tremendously since 1938. Investment has grown from $7 million to well over 7 billion dollars. Revenue passenger miles have grown from 476 million to 150 billion.

This closed entry policy is also contrary to the intent of the original act. When the CAB was created in 1938, one of its chief sponsors, Senator McCarran declared that: "In the proposed bill there is nothing to prevent a little fellow with a new idea, with plenty of capital, from establishing an airline."

The Board's route award procedures have also been unfair, Mr. Chairman. The law re-

quires the Board to dispose of applications for route authority as speedily as possible. Yet, after a series of private meetings with airline executives several years ago, the CAB simply decided that no more competitive route applications would be set for hearings. The so-called route moratorium was contrary to ordinary CAB procedures and was embarked upon with no public consultation or notice.

One of the more disturbing incidents involved board interference with the judicial responsibilities of administrative law judges. The CAB chairman's office instructed the Chief Administrative Law Judge not to set certain cases for hearing in spite of the fact that the full board had previously voted that those cases should be heard.

Under its power to exempt carriers from the antitrust laws, between 1970 and 1974 the Board administered a policy of encouraging capacity restriction agreements on major routes. This policy allowed airlines to agree among themselves to reduce service competition on major routes and offer fewer flights. The Board did not, however, require these same carriers to reduce their fares in proportion to their reduction in service. This policy was set without a hearing which, when finally held 4 years later, resulted in overturning these agreements.

And how has the CAB spent its time in enforcing its rules and regulations? CAB data showed that from January 1971 until October 1974 the Bureau of Enforcement spent about two-thirds of its field enforcement efforts trying to stamp-out low-cost travel that may have violated CAB rules. During the same period, the Bureau spent only 3 percent of its time investigating consumer complaints such as overcharging, bumping, and lost luggage. This allocation of enforcement personnel seems to reflect the importance the Board attaches to these comparative types of activities. Meanwhile the Subcommittee discovered that incomplete investigating files on possible illegal airline political contributions were locked away in a safe for nearly 18 months with no action.

These examples are very disturbing, Mr. Chairman, and the Board has responded in a positive fashion by overturning domestic capacity restriction agreements and by ending the route moratorium.

But, the basic problem of regulation is not procedural. As desirable as procedural reforms may be, they will not adequately overcome the fundamental fact that regulation is ineffective in bringing about low fares which consumers prefer.

The Subcommittee found, for example, that the airlines in California and Texas that are not regulated by the CAB offer fares that are 30–50 percent less than those charged by CAB carriers over comparable routes. The 445-mile flight from San Diego to San Francisco, for example, costs about $30 on intrastate airlines not regulated by the CAB. But, the 400 mile flight from Boston to Washington on a regulated carrier costs about $50. The Subcommittee carefully examined whether these differences were due to regulation, as the critics had been charging, or to other factors. The airlines and the CAB told us that differences in weather, traffic density, and a host of other factors accounted for the difference. But we discovered that those factors accounted for less than one-half the difference in fares. The secret in California and Texas is deceptively simple: they put more passengers on their planes than the CAB carriers do. This fuller plane, lower fare service seems to be the direct result of greater competition and innovation that comes with freedom from the stranglehold of CAB regulation. In Texas and California these lower fares have stimulated so much extra traffic that there are actually more flights instead of less, even those flights are somewhat more full.

Our Subcommittee found that studies by both Boeing and Lockheed demonstrated that it is economically and technically possible to provide the lower fare service throughout the United States. With an all-coach seating configuration, for example, profitable cross-country service could be provided in a B–747 flying an average from 50–70 percent full at fares that range from $75 to $95. In fact, World Airways has recently proposed scheduled service coast-to-coast for $89. Unfortunately, the CAB dismissed this application. Meanwhile, the current cross-country CAB-regulated fare is $179. The simple fact is that the CAB has failed to encourage low prices.

Although the air travelers have gotten poor paying the cost of unwise CAB regulation, the airlines have not gotten rich by any means. Where has the money gone? It has gone into half empty flights, in-flight movies, unwanted meals, and other frills. Regulation has not prevented competition in the airline industry. It has only prevented price competition. What is left is vigorous service competition.

This service competition, although demonstrating how competitively structured the industry actually is, has not been a healthy development for the airlines. Without freedom to compete in prices and without the pressure from new innovative entrants to hold fares down, the regulated carriers are flying with high fares in half-empty planes and using timely and frequent departures along with extraneous frills as the carrot to lure the thinning ranks of air travelers to their planes. Discount fares, although better than nothing, reflect in their restrictions and limitations the fact that with regulation everyday scheduled air travel is geared not to the average American but to the well-to-do.

Our goal should be to make air travel available to more Americans. Although air travel is not now the province of the rich, it is certainly not available on any large scale to the average citizen. The average family income of an air traveler is estimated at $25,000 per year, whereas the average family income of the population is nearly half of that. It is no wonder that more than 50% of all air travel is business travel. There are too many Americans who have never traveled by air because they simply cannot afford to. Only 1 out of every 4 adult Americans utilize air travel in any given year. Although historically air fares since 1938 have fallen in real dollar terms, this trend under recent regulation has been reversed. Since December of 1973 air fare increases have outpaced the rate of inflation. It is becoming harder and harder for the working men and women of this nation to travel by air. The prospects for the future are not bright. The carriers tell us they will need more fare increases soon to offset recent losses.

The ineffectiveness of federal regulation to keep fares low cannot be cured by procedural reform. This is why both the unanimous Administrative Practice Subcommittee and the Administration believe that congressional action is required to bring about the low-fare air service that is both possible and desirable.

I am proposing for your consideration, Mr. Chairman, a bill designed to achieve that goal. The bill I will be introducing will drastically reduce C.A.B. control over entry, air fares, and carrier agreements. It will do so over a gradual transition period that in major respects will be completed in four years. During the transition, controls will be gradually lifted so that disruptions due to a changed environment are minimal and the low-fare benefits of increased competition are maximized.

My bill is different than the Administration's bill in some major and minor respects, but the basic objective of both bills is similar.

As you know, Mr. Chairman, in spite of the substantial benefits that less regulation would confer on our nation's travelers, there are some groups associated with the airline industry that are concerned with these reform proposals.

The concerns of those who oppose change deserve careful examination, Mr. Chairman. This is especially so at this stage where there are now two detailed pieces of proposed legislation before you. The legislative process should take account of the anxiety of those who have become comfortable with the status quo. Let me briefly examine some aspects of this anxiety.

First, most often expressed is the fear that less regulation will lead to less service to small communities. The argument is made that without government regulation, air carriers would be free to withdraw from unprofitable routes and small towns would thereafter lose service. For this reason, the present system of regulation must be maintained.

I have heard this argument made more often by the regulated airlines than the representatives of small communities, but both express sincere concern. The simple answer is that predicted loss of service is more imaginary than real. For example, there is no evidence to support the claim that airlines are providing much money-losing service to small communities that is subsidized by profitable operations on routes where the C.A.B. protects them from competition. The dense routes actually provide very little excess profits to pay for small-town service and, in any event, the C.A.B. has been allowing air carriers to discontinue service on routes on which they are losing money.

Most of the so-called small service does, in fact, pay for itself. A recent D.O.T. study demonstrated that those points subject to some risk of loss of scheduled service under total deregulation account for less than one-half of one percent of the nation's air travelers. My Administrative Practice Subcommittee estimated that the marginal routes of trunk carriers account for less than one percent of the total revenue passenger miles.

I do not believe we in Congress can justify regulating the entire airline system in a manner that keeps fares high on most routes simply to protect less than one percent of all air service and less than one percent of airline passengers.

Despite the overwhelming evidence that indicates that competition will not result in a serious reduction of air service, the bill I have drafted nonetheless contains added guarantees that towns now served by certificated air carriers will continue to receive scheduled service in the future. This guarantee is more than these towns receive under current regulation, which has permitted certificated carriers to drop nearly one-third of the points served in 1960 with no guarantee of replacement service. The service-guarantee provision in my bill is similar to an amendment to the administration bill which Secretary Coleman announced last week. In February I proposed that any air reform legislation should guard against the fears of small communities by a contract bid mechanism and I applaud the administration for proposing to amend the bill along these lines.

The second important group that has expressed strong reservations about change is management of unions that represent airline employees. Like the small towns who fear loss of air service, the affected unions are understandably concerned that a changed airline industry might adversely affect them. I believe, however, that the interests of employees will be enhanced in a more competitive airline industry.

Lower fares would result in increased demand and, in the long run, increased overall employment in the industry. This would come as welcome news to the flight attendants and mechanics who are presently furloughed. The wages paid by the C.A.B. regu-

lated carriers to all groups of employees already compare quite favorably with those paid by the intrastate carriers in California and Texas.

C.A.B. regulation has never been particularly sensitive to the needs of airline employees and the Board has on occasion taken action adversely affecting their interests. Until very recently, the Board allowed air carriers to enter into capacity reduction agreements but ignored the arguments of employees that the agreements resulted in many lost jobs without benefiting the public. The Airline Pilots Association estimated that these agreements between two major carriers resulted in the loss of 1000 jobs.

Without adequate legislative reform, regulation is likely to continue like it has recently—high fares, low profits, capacity reduction devices and employee layoffs. Competition is more likely to bring about low fares, expanding air service, no capacity restriction agreements and more jobs.

Another concerned group consists of airline management. Most airline executives seem to favor the federal government regulating their business as long as the regulation benefits them. For example, the airlines would undoubtedly support legislative provisions that allow them to raise prices without C.A.B. approval. But they will be equally unenthusiastic toward relaxations of C.A.B. entry control. But, as we discovered in our investigation, without meaningful threat of new entry most existing carriers are likely to raise, not lower, prices if free to do so. This is why legislation must reduce C.A.B. entry control as well as rate control.

Frankly, Mr. Chairman, I do not expect management to be too excited by the prospect of having to run companies in a newly competitive environment where the stockholders look to management but management can no longer blame poor performance or lower profits on the C.A.B. Mistakes will be made in this new environment; some firms will do better than others; some executives will thrive and others will be replaced. That is what our American system is all about, what has made our business community by and large the most innovative and industrious in the world.

And as a matter of national policy, federal regulation should protect the competitive environment but should not, as airline regulation does, protect instead particular competitors.

The new rules, though, should not be ushered in all at once in the airline industry. Current airline management should be given an opportunity to adjust in an orderly fashion before final reform takes effect. That is why both my bill and the administration's bill do not provide for the changes to occur overnight. Moreover, there are ample safeguards built into my bill to guard against temporary instability and to minimize the effects of management miscalculation in the new environment.

In addition to small towns, labor and airline management, there are other groups whose prospects in a less regulated industry should be analyzed. For example, aircraft manufacturers are vitally interested in the airline industry. But it has been technology and favorable economic growth, not CAB regulation, that have been the primary determinants of the fate of the manufacturers.

The spate of aircraft orders in the 1960's has been followed by moth-balled aircraft and cancelled orders in the 1970's. The regulatory response to current excess capacity has been to employ artificial anticompetitive mechanisms to keep planes from flying. Less regulation would not cure overnight the problem of excess capacity, but the industry's own competitive response to the problem would be to stimulate demand through price reductions to fill those empty seats. The more quickly proposed reforms bring about the full benefits of increased price competition, lower rates and increased demand, the sooner the demand for new aircraft will pick up. My bill takes this fact into account in its establishment of a cautious but much more rapid transition than the Administration bill.

Also, aircraft manufacturers as a whole should benefit over time as new and existing firms are finally able to tailor their service to particular markets and thus create demands for aircraft different than those now flying. Under regulation, some of our major aircraft manufacturers are facing the prospect of no new aircraft orders during the final years of this decade. A more open competitive industry should help reverse that trend.

There are other groups of interested persons this Subcommittee will hear from. Those who invest in airlines or lend them money, the unregulated commuter carriers who should benefit enormously from reform, the communities which depend on air service, travel agents—all these interests will have to be taken into account.

But there is one final group, the largest group, which might not be represented here as forcefully and effectively as the more powerful interest groups, Mr. Chairman. It consists of the consumers of the country who ask that when government regulates, and when Congress acts, it does so with their interests as paramount.

The evidence is clear and overwhelming, Mr. Chairman. The time for study is drawing to a close. The responsibility for action is now in the hands of the Congress. The only real question is what type of transition arrangment is desirable—over what period of time and under what conditions should we move from regulation to competition.

I believe the bill I am offering provides a clear blueprint for legislative action. The proposed legislation offered by President Ford is an alternative that can help the Subcommittee sort out the options and sharpen the legislative process. Both bills, however, spring from the recognition that we in government have a responsibility to correct a transportation policy that has not served the larger public interest.

Mr. HUGH SCOTT. Mr. President, I am pleased to join with Senator KENNEDY in cosponsoring the Air Transportation Act of 1976. The elimination of over-regulation will reduce air fares by as much as 50 percent. It will also encourage new and innovative service, which should benefit rural service in States such as Pennsylvania. Presently, with regulated fares and routes, the established airlines have a monopoly. With deregulation, service will improve as small and hungry airlines operate out of the small towns.

The airline industry is potentially highly competitive, but the Board's system of regulation discourages the airlines from competing in price and virtually forecloses new firms from entering the industry. The result is high fares and security for existing firms. But the result does not include high profits: instead the airlines—prevented from competing in price—simply channel their competitive energies toward costlier service, more flights, more planes, more frills. Thus, the skies are filled with gourmet meals, and Polynesian pubs; scheduled service is frequent. Yet planes fly across the continent 50 percent empty and fares are "sky high."

The remedy is for the Board to allow both new and existing firms greater freedom to lower fares and greater freedom to obtain new routes. This freedom should lead the airlines to offer service in fuller planes at substantially lower prices, a form of service that most consumers desire. I might note that only 2 days ago all the airlines raised their rates by 2 percent across the board, even those, arguably, who had no economic reason to do so.

I am a great believer in the free enterprise system, and I think that in the airline industry we must allow the marketplace to exercise its proper role in setting routes and prices, scheduling, and determining what companies can compete.

I would therefore urge my colleagues to study the provisions of the bill carefully. If the airline industry has grown dull and lethargic as a result of over-regulation, we should change our procedures. Lack of competition contributed to the decline and atrophy of our railroad industry, and we want to avoid a repetition of that sad history.

Senator KENNEDY's bill will inject competition into the airline industry. Competition will provide new momentum and added lift to an industry approaching stall speed.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 1173

At the request of Mr. CURTIS, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 1173, relating to exemption for purposes of the Federal estate tax.

S. 2111

At the request of Mr. CLARK, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 2111, a bill to restore United States compliance with international sanctions against Rhodesia.

S. 2475

At the request of Mr. CURTIS, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 2475, a bill to modify the distribution requirements of private foundations.

S. 2679

At the request of Mr. CASE, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2679, to establish a commission to monitor compliance with the Helsinki accords.

S. 2795

At the request of Mr. BARTLETT, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 2795, a bill to amend the Hobbs Act to provide for penalties for the damages to employers.

S. 2936

At the request of Mr. HANSEN, the Senator from South Carolina (Mr. THURMOND), the Senator from Kansas (Mr. DOLE), the Senator from Montana (Mr. MANSFIELD), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Wyoming (Mr. MCGEE) were added as cosponsors of S. 2936, to amend part B of title XI of the Social Security Act to assure appropriate participation by optometrists in the peer review and

related activities authorized under such part.

S. 3151

At the request of Mr. MANSFIELD, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 3151, to establish a program for gathering and analyzing information with respect to multinational enterprises, and for other purposes.

S. 3188

At the request of Mr. BROOKE, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 3188, a bill to amend the U.S. Housing Act of 1937 to extend the authorization for contracts for annual contributions, and for other purposes.

S. 3227

At the request of Mr. HUMPHREY, the Senator from Missouri (Mr. EAGLETON), the Senator from Vermont (Mr. LEAHY), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 3227, a bill to accelerate solar energy research and development within the Energy Research and Development Administration, and for other purposes.

S. 3262

At the request of Mr. BEALL (for Mr. JAVITS), the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 3262, a bill extending the emergency unemployment program.

S. 3292

At the request of Mr. PEARSON, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 3292, to amend the Social Security Act.

SENATE CONCURRENT RESOLUTION 105

At the request of Mr. BROOKE, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Pennsylvania (Mr. HUGH SCOTT) were added as cosponsors of Senate Concurrent Resolution 105, regarding democracy in Italy.

SENATE JOINT RESOLUTION 179

At the request of Mr. BARTLETT, the Senator from Florida (Mr. CHILES) was added as a cosponsor of Senate Joint Resolution 179, to establish a National Bicentennial Day of Prayer of Thanksgiving and Guidance.

SENATE CONCURRENT RESOLUTION 113—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING ADDITIONAL COPIES OF "SOVIET SPACE PROGRAMS, 1971–1975"

(Referred to the Committee on Rules and Administration.)

Mr. MOSS (for himself and Mr. GOLDWATER) submitted the following concurrent resolution:

S. CON. RES. 113

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Aeronautical and Space Sciences one thousand five hundred additional copies each of volumes 1 and 2 of its committee print entitled "Soviet Space Programs, 1971–1975", Ninety-fourth Congress, second session, prepared by the Congressional Research Service with the cooperation of the Law Library, Library of Congress.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Monday, May 10, 1976, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

Ralph B. Guy, Jr., of Michigan, to be U.S. district judge, eastern district of Michigan, vice Frederick W. Kaess, retired.

Laughlin E. Waters, of California, to be U.S. district judge for the central district of California, vice Jesse W. Curtis, retired.

Any persons desiring to offer testimony in regard to these nominations, shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee will consist of the Senator from Arkansas (Mr. MCCLELLAN); the Senator from Nebraska (Mr. HRUSKA); and myself as chairman.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

James R. Cooper, of Georgia, to be a member of the Board of Parole for the remainder of the term expiring September 30, 1978, vice Thomas R. Holsclaw, deceased.

Bruce R. Montgomery, of Tennessee, to be U.S. marshal for the eastern district of Tennessee for the term of 4 years, vice Leon B. Sutton, Jr., resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, May 10, 1976, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING ON STATUS OF LAW OF THE SEA CONFERENCE

Mr. METCALF. Mr. President, the current New York session of the Third United Nations Conference on the Law of the Sea is scheduled to end this week. As the conference completes this latest round in a long series of discussions, I am reminded of the statement made by Mr. Carlyle E. Maw, then chief of the U.S. delegation, speaking before the Subcommittee on Minerals, Materials and Fuels last October. Mr. Maw said, "It is evident that the issue of the deep seabed regime and machinery is the chief obstacle to a speedy and successful conclusion of a Law of the Sea Treaty."

He also stated "We encourage private investors to develop their technology and to begin mining when they are ready."

On April 14, the Senate Interior and Insular Affairs Committee reported S. 713, the Deep Seabed Hard Minerals Act. On April 8 Secretary Kissinger announced major new concessions to the demands of the developing nations in the conference. In view of these developments, the subcommittee will on May 25 once again review the U.S. position in these ongoing and highly significant negotiations. This hearing will begin at 10 a.m. in room 3110, Dirksen Senate Office Building. It will be devoted to a report on specific progress at the current session, the probability of reaching by the end of this year an agreement acceptable to the United States, and recommendations for domestic legislation either to implement the treaty or to permit the United States to exercise at least some measure of control over our nationals as they head seaward to recover resources vital to our economy.

I have invited Ambassador T. Vincent Learson, Ambassador at Large and Special Representative of the President for the Law of the Sea Conference, and his associates to testify.

If there are questions about this hearing, they may be discussed with D. Michael Harvey, deputy chief counsel for the committee, 224–1076, or with Brit Englund, my administrative assistant, 224–2651.

NOTICE OF HEARING

Mr. JACKSON. Mr. President, I wish to announce for the information of my colleagues and the public that the hearing scheduled by the Senate Interior and Insular Affairs Committee on Thursday, May 6, on S. 2932, the Energy Conservation Act of 1976, will also include the members of the National Fuels and Energy Policy Study pursuant to Senate Resolution 45.

NOTICE OF HEARING

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a public hearing before the Energy Research and Water Resources Subcommittee of the Senate Committee on Interior and Insular Affairs.

The hearing is scheduled for May 6, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 3283 and S. 1821, to authorize the Secretary of the Interior to construct, operate, and maintain the Oroville-Tonasket unit extension, Okanogan-Similkameen division, Chief Joseph Dam project, Washington.

For further information regarding the hearing you may wish to contact Mr. Russell Brown of the subcommittee staff on extension 41076. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Energy Research and Water Resources Subcommittee, room 3206, Dirksen Senate Office Building, Washington, D.C. 20510.

ANNOUNCEMENT OF OVERSIGHT HEARINGS ON THE REHABILITATION ACT OF 1973

Mr. RANDOLPH. Mr. President, as chairman of the Senate Subcommittee on the Handicapped, I wish to announce that a hearing will be held on the implementation of the Rehabilitation Act of 1973. We have scheduled the hearing for May 5, 1976, in room 4232, Dirksen Senate Office Building at 9:30 a.m. Our witnesses will be the Department of Labor; the Office of Civil Rights, Department of Health, Education, and Welfare; the Civil Service Commission; and the Interagency Committee mandated by section 501 of the Rehabilitation Act of 1973.

ANNOUNCEMENT OF HEARINGS

Mr. JACKSON. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

May 4: Joint meeting of Interior and Agriculture Committees, 10 a.m., room 324, business meeting; Markup of S. 2926, S. 3091, and S. 2851, legislation addressing issues raised by recent court decisions affecting timber cutting practices in national forests.

May 4: Indian Affairs Subcommittee, 10 a.m., room 3110, hearing; S. 2780, a bill to amend the Indian Claims Commission Act of August 13, 1946, and for other purposes.

May 5: Full Committee, 10 a.m.—room 3110, business meeting; Pending calendar business.

May 6: Full Committee and National Fuels and Energy Policy Study, 10 a.m., room 3302, hearing, S. 2932, Energy Conservation bill.

May 7: Full Committee, 10 a.m., room 3110, hearing; Nomination of Ronald G. Coleman to be Assistant Secretary of Interior.

May 10: Full Committee, 10 a.m., room 310, hearing; S. 3357, Federal loans to Virgin Islands bill.

May 11: Full Committee, 10 a.m., room 3110; hearing; S. 158, New River bill.

May 12: Full Committee, 10 a.m., room 3110, business meeting, Pending calendar business.

May 13 and 14: Full Committee, 10 a.m., room 3110, hearing; Proposal by the Crested Butte Development Corporation to develop new ski resort within East River Unit plan in Gunnison National Forest, Colo.

NOTICE OF RESCHEDULING OF HEARING

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public the rescheduling of a public hearing before the Energy Research and Water Resources Subcommittee of the Senate Interior and Insular Affairs Committee.

Originally, a hearing had been scheduled on S. 3283, legislation to authorize the construction of the Oroville-Tonasket extension unit reclamation project, for May 6.

The new hearing date is May 5, 9 a.m. in room 3110 of the Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

BETWEEN THE HIGH MOUNTAINS AND THE RAINBOWS

Mr. MANSFIELD. Mr. President, I am in receipt of a booklet of poems written by elementary school students at Crow Agency Public School. Most of the students are Crow Indians and, when they enter kindergarten, they speak fluent Crow but little or no English, although they learn the latter language quite rapidly. The Crow language has only recently gained a written form, having down through the ages been strictly an oral language—a language rich in story and song. The anthology, "Between the High Mountains and the Rainbows," was edited by Jane Bailey of Missoula, Mont., and is an excellent presentation by the students of the Crow Agency School.

When we speak of the arts, we should think of what the descendants of the first Americans have been able to contribute and to give them the recognition which they deserve.

Mr. President, I ask unanimous consent that this anthology of poems be printed in the RECORD.

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

BETWEEN THE HIGH MOUNTAINS AND THE RAINBOWS

AN ANTHOLOGY OF POEMS FROM CROW AGENCY PUBLIC SCHOOL

(Edited by Jane Bailey)

Old Lady

If your son has a wife, old lady,
Single her out,
Look her over.

Her blowing breasts
Are like the spring moisture
That begins the new grass.
The new baby's eyes,
Close-set and blinking.

Under Chief Mountain

The cattails
Among the wide forest
Under Chief Mountan
Are my enemy.
You captured my body's child.
We were greater in number
Before you took him,
Our little man
Our captured one
Our little invincible one.
They almost hit us, but hah—
They passed over us.
They whistled by, little one;
They went clattering through.

An Indian

I am an Indian, long long time ago,
and I live in a village
between the high mountains
and the rainbows.—ADA SHANE.

Light Things and Dark

light like the shining
sun glazing the sky
burning like a match
moving swiftly and slowly around
the world as large as the noon.—TIM REAL BIRD.

The eyes are like glossy fires
The eyes are like sad people
The eyes are cameras that never run out of film—RICHARD BUTTS.

Long ago the horses were painted all colors.
Long ago there were tepees in circles like a round fire.
Long ago there were Indians that fought the white man.
The Indians were painted white and yellow.
Long ago the buffalo ran off the cliffs and died.
Long ago the Indians lived in tepees and they had made the tepees.
Today we live in houses other people made, the government made.
Today we drink out of glasses that are clean.
Long ago we drank with our hands from the Big Horn River.—ROSANNA BRAVO.

Snow is like a deep water full of cotton.—DENISE FITZPATRICK.

The tribes make the moon magic
and they turn into yellow and red
and all of the bright colors and dark colors
and the Indians laugh and holler.—VICKI BONKO.

My school is like buzzing
busy bees working their needles
at the teachers and trying
to get out of the school.
They do a little buzzing, buzzing
and do a buzzing geronimo
out the window.—EVALINE OLD ELK.

A Woman

A woman is like a lemon when she is mad.
A woman is like an apple, sweet and juicy.
A woman is like the four seasons, changing and changing and changing—CHARLOTTE YARLOT.

I found a magic dollar
when I picked up the magic dollar
It became the six million dollar man
and he ran away from me, he ran so fast
I couldn't catch up to him.—BRUCE WHITE.

I charm my friend to sleep
And never come back
I will put hot water in a big bowl
And put him in there
And boil him and get all his power
So he doesn't make people into frogs
And put his power on my body.
—MICHELLE MOCCASIN.

Dark Things Are Beautiful

As the sun sets down by the hill the first star comes out.
The wolf howls at the moon, that's how I know Pecos Bill is alive.
Of course I don't mind Suzy Lou but the deer, elk and the buck come out and feed till morning.—WILLY SPINT.

I would let my teacher sing a song and I will dance with Thelma
If my teacher doesn't sing I will say please sing a song.
Thelma wants to dance.
Will you sing, me and Thelma really want to dance
Thelma is going to cry if you don't sing
Hurry hurry Thelma is almost crying.
—MARY PRETTY WEASEL.

Wind

If I were wind I would rule the world
I would whisper in people's ears
I would rush through trees
Breaking limbs and pushing people down—TIM REAL BIRD.

When my head gets up it is as happy as someone on his birthday.
When my head is happy it is a bird singing.
When my head is mad it is a tornado.
When my head is sad it is a rain storm.
When my head is excited it is like going to a fair.
—MARY RUDY.

President Ford

President Ford is like an alligator.
Always snapping at something.
Signing papers by biting them.
Leaving nothing but his teeth marks
and the shreds of the paper.—MIKE KENNEY.

My teacher is like the saying,
should a woman offer
a fishing tip to a man?—ARTHUR STEWART.

School

School is fun. We have pencils
moving like machines and papers
are like wiggling worms traveling
everyplace a person goes. Books
are like people talking to us
and us talking back.

Ways of Looking at a Heart

I was looking at Heart.
I said to Heart—How old are you?
He said—Too old.
I said—Do you feel all right?—Yes.
Are you happy?—Yes.
Well how come you are crying?
I ain't crying.
Then come with me to the school.—VALERIE DOYLE.

The heart is like an elephant and a waterfall
It drinks water and it flows back down
It drinks water, it flows back down
Where it goes you'll never know
cause it drinks, flows back down
It drinks it flows back down
You'll never know where it goes.—GREG DAWES.

Wind

Wind whistling through the sky
slapping through each other's Doors
like a lightning across the sky.—ADA SHANE.

I have a beautiful heart
that looks like two people in love
all day. It is hollow like the wind
blowing like a rose in my heart
and no one likes it
but I like my heart.
It beats like the wind.—DELEAN HOLDS.

My heart looks like a red apple
and my heart smells like apple
and my heart fell down and I
ate the Apple.—CARLENE BIRDIN GROUND.

I was born on a bull
when he stopped I fell off.
He looked at me and licked me
I didn't like it
I got a boxing glove and hit him
and he went to the moon.—BARNEY OLD HORN.

Treasure

I once was discovered by Buccaneers
they fought to get me they even
made their enemies walk the plank
till one day someone bombed down the ship
I was hurt so bad I lost 20 carats
I lay there under the ocean.—WILLY SPINT.

Bilingual Poems

(Original poem in English)

Crow tribe are bad like bears
when they get mad they fight like dogs
and when they are happy they are like cats
eating and playing.

(Literal translation of the Crow)

The Crows are impatient.
They are bad,
They are like bears.
When they are angry
They are like fighting dogs
But when they are happy
They are like cats
They eat together, and they play together.—ROBERT PICKETT.

(Original poem in English)

If I was Old Man Coyote
I would make two clans
and I would name one of them Sore Hands
because they always bead
and always work with their hands
and I would name another one Old Lodge
because some people always have
old old things and never give them away.

(Literal translation of the Crow)

If I were Old Man Coyote
I would make two clans.
One would be named Hands-not-Idle,
I say this because they are always working with their hands, always beading,
The other would be After-Long-Time Lodge,
I say this because they keep things, and after a long time they still don't give them away.—CARNA DAWES.

Rodeo

Rodeo is horses riding in the sun.
Rodeo is dust flying in the ring.
Rodeo is the number one sport.
Rodeo is cowboy's sweat smelling the air.
Horses neighing in the chutes.—SHAWN TEN BEAR.

I have a heart it thumps like a drum.
A heart is like a car
that has a bad muffler.
My blood goes like an elevator.
In my heart I have
a high school band.
My heart ticks like a bomb.—DARREN SINGER.

The first I got on is holding
an ax, the ax is hard cold
and sharp with Blood running
down the corner of the ax.—BENTLEY TEN BEAR.

My name is Larry Mahan, I am a Bullrider and a Bronco Buster. When I first went to a rodeo it smelled like cotton candy and rotten cigars. I went to drink coffee and I saw a pretty cowgirl who rode a Grampa bull and she hugged that Bull like a hair. I saw a Black cowboy ride a pig. The pig bucked him on his round belly. He got up and screamed 'Mama!' He ran home. When it was my turn to ride the Bronco I shined my 'Tony Lama Boots and got my saddle on the Bronco
and he started getting spooky but I got on the bum. When I got on I got a chill
and took some Skol and the announcer said 'Shooting number seven, the horse is called Diehard.' And the man said 'Get ready.'
'I am ready, let her out,' and I bucked
but I did not fall, I almost fell
off but I caught my balance
and the bell rang, I jumped off, ran to the gate
and I won a car and a horse trailer.—BENTLEY TEN BEAR.

Dirty Pinky

I got a horse named Dirty Pinky.
He's mean as King Kong.
He can beat up Big Foot.
He will buck like midnight.
He's always in chute number five.
He could buck off Larry Mahan.
He could run a 25 second mile.
He can climb a cliff.
When he is mad he plows the ground and runs over people.
But he is afraid of me.
He could beat Secretariat in a race.
He never gets sick.
He kicks like a bee.—MARK REAL BIRD.

My bull bucks like the wind
and he has a tail like a tree
that is blowing in the wind
my bull has an eye like gold
that is bright and his teeth
and sharper than an ax.
His nose is like a tornado
when he smells he blows everything
around and his back
is like a hill.—MICHELLE MOCCASIN.

My heart feels like a wild bull
running in the sunlight
my heart feels like a wild black horse
running in the moonlight
and never stops running.—KEVIN OLD COYOTE.

I had a bull, he is fast as a racehorse
he bucks like a whirlwind
his face is hard as a rock
he's got a diamond
in the middle of his face.—GARY REAL BIRD.

There I sit in the grandstands
watching the coyboys getting bucked off
their horses, hurting themselves, people screaming
for more and there I sit eating my hamburger
and tasting the dust.—MIKE KENNEY.

The Rodeo Cowboy

Once there was a cowboy
he was going to ride a bronco
it was the meanest bronco
he had ever seen.
He wasn't scared one bit
until he got in the chute.
He was scareder than heck
so he took some Skol
and then he spit it out.
He said with a shout.
'Let him out!'
Then the bronco
started buckin' and
it bucked through
the hay and then
it bucked for the
rest of the day.—GEORGE SLAUGHTER.

Cowboys Wear Lipstick?

If men wore lipstick, dresses
and high heeled shoes and they had
long curly hair, carried a bag
had a Baby and a Husband,
had 13 children who ran away
with the boss and left
their mother and father behind,
they would end up at the funny farm.—LOREEN WALKS.

Dirty Pinky race Foolish Pleasure
and Foolish Pleasure die
Dirty Pinky Bucks like lightning
he bucked Larry Mahan off him
he's hard as a rock.—GARY REAL BIRD.

The rodeo clown eats the dirt
everytime.
The racing horse hears the sounds
of the thunder.
The Rodeo bull smells the dirt
of rain.
The Broncing horse hears the thundering
of the audience.
The Cowgirl eats the dust she leaves
behind.
The Rodeo Cowboy feels
the angry bulls.—
KAREN BIRDINGROUND.

Rodeo Bull

A bull is trickier than a zebra
A bull is tougher than a Rhino
A bull is stinkier than Limburger cheese
A bull is a fierce animal
A Rodeo Bull is trickier and tougher
and stinkier. A Bull is noisey.
And most of all strong.—ALVIN NOT AFRAID.

Indian

The Indian lived on the land a long time,
the Indian ate food from the land,
buffalo, elk, deer and antelope, rabbit too,
wild carrots and corn and blueberries.—
BRUCE DAWES.

Thunderstorm

A thunderstorm is a loud eery noise
ready to strike your eardrums:
A thunderstorm is like a cold damp swamp.
A thunderstorm is a great big ugly dark hand
realy to come out and grab you.
A thunderstorm is a bad mood person
yelling in the night.
A thunderstorm is a dark pit full of black bats.
A thunderstorm is a bitter lemon.—
MAKALIA GUTIERREZ.

I would like to be a mud puddle
so the pigs would like to sleep in me
and the little pigs would like to play in me.—
LARNY.

Long ago wind blew in my face
as I was standing in the waving grass
watching buffalo run in the swaying grass.
And my people work
as the wind blows in their faces.—
LENORA PEASE.

I wish I was a river
I would go downstream.
I would see beautiful rivers
but not better than me. I
I would go to the ocean and see
sea horses starfish big whales.—
THOMAS YARLOTT.

Long ago there were Indians that danced around their dead. When Indians died they were put in trees or on four-legged beds in some high place.
Long ago Buffalo roamed the distant prairies.
Long ago Indians made their tepees around one teppe like wild dogs around a dead dear.
Long ago Indians killed Buffalo for food and clothing.
Today white men kill Buffalo like an earthquake eating up the land.—
GILBERT WALKS.

A woman is like a pillow, all filled with feathers when she is happy.
A woman is like a broken record going on and on.
A woman is like a weed blowing in the wind when she is brushing her hair.—
LORRI OLD COYOTE.

A tree fell down right in front of our house
and my great-grandfather couldn't lift it up
so he said—I couldn't lift that tree
so from now on we shall have our name,
Falls Down.—DORA FALLS DOWN.

The Way Our Earth Was Created

The earth was created by Old Man Coyote.
First he created the mountains, he did this with a mighty blow of his fist.
Next he shaped the river beds, with his fingertips, very gently.
Then he created the prairie. First he smoothed out some of the mountains.
—JULIE WILKINSON.

Thousands of years ago, there were two moons because the night god made two moons. The day
god, who was much smaller than the moon god,
lit one of the moons on fire while the moon god
had them on the shelf and when he went to get them
to put them in the sky, the one that was on fire
hurt his eyes so he threw it farther than the other
one. Now it's the sun.—RICHARD BUTTS.

A strong wind came from the ground
and everything flew up to the sky,
then the wind stopped.
Everything went back down again
except a bear was still up there
on a cloud. He didn't get off
he was too scared.
And I didn't have a name yet
so my Grampa said, 'From this day on,
our family's name will be Bear Cloud.'—
JOLENE BEAR CLOUD.

My heart beats like a thumping pillow
when kids are having a pillow fight and when they stop my heart will go crazy
and fight my lungs and I will be breathing faster
than a speeding bullet and tickle all over.—
JULIE ANN RONDEAU.

The Small Boy and the Cottonwood Tree

Once upon a time
there was a cottonwood tree
and this boy came along
and sat by
the cottonwood tree
and he did not know
what cotton was
he looked at it and said
Do you know me?
The cotton
just flew away
to the other tree
he tried to get it
he got the cotton
he ate it
and all the cotton came
out of the tres
he tried to get the other cotton
but he couldn't.—GLADYS SEES THE GROUND.

School

School is full of noises here and everywhere. Some of the sounds I hear are chalk scribbing on the board. Other sounds are here and there rumors being whispered. I can hear the pencils being sharpened, turned to hard poking points. I can hear the scuffle of feet, moving chairs, people goin downstairs. I can hear the things around me, books and pages flapping open. It sems when I walk by the bricks whisper 'Hi.'—CATHRINE SLAUGHTER.

If I were wind I would
blow across your face like
a cold bitter knife,
I'd strike your face
like lightning,
I can blow anyone around I want
you cannot see me but I am there
I breathe on the earth now and then
I like to throw dust on everything
My breath is cold and bloody
like a scream in the night
I'll send chills down your back.
No one pushes me around for I am
the wind, no one can control me.—MAKALIA GUTIERREZ.

Sasquatch

I would live way up the mountains.
I would eat yellow stuff like lemons.
I am as tall as a telephone pole. When I walk the whole world shakes.
When people get me angry, I pick up people and thrown them. They never come back down.
When I scream people can't hear any more.—
SHELDON FITZPATRICK.

When I am wind
I would lift an old lady.
If she wanted to go to San Francisco
I would take her there and put her down slowly and lightly put her down and if she did not have a
Home I would go and look for a real tough pretty
Big Home and bring it with me.—JULIE ANN RONDEAU.

Sasquatch

Deep in the Columbia forest,
the fresh water holes
drop one to millions of drops a minute.
There is a special sound
like the screaming of the elk.—THERON OLD ELK.

Cold is like an unplugged iron
like ice cream.
It is frozen mountain water
so cold like a dead tree.—MARK ARGUELLO.

Sasquatch

I's Sasquatch. I'm real furry.
When it rains I get the clouds
with my bare hands.
Then I smash the clouds
and roll them down the mountains.
I holler every hour.
And have sharp teeth.—SCOTT RUSSELL.

If I was Sasquatch I would go to New York City
and come out in the dark and go window shopping
I would get a bikini to go swimming in the the dark
so no one would laugh at me. Next one
I would get high heels for *mself*.—ANGIE SPOTTED HORSE.

Arizona is the place.
I hear the birds sing, hear the wind blow
feel the sand and hear it more down a hill.
There's nothing there but me and Arizona.—
GREG DAWES.

If I was the lighting
I would make the tree cry
And when the tree cries
Rain will fall.—BRUCE DAWES.

Slow things are beautiful
the sun goes slow across the sky
like a tortoise going through the desert
like a caterpillar climbing a tree
like an angleworm going across the dirt.

Fast things are beautiful
a hot rod hitting 100 mph
like a horse running first in the race
like a wind blowing across the meadow.—
SHAWN TEN BEAR.

The wind makes whirl pools in the water and lifts people in the air 1000 feet.
Wind makes tornadoes and wind makes fire spread and kill people.—SHANNON MARSEE.

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Mary Arguello, Jolene Bear Cloud, Carlene Birdin Ground, Karen Birdin Ground, Vicki Bonko, Rosanna Bravo, Richard Butts, Bruce Dawes, Carna Dawes, Greg Dawes.

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ONE MAN'S BATTLE AGAINST OSHA

Mr. BARTLETT. Mr. President, each of us is aware of instances within our own States of problems that have been created by the Occupational Safety and Health Act. These problems range from burdensome reporting and unnecessary paperwork to unreasonable criteria which have no application to a particular industry. The present law is drawn in a very inflexible manner, and no relief is provided for those who are in good faith trying to comply with the statutes and regulations.

Recently I had the opportunity to review an article which was reprinted in a number of publications, originally having been done by Raymond J. Larsen, the Northeast correspondent for "Metalworking News." This article concerns the

plight of one businessman located in Fryeburg, Maine, who operates one of the more efficient and safe metalworking specialty companies. Mr. Dearborn has taken a positive position on what might seem to be a very small matter, but it is one based on the rights of individuals and businesses to operate without unjust and undue interference by the Federal Government.

I ask unanimous consent to have a copy of this article printed in the RECORD.

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

ONE MAN'S BATTLE AGAINST OSHA

(By Raymond J. Larsen)

("I won't pay the damn thing. Paying it would make me a criminal and I'm no criminal. I'm a businessman trying to run an honest business."—Howard Dearborn, president, Howard Dearborn, Inc., Fryeburg, Maine.)

Basically, Howard Dearborn wants to be left alone. He does not want the government coming around telling him what to do (he calls it "damn government meddling"); he does not care at all for the increasing regulation Uncle Sam exerts over the operation of his precision machine shop in rural Fryeburg, Maine.

He has, you might say, a healthy mistrust of big government, and he cannot resist taking a potshot at it now and then. For example, when Warner & Swasey, Cleveland, ran an advertisement recently, entitled Memo to Washington: You'd Be Surprised What Most of Us Do Without—You Ought to Try It Sometime," he sent the president of W&S a letter which said:

"I sincerely agree that the relationship between the number of productive people in the United States and the number of unproductive people in government employed to regulate and harass the productive few is to the point of alarm. The productive few are paying the unproductive many to regulate and harass them. Yet the government cannot seem to understand why we have inflation."

With such an attitude, when the U.S. Occupational Safety and Health Administration (OSHA) announced that it was going to visit Dearborn's 18,000-sq. ft. plant last year, a collision was inevitable.

The fact that the collision took place on schedule is hardly news in itself. But its repercussions are still being felt, both by Dearborn and the federal government; and before everything is sifted out and settled, some hard questions about OSHA operations and its regulations will have to be answered.

Dearborn built the company that bears his name by designing and building special machinery for precision boring, honing and drilling of such difficult materials as beryllium, zirconium, titanium and stainless steel. His customers, most of them in the nuclear reactor field, send parts to his shop from all over the U.S.—sometimes reluctantly.

"If there were any place else for some of them to go other than way up here," he says, "they would. But there is no other place; we're it."

Because of his unique niche in metalworking, Dearborn has been free until now to turn his attention to those things that interest him most, such as the recent development of a new generation of machinery for making uniform-walled tubing.

But Robert McNeally's visit to Dearborn's plant June 24, 1974, changed all that. McNeally is a compliance officer of OSHA.

McNeally liked most of what he saw. He would later testify before the Occupational Safety and Health Review Commission that "the plant is in good physical condition. The housekeeping is fine. There were a few violations noted of the code, but I believe the company is very safety conscious and is doing its best to comply."

But because of one of those "few violations"—"nonserious" is how McNeally himself characterized it in his citation—the OSHA compliance officer decided that Dearborn, Inc. was liable for a fine of $25. And on July 5, the U.S. Labor Dept. sent Dearborn a Notification of Proposed Penalty in which he was informed that Howard Dearborn, Inc. was liable for a $25 fine because it had "failed to replace welding electrode cable which has damaged insulation and exposed bare conductors."

Howard Dearborn wouldn't pay. Instead, he hired Attorney Thomas D. Shaffner, who on Aug. 20, 1974, filed a response with the Review Commission. It said, in part:

"At the outset it should be made abundantly clear that the respondent is as interested as OSHA in providing a safe and healthy environment for its employees. In fact, a great deal of time, energy and money is expended in this regard.

A penalty is only useful as a deterrent to future conduct of the type for which the penalty was levied. Since the respondent is desirous of preventing any reoccurrence of the alleged unsafe condition, it wants the penalty to be levied against the person who created it and/or permitted it to exist. Thus the penalty must necessarily be levied against either the employee(s) actually using the welder or the foreman to whom the welders report or the superintendent of the plant.

"During the course of discussion of the alleged OSHA violation with the above described employees, however, it was learned that none of them knew of the subject OSHA regulation. If they had known of it, steps would have been taken to correct any deviation therefrom. To penalize a person for not knowing of a regulation of the U.S. government, without first advising such person, amounts to a violation of due process."

To make it clear that the violation itself was not the issue, Shaffner that same day notified T. R. Amirault, area director of the U.S. Dept. of Labor in Concord, N.H., that the "welding cable was actually replaced to alleviate any and all disputes with respect to the safety of its repaired condition."

On Oct. 29, 1974, a hearing was held in Portland, Me., before David J. Knight, administrative law judge for the Review Commission, and on June 26, 1975, Judge Knight issued his opinion. Knight found that the Dearborn plant "is in good physical condition, is safety conscious, and the compliance officer believes it does its best to comply with the regulations." But he went on to order that the $25 fine be enforced, saying that Dearborn, Inc., "was under obligation to advise its employees of the safe operations of the arc welding machinery" but failed to do so.

Dearborn still won't pay. "The first time I ever had anything to do with OSHA was the time the inspector came here," he says. "We never saw any book of rules and regulations or anything else. We got fined for not knowing, even though they never told us in the first place. There are so many people passing laws these days you couldn't read them all in one lifetime.

"We got the impression that the fine might have been partly to help pay for sending the inspector here. So we offered to pay an inspection fee; we offered to pay OSHA $100 to come up here and inspect the place and find everything that's wrong. But as for this fine, I won't pay the damn thing. Paying it would make me a criminal and I'm no criminal. I'm a businessman trying to run an honest business."

Because he felt so strongly about it, Dearborn instructed Shaffner to file an appeal, even though it already had cost him more than $3,000 in legal fees.

Notes Shaffner, "We went to court, we lost and we've appealed. Don't get me wrong, I don't really think we're going to win. But even after we've exhausted all of our avenues of appeal, the government still has to collect the $25. And that isn't going to be easy."

Shaffner says the government will have to put a lien on Dearborn's plant here and even sell it if it is serious about collecting the fine. "It isn't the money," he says, "it's the principle."

Will it really come to that?

"I won't pay it," insists Dearborn. "Someone has to change the system, and I guess that means us."

INDOCHINA 1 YEAR LATER

Mr. KENNEDY. Mr. President, 1 year ago the guns fell silent in Indochina, ending decades of violence and escalating conflict.

But although warfare has ended, the suffering from war continues. Throughout the area serious humanitarian problems remain. International relief and rehabilitation programs have now begun in the war-affected areas, with contributions from many countries and the active participation of several United Nations and international humanitarian agencies.

Regrettably, there has been, to date, no American contribution. It is as if we had erased Indochina from our minds.

But the aftermath of war, and America's traditional role in helping to heal the wounds of war, cannot and should not be so easily forgotten. As a recent editorial in the Los Angeles Times concluded:

The United States, which made a seemingly limitless commitment of resources to the war, has found little to do for the peace, and is the poorer for it.

Mr. President, I commend the editorial of the Los Angeles Times to the attention of my colleagues, as well as that from the Boston Globe, and I ask unanimous consent that they be printed in the RECORD.

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

[From the Los Angeles Times, Apr. 29, 1976]

INDOCHINA 1 YEAR LATER

It is difficult to believe it was only a year ago that the last American military and diplomatic personnel were withdrawn from Saigon. In the ensuing months, Indochina has been largely erased from the American mind, its memory only occasionally revived by an imprudent political comment in the presidential campaign or a rare eyewitness account of events within the region.

We do not know much about what has been happening, but nothing we do know disputes the wisdom of Congress last year in forcing the end of the American venture by refusing supplementary funds.

The end of the war has not brought the end of the agony. Fortunately, however, the monsoon was favorable and a bumper rice crop has eased some of the dislocation. The war had converted these nations from independence through rice exporting to dependence on American food handouts.

The war also had converted these largely rural, agricultural nations into highly urbanized societies. Some estimates suggest that more than half the population of South

Vietnam had moved into cities. With the end of American dollars, the cities were left in desperate straits, and in both Cambodia and South Vietnam massive programs are under way to reduce the city populations and move millions back to the farms.

In Cambodia, this has been done at gunpoint, according to the reports of refugees and the observations of one Western diplomat who was admitted for a tour. And the mass movement of the Cambodians reportedly is continuing in what appears a desperate effort both to regain self-sufficiency in food and to impose a rigid Communist regime.

In South Vietnam, the program thus far appears to have been done with less duress. Officials plan, before the program is done, to have moved at least one-third of Saigon's swollen population of more than 3 million back to farms, and some accounts suggest that as many as 5 million may be moved. That is hardly a surprising figure when it is recalled that 10 million people, half of South Vietnam's population, were left refugees by the battles.

There have now been elections in both Cambodia and South Vietnam. The evidence suggests that the balloting afforded an opportunity only to approve what already was being imposed by the Communist leaders. In Vietnam it was the first step toward reunification.

All of this has transpired with remarkable indifference from the United States.

Some tentative talk about normalizing relations was quickly cut off by President Ford when his Republican challenger, Ronald Reagan, drew attention to the matter. The only substantive move toward reconciliation appears to be in the talks with American oil companies regarding resumption of offshore explorations.

There is one serious obstacle to establishing normal relations, and that is Hanoi's refusal to clarify the status of the Americans missing in action. The Vietnamese leaders have seized on this as their only bargaining chip. It is an abuse of the accepted conventions. But the alacrity with which the United States renounced its own peace obligations to help with the reconstruction of Southeast Asia is not a model of international rectitude either.

In the war, the 50 million people of Indochina were always the last to be considered. They were bombed, herded into "protective" perimeters, left homeless by forces irrelevant to their lives. The United States, which made a seemingly limitless commitment of resources to the war, has found little to do for the peace, and is the poorer for it.

[From the Boston Globe, April 30, 1976]

A YEAR AFTER SAIGON

Saigon fell one year ago today. Now there is nothing left of the American presence there but the aching scars and the bitter memories.

In this country it is almost as though we were trying to pretend that that bloody, hopeless war had never occurred, or a least that it never seriously concerned us. We do not recognize the Communist government, although it is fully in control of the country. We do not allow Americans to travel there and we still prohibit trade, except under special license, with Indochina. Of the approximately $100 million in international aid that goes to Indochina, only $8.6 million comes from the United States and all of that goes to Thailand.

Congress recently passed legislation to lift the trade embargo for six months on a trial basis in response to gestures made by the Vietnamese. But President Ford has said he would veto it. In February Sen. Kennedy proposed a Vietnam reconstruction aid bill but it did not even get out of committee despite the fact that we promised reconstrucion aid in the Paris Accord of 1973. The reluctance of the Vietnamese to locate our MIA's (also in the agreement), is the standard reason given for our refusal to deal with the Communists although no American MIA's are believed to be still alive and the Vietnamese are preoccupied with the backbreaking task of putting their country back together again.

It is understandable that there should still be bitterness in the United States about a war which cost more than 55,000 American lives but could not be won. It is understandable also that President Ford, whether he wants to or not, cannot buck such an emotional tide in an election year.

But Americans must face the facts that there has to be a normalization of relations sooner or later and that it is in our interest to bring it about. In humanitarian terms it makes little sense for us to withhold aid from a country in which we previously invested so many billions just because we disagree with its government. There are also American business interests to be considered and politically it does us no good at all to be the only major nation to refuse to deal with that country.

The United States has made too many mistakes in Asia in the past. We must not perpetrate another by indefinitely maintaining an aloof attitude towards the people and the problems of Indochina. In 1975 the administration asked for $1.3 billion for military aid for South Vietnam. It seems incredible that a year later we can afford nothing in the way of humanitarian help.

ARBOR DAY 1976

Mr. HRUSKA. Mr. President, on April 25 I was honored to be able to celebrate Arbor Day in this, our Bicentennial Year at the Arbor Lodge in Nebraska City, Nebr. I cannot think of anything in America more appropriate and symbolic for the celebration of our 200 years of existence than the tree.

J. Sterling Morton, founder of Arbor Day, once wrote about that day:

Other holidays repose upon the past; Arbor Day proposes for the future.

This should be the spirit in which we celebrate our Bicentennial. The 200th year of America's creation from a wilderness of trees—which, then, symbolized the unknown—should be a challenge to all of us to look to the country's third century with determination to work constructively to resolve the Nation's ills.

Our revolutionary forebears put aside their hesitation in 1776 and proclaimed their independence. We, in 1976, should proclaim our independence from the fear of tomorrow. We should reassert our courage that our Nation can and will build a better future for all.

The American Revolution is yet unfinished. Its ideas were a challenge to men's minds and souls two centuries ago and continue to challenge men to look for and seek new goals.

The Bicentennial celebration is the way to a new American revolution—a peaceful revolution in which government at all levels is refreshed and renewed, and made truly responsive. This can be a revolution as profound, as far-reaching, as exciting, as that first revolution. It can mean that America will enter its third century as a young Nation new in spirit, with all the vigor and freshness with which it began its first century.

One of our first patriots, Thomas Paine, put our Revolution into perspective many years ago, he said:

. . . To see it in our power to make the world happy—to teach mankind the art of being so—to exhibit, on the theatre of the universe, a character hitherto unknown—and to have, as it were, a new creation entrusted to our hands, are honors that command reflection and can neither be too highly estimated nor too greatly received.

I believe we can insure our "new creation" lives on in the Bicentennial celebrations throughout the land as they occur this year.

Mr. President, Arbor Day is a very special holiday for me. The broad purpose behind Arbor Day is that of conservation, of pointing out to both children and adults the need to maintain and protect at least certain portions of our great natural forests and woodlands. It is a day dedicated to trees, to their beauty and usefulness, and to their preservation.

At the April 25 Arbor Day program, the Arbor Lodge, once the home of Mr. Morton, was designated as a national historic landmark. This is a fine and fitting honor for this lovely and significant site.

In Latin the word "arbor" means "tree" and the role of trees in the holidays of mankind has been of the greatest importance from very early times. We need only think of those two ancient evergreens—the Christmas tree and the sacred pine tree representing the god Attis, which became the familiar Maypole. The May tree festivities lived on in France, despite efforts of the church to suppress them, and symbolized the French Revolution as the "Tree of Liberty." Also familiar in the Christian church is the Tree of Paradise which traveled through the years to become, in many legends, the holy Tree of the Cross.

The strong and flowering tree has always been the very embodiment of life. Our war dead have been honored on Memorial Day with the planting of trees as living monuments to their memory. It is said that during colonial times a bride would replant a tree from her father's garden in the soil of her new home. This surely, if unconsciously, was a symbol of the transplanting of life and of the start of the married couple's life together.

In Mexico the Aztecs planted a tree at the birth of a child, as if the child would gather strength from the overflowing vitality of his counterpart.

These last two examples in which trees are planted for future protection, bring us closer to the meaning of Arbor Day and also symbolize the importance of our Bicentennial Year.

The future protection for all of us is in the principles upon which this country was built.

Mr. President, we live in a country—and a world—of ordinary human beings—the same sort of men and women who lived here 200 years ago. Humanity has not changed all that much despite the fact that we are alive, and they are dead.

Our colonial forefathers, many of them

were highly educated for their time. Among them were the brilliant as well as the dull, the kind and the cruel, the thoughtful and the thoughtless, the generous and the selfish, the brave and the fainthearted, the devoted and the uncaring.

These were the men who devised the Constitution of the United States. That document came not entirely from their brilliance, but from their conflicts. They argued constantly with one another, and made concessions because failure to agree would end their dreams of a country where liberty was paramount.

Probably not one of the signers would agree with everything in the Constitution.

Yet that document turned out to be the miracle pilot for self-government—greater even than the Magna Carta.

It is that Constitution that has enabled the native born and the immigrants to build the United States into the greatest country on Earth, and to keep us free. We are a great people, but we have the same frailties of mankind that destroyed the hopes of other peoples in past centuries.

Underlying every phrase is a determination to achieve freedom. The people of the new nation were so apprehensive of the kind of oppressive government they had experienced from England, and which existed in Europe, that every compromise still rejected any danger of overpowering central authority.

Perhaps freedom was not everything to them, but they believed deeply that without freedom, all else was nothing.

Through our Constitution, this Nation quickly became the hallmark of freedom throughout the world. In our Bicentennial Year, it still is.

I cannot say forcefully enough, or loud enough, or often enough, that without our country, under its Constitution, there is little hope for the future of free men anywhere.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in January of 1967, I vowed to speak daily on the Senate floor in favor of ratification of the Genocide Convention. I have committed myself to this regimen for several reasons. The Genocide Convention is a basic human rights document, and I consider our failure to ratify it inexcusable. I have tried to impress upon this body the misguided nature of its opposition to the treaty by meeting the criticisms to it and by highlighting the strengths. Today I want to address a common objection to the convention—that we should not ratify it because the Communist nations will not abide by it, their ratification notwithstanding.

This argument overlooks the basic function of the Genocide Convention. As with the enactment of any statutory prohibition, the function of the convention is to deter the acts outlawed by it. It does not insure that violations will not take place, but it will act as a deterrent. To say that others might not abide by the convention and thereby refuse our own endorsement is strange logic. We should not only endorse the convention in word, but we should also work for the enactment of the convention in deed. This means setting an example for other nations in upholding the cause of basic human rights.

Mr. President, I hope that my efforts over the last 9 years have had some effect in persuading the Members of this body to support the convention. I would like nothing better than to conclude my series of Genocide Convention speeches with the ratification of the treaty. I am confident that we will see this ratification in the very near future.

DEBATE SOON TO BEGIN ON THE MILITARY AUTHORIZATION BILL

Mr. GOLDWATER. Mr. President, we are very close to beginning debate on the military authorization bill. Particular attention will be paid to expensive weapons such as the B–1 and AWACS, and we will hear the same old story that has been heard over and over, that if we just spend this money on people, things would be a lot better. Well, let us turn that argument around and look at the waste that we have had in just a few programs and see what might have been bought with that wasted money. But before embarking on that, let me recite a statement by Dr. Seymour Melman, who is the national cochairman of SANE and is a critic of defense programs. In part, he said that Uncle Sam bought a C–5A aircraft with money that could have been used for Federal mental health programs. But the truth is that spending for all social programs is being increased vastly while the military inventory has gone into decline. Records have been kept on how some of that money, provided for social programs, has been administered; and, using the Melman formula, an attempt has been made to show how the money could have been put to more gainful ends, using the 1977 Pentagon shopping list. These are the items:

Early this week, District of Columbia police spread a net to catch local thieves and jailed more than 100 of them. Recovered property included, according to the local papers, $1.2 million in U.S. Government checks stolen during office hours from an unattended vault at the Department of Housing and Urban Development. With $1.2 million, the Defense Department could buy about 600 machine guns.

Senate investigators probing irregularities in the medicaid and medicare programs for the current fiscal year found "at least" $45 million in fraudulent or unnecessary payments to clinical laboratories. The Army is requesting $48.6 million, not much more than thrown away in the medical program, to buy 103 M–109A1 howitzers.

According to the Associated Press, the Social Security Administration made overpayments of $197 million to the Nation's elderly, blind, and disabled in the first 6 months of a new distribution system. That amount of money would more than pay for the 350 Harpoon antiship missiles requested by the Navy in fiscal year 1977. They are priced at $186 million.

According to the Washington Star, the Agriculture Department now lists as missing $8.7 million—suspected of being stolen—from the accounts of registered agents who sell food coupons for the Government. Again, the Army could have used this money. It would provide more than the $8.1 million sought to purchase 54 MX–204 howitzers, guns that can be carried in a helicopter and used for artillery support.

Again, according to the Washington Star, the Social Security Administration "has now admitted making $547 million overpayments since the supplemental security income program took over adult welfare programs for the States on January 1, 1974." That is almost enough money to pay for Air Force's entire AWACS program in fiscal year 1977. USAF has requested $474.7 million to buy six aircraft and $109.6 million for research and development on the project, a total of $584.3 million.

These examples will suffice. Our collection of news items illustrating waste in welfare programs is growing weekly. They are ignored, uniformly, by Senator HUMPHREY, Seymour Melman, and, presumably, Ruth Leger Sivard. They have resulted in no press releases by Representative LES ASPIN and no hearings, during the Christmas holidays, chaired by Senator WILLIAM PROXMIRE. The Department of Health, Education, and Welfare has no equivalent of ASPR—armed services procurement regulations—so far as we know, and its mismanagement is outside the pale of the Renegotiation Board.

When this year's Federal budget was sent to Congress a few weeks ago, it inspired at least a couple of newspaper cartoonists to depict the Defense Department as a monster machine or variety of a dinosaur, pushing "domestic needs" off the highway or gobbling up all the food in sight while millions starve. The fact is that defense spending, exclusive of retirement costs, is lower than it was 20 years ago. The welfare programs have increased at least sixfold. The cartoonists, and the antidefense zealots, simply do not read the news. On top of this, evidence indicates the Department of Defense probably is the best-managed agency of the Federal Government. Yet, the hunt for waste in the Pentagon goes on, while HUD leaves the office safe unattended and welfare programs are turned into a rip-off.

A recent public opinion poll, conducted by the New York Times and CBS News, shows that 70 percent of the American public agree that "the Federal Government should see to it that every person who wants to work has a job." Senator HUMPHREY will applaud that decision. But, the same survey discloses that only 37 percent of the people believe Government spending for military defense should be reduced.

Secretary Rumsfeld has defined the dilemma for Congress:

> The days are past wherein the defense budget dominated expenditures on domestic programs, and could provide an inexhaustible mother lode from which these more immediately appealing activities could expand.
>
> The FY '77 defense budget has been through one of the toughest federal budget scrubs ever. It is not padded. Further cuts

would require unacceptable reductions in national security. The days of finding funds for other programs by cutting defense on the premise that they'll never miss it are over. Additional savings, yes . . . but billions, no; not without cutting forces."

And later:

. . . we are already living in a world in which only one human being in five lives in real freedom, enjoying the political and civil rights we sometimes take for granted. Only one year earlier one in three had been considered free.

That is the trend, and it is a trend not included in the calculations of Ruth Leger Sivard that have so impressed HUBERT HUMPHREY.

LIBRARY OF CONGRESS STUDY ON THE DISC TAX SUBSIDY

Mr. KENNEDY. Mr. President, the Library of Congress has recently completed an analysis of DISC, the tax subsidy for exports enacted in 1971. The analysis concludes that DISC has had only marginal effects, if any, on jobs and exports, and that repeal of this tax subsidy would have no significant effect on U.S. jobs or exports.

I believe the study will be of interest to all of us in the Senate, and I ask unanimous consent that it be printed in the RECORD, together with a joint statement by Senator HASKELL and myself on the study.

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

JOINT STATEMENT OF SENATORS KENNEDY AND HASKELL RELEASING A LIBRARY OF CONGRESS STUDY OF THE DISC TAX SUBSIDY

We are today releasing a Library of Congress study which concludes that "the repeal of DISC does not appear to have major implications for either domestic employment or the level of U.S. exports."

DISC is an export tax subsidy enacted in 1971. It allows U.S. corporations to avoid tax on part of their export earnings. The Congressional Budget Office estimates that the cost of DISC will be $1.4 billion in 1977 and will rise to $1.7 billion by 1981. In an April 13 Treasury Report and in accompanying testimony to Congress, Secretary Simon asserted that DISC was responsible for an increase of approximately $4.6 billion in exports in 1973, and that these additional exports provided 230,000 jobs for the U.S. economy.

Because of the current debate over the equity and efficiency of various subsidies, including DISC, and because the Senate Finance Committee will soon consider DISC in its mark-up on tax reform, we asked the Library of Congress to analyze DISC in general and the Treasury report in particular. The Study we are releasing yields four basic findings and conclusions:

Because of faulty methods, the Treasury report leads to an unreliable and excessive impact of DISC on exports and jobs.

Under alternative methods of economic analysis, smaller increases in exports and jobs might be attributable to DISC. But even these modest increases may prove to be illusory when the effect of the current international system of floating exchange rates is included in the analysis.

Even under economic assumptions most favorable to DISC, it produces a decrease of only 1.7% in the price of U.S. exports. Such fluctuations are common in international trade and have not disrupted U.S. exports in the past. Domestic inflation, devaluation of the dollar, the level of foreign demand and other international trade factors are much more important influences than DISC on U.S. exports.

To the extent that jobs are a factor at all, the effect of repeal of DISC would be more likely to slow the rate of growth of employment in export industries, rather than produce actual disclocations or job cutbacks. In any event, maintaining an appropriate level of overall fiscal stimulus in the national economy would guarantee that no jobs would be lost by repeal of DISC.

We feel that the Library of Congress study essentially demolishes the Treasury "jobs and exports" arguments, and that there is no justification for retaining the costly DISC subsidy in the tax laws. The Treasury conclusions on DISC are subject to so many questionable economic assumptions and dubious procedures that the conclusions are worthless. The remaining question is whether more acceptable economic methods of analysis can perceive any significant impact of DISC on jobs and exports. The Library of Congress concludes that they cannot.

In its study, the Library makes several alternative estimates of the impact of DISC on jobs and exports. The various estimates are summarized in the following table and explained more fully below:

EFFECT OF DISC

Economic assumptions	Exports (billion)	Jobs
1. (a) Full pass-through of DISC to prices: (b) High price elasticity (2.85); (c) Fixed exchange rates	$1.35	[1] 68,000–104,000
2. (a) ½ pass-through; (b) High elasticity; (c) Fixed exchange rates	.378	34,000–52,000
3. (a) Full pass-through; (b) Low elasticity (1.51); (c) Fixed exchange rates	.686	19,000–55,000
4. (a) ½ pass-through; (b) Low elasticity; (c) Fixed exchange rates	.191	9,550–27,500
5. No pass-through	0	[2] 0

[1] Best case.
[2] Worst case.

Under a "best case" approach—i.e. using economic assumptions most favorable to DISC—the Library of Congress study finds that the impact of DISC on U.S. exports could be a maximum of $1.4 billion, or less than one-third the Treasury's claim. Using the same "best case" assumptions, the impact of DISC on U.S. jobs is 68,000–104,000 or less than half the Treasury's claim.

Using the "worst case" assumptions—i.e., economic assumptions least favorable to DISC, the Library of Congress study found no effect of DISC on exports and no effect on jobs.

The remarkably large difference between even the Library of Congress "best case" estimate and the Treasury estimate results from the defective economic approach taken by the Treasury in preparing its estimates. The Treasury assumed that DISC was solely responsible for the increased exports of companies using DISC, compared to companies that did not use DISC. In many cases, however, DISC was simply a windfall to companies whose exports were already climbing and whose tax lawyers were adept enough to create a DISC. In July 1975, for example, President Lee Morgan of Caterpillar Tractor Co. testified before the House Ways and Means Committee that, although Caterpillar had received $9 million in DISC tax benefits:

"I am not really sure that we did anything extra in order to generate additional exports. Not much has happened, at least at our company, in order to earn the tax deferral that has come from DISC."

In other cases, the Treasury ignored data that conflicted with its assumptions, such as by excluding instances where non-DISC exports actually grew faster than DISC exports; this flaw alone accounted for $1.1 billion of the Treasury's $4.6 billion figure on exports.

The major contribution of the Library of Congress study is to put the economic analysis of DISC on a reliable footing. But, as the study notes, even the modest job and export figures in the upper range of the various Library of Congress estimates are probably too high. The "best case," for example, rests on three assumptions:

It assumes that DISC tax benefits are fully passed through by U.S. Corporations in the form of lower prices for exports. The study questions this assumption, on the basis of the high profit margins of corporations using DISC (17% compared to 8% for domestic manufacturing), suggesting that some of the tax benefits are not passed through to prices.

It uses the higher of two widely cited figures for the response of exports to lower product prices—i.e. the "price elasticity" of export sales.

It assumes an international system of fixed exchange rates, contrary to the flexible rate system in effect since 1971.

The effect of flexible exchange rates is to reduce the impact of DISC on exports and to increase imports. In fact, the study indicates that in certain conditions under floating exchange rates, DISC-induced job gains in the export industry could actually be more than offset by losses in jobs in other domestic industries; the losses would be caused by increased imports stimulated by appreciation in the value of the dollar in the wake of DISC. In actual operation, therefore, DISC may be causing a net loss of jobs, as a result of increased imports of labor-intensive products like automobiles, shoes and textiles.

No data, however, were available to quantify the effect of the current international system of floating exchange rates.

Finally, given the fast-growing nature of the export industry—U.S. exports rose from $43 billion in 1971 to $107 billion in 1975—the study concludes that, even accepting the Treasury figures, the result of repealing DISC would not be a net loss of jobs in the industry or any actual job dislocations. Instead, there would simply be a slowing down of the rate of growth of jobs in the industry. According to the study, export-related jobs increased by 1,350,000 in 1974 and by 465,000 in 1975, or more than enough to absorb even the job impact under the Treasury's inflated estimate.

We believe that the Library of Congress study makes a solid case for the repeal of DISC. The Treasury persuaded a reluctant Congress to enact DISC in 1971, at a time when the U.S. had large trade deficits. In 1976, after two devaluations of the dollar and the adoption of floating exchange rates, the picture is far different. In light of the absence of any proved beneficial effect of DISC on jobs and exports, it is time for this wasteful tax subsidy to be repealed. It is an unjustified windfall for U.S. firms and an unjustified subsidy for foreign consumers at the expense of the American taxpayer.

As the Treasury's own figures show, fully 52% of the net income of DISC operations accrued to 249 corporations with assets of $250 million or more, and 39% went to only 23 corporations.

The importance of the Library of Congress study transcends the DISC issue itself, because the study is one of the first significant economic analyses prepared for Congress of the practical effect of a tax subsidy. In this respect, the Study is an island of rationality in the sea of irrational economic arguments inundating Congress this year as we attempt to deal with tax reform.

Only last week, for example, the Finance Committee declined to act against real estate tax shelters as a result of the questionable economic argument that jobs would be affected. We have asked the Library of Con-

gress to analyze this claim as well. We suspect that jobs in the housing industry have a great deal more to do with monetary policy, the Federal Reserve, and the state of Arthur Burns' digestion than they do with tax shelters that enable wealthy doctors, lawyers and corporate executives to escape taxes on their income by investing in real estate.

We commend the Library of Congress for the significant contribution it has made to the current debate. With the benefit of additional analyses like the present study, we hope the Senate can begin to make more informed judgments on tax expenditures in many areas as part of our overall goal of seeking the widest and most effective allocation of Federal resources, consistent with our national priorities and the Congressional budget process.

One other point should be made. As the Library of Congress notes, the Treasury report is very careful to point out the limitations of the Treasury approach, but the Treasury always ignores the limitations in making its estimates.

In fact, it is possible to find in the fine print of the Treasury DISC report all of the assumptions and cautions and limitations that the Library of Congress mentions and that make the Treasury figures on jobs and exports so unreliable. What is not so easy to find out is the rationale for the Treasury's grossly misleading presentation of the economic data on DISC, when the Treasury obviously was very well aware of the facts and assumptions that negate its own conclusions. Once lost, the credibility of the Treasury is not easily regained.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
April 30, 1976.

To: The Hon. FLOYD K. HASKELL, ERNEST F. HOLLINGS and EDWARD M. KENNEDY.

The enclosed report "The Domestic International Sales Corporation (DISC) Provision and its Effect on Exports and Unemployment: A Background Report" is forwarded in response to your request for an analysis of the effect of DISC on U.S. exports and domestic employment. The report was prepared by Jane Gravelle, Kent Hughes, and Warren E. Farb of the Economics Division of CRS.

Sincerely,

NORMAN BECKMAN,
Acting Director.

THE DOMESTIC INTERNATIONAL SALES CORPORATION (DISC) PROVISION AND ITS EFFECT ON EXPORTS AND UNEMPLOYMENT: A BACKGROUND REPORT

(Jane Gravelle, Analyst in Taxation and Fiscal Policy; Kent Hughes, Analyst in International Trade and Finance; Warren E. Farb, Specialist in Macroeconomics Economics Division, April 30, 1976)

INTRODUCTION

The Domestic International Sales Corporation (DISC) provision was enacted as part of the Revenue Act of 1971. A number of critics contend that the DISC export incentive has been an inefficient and unnecessary tax subsidy. Supporters of the DISC provision argue that it has been important in stimulating exports and creating new jobs.

After providing a brief summary of exactly how a DISC operates, the present study proceeds to assess the economic impact of the DISC subsidy and the implications of its repeal. Initial attention is focused on a recently released Treasury Department study on the impact of DISC on the economy. An analysis of the Treasury's method for assessing DISC suggests that they have overestimated the impact of DISC on both exports and employment.

As an alternative to the Treasury approach, the present study evaluates the DISC mechanism in terms of its potential for reducing export prices and the impact of lower prices on the demand for U.S. exports. The study examines the possible role of DISC in three different cases depending on how much of the tax subsidy appears as a lowered export price and how much the demand of U.S. exports increases.

Under the assumptions most favorable to DISC (the 'best case' assumptions, from the point of view of stimulating exports,) the impact of DISC on U.S. exports is found to be about $1.4 billion or about $3.2 billion below the Treasury estimate of $4.6 billion. Under a "worst case" assumption, DISC had no effect on exports.

The substantially lower estimate of DISC induced export growth has similar implications for the impact of DISC on domestic export employment. The study's 'best case' assumption yields a DISC related increase in domestic employment of only 70 to 105 thousand in contrast to the Treasury's estimate of 230 thousand. A worst case assumption leads to no effect on export employment. In deriving their point estimates the Treasury and the present study's assumptions ignore the importance of flexible exchange rates. Under flexible exchange rates, a tax subsidy to exports may lead to an appreciated dollar that would mitigate the force of the subsidy on exports and act to increase imports. When all factors are considered, the study concludes that even the modest job increases suggested by the 'best case' assumptions may prove to be illusory.

Given the relatively minor role that DISC has played in increasing either exports or domestic employment, repeal of DISC would probably not cause a major reduction in either export or employment. The past growth rate of U.S. exports also suggests that repeal of DISC is more likely to slow the rate of increase in export related employment than to cause any actual dislocations or lower levels of employment.

EXPLANATION AND HISTORY OF DISC

The DISC provision allows a company to set up an export sales subsidiary which can defer part of its corporate tax liability. One half of the DISC income is taxable on a current basis to the parent corporation (whether actually distributed or not) and taxes are deferred on the remainder as long as it is reinvested in export operations.

Income from export sales may be allocated to the DISC on one of two bases: 50 percent of the combined taxable income of the parent and the DISC from export sales, or 4 percent of gross receipts from export sales, whichever is greater. In practice the 50 percent allocation rule is generally used. In effect this reduces the tax rate on taxable income from export sales from 48 percent to 36 percent (three-fourths of taxable income is subject to the tax—the one half attributed to the parent and one half of the remaining one half attributed to the DISC).

The DISC provision was first considered by Congress as part of Trade legislation in 1970. It was subsequently enacted in the Revenue Act of 1971. The primary purpose of DISC was to encourage exports and reflects concern with large annual trade deficits of the early 1970's. Two other arguments were advanced in support of DISC at time of enactment: (1) it would limit the impact of the export subsidies used by various foreign countries and (2) by partially deferring the tax on profits from domestic exports, it would reduce the incentive for U.S. firms to manufacture abroad created by the full deferral of tax on unrepatriated, foreign source profits.

Critics of the DISC provision argued that adjustments in exchange rates would be a more appropriate method of dealing with trade deficits, noting that movements in that direction were already taking place. They also argued that the DISC provision would result in a windfall profit for producers.

THE INTERNATIONAL MONETARY SYSTEM

Through most of the post-World War II era, international trade has been conducted under a regime of fixed exchange rates. Changes in the relative values of major currencies were infrequent and were to be permitted only in the cases of a "fundamental disequilibrium." The combination of persistent balance of payments deficits and a steady deterioration of the U.S. balance on merchandise trade put increasing pressure on the dollar. Finally, in August of 1971 the gold window was closed permitting the value of the dollar to depreciate downward against other major currencies.

FLEXIBLE EXCHANGE RULES AND EXPORT SUBSIDIES

Since the gold window has closed, the world has managed with a system of flexible though not freely floating exchange rates. Some currencies are specifically tied to other currencies and, therefore, move in direct harmony rather than floating in response to market forces. At other times, various major central banks have intervened in foreign currency markets to prevent depreciations or limit appreciation of one currency or another. In most cases, the interventions are made with an eye to protecting export markets and the level of domestic employment.

Although the existence of central bank intervention in foreign exchange markets has limited the flexibility of exchange rates it has by no means returned the system to a fixed exchange rate regime. Exchange rates are still free to fluctuate in response to market forces, differential rates of domestic inflation, varying rates of productivity growth, and in response to governmental policies designed to influence the level of exports or imports.

Under a fixed exchange rate regime, governmental attempts to subsidize exports can meet with certain predictable results. Assuming the demand for a country's exports are responsive to decreases in price (price elasticity of demand greater than one), a subsidy to exports that actually lowers price would increase the quantity of and the value of the country's exports. Depending on the country's initial trade position, it would either move to decrease its deficit or actually accumulate foreign trade reserves. The increase in exports may also have a favorable impact on domestic employment. If the country is suffering from unemployment and unused capacity, the increase in exports would cause an upsurge in employment and output. As with any increase in demand, the overall effect would be greater if the domestic money supply is also allowed to increase.

With fixed exchange rates, there are relatively few mechanisms that act to limit the effectiveness of an export subsidy. Increased domestic demand could lead to inflationary pressures that could in turn offset the effect of an export subsidy. International rules may severely restrict the extent to which any subsidy may be allowed. The impact of a subsidy may also be seriously limited by the countervailing activities of the country's major trading partners. For instance, in many cases the United States will impose additional tariff duties to offset an export subsidy adopted by another country.

Under a regime of floating exchange rates, the results of an export subsidy may be quite different. As with fixed exchange rates, a subsidy induced decrease in price of U.S. exports is assumed to bring forth greater foreign demand. With floating rates, however, the increased demand for U.S. dollars drives up the value of the dollar in terms of foreign currencies. The increased value of the dollar has two principal effects on trade. First, it tends to erode some of the price advantage given to U.S. exports by the original subsidy, and may increase competition in third country markets. Second, the increased value of the dollar would make foreign goods relatively less expensive and may lead to an increase in U.S. imports. By limiting the growth of U.S. exports and tending to increase U.S. imports, floating rates will act

to limit the balance of trade and employment effects sought with the original export subsidy.

The actual assessment of an export subsidy program is made more difficult by a number of other problems. The preceding discussion focused entirely on the trade account. From almost the beginning of the Bretton-Woods system, capital flows have been a major factor in the international monetary system.

Depending on what other policies a country adopts, capital flows could easily swamp the effect of any export subsidy in the context of floating exchange rates.

Analysis under present circumstances is particularly tricky because the current international system is neither fully fixed nor fully flexible. It is possible that a combination of rigidities and market intervention may keep exchange rates essentially stable for several months at a time. The more stable are exchange rates, the more impact an export subsidy could have. Floating rates, however could quickly mitigate or even negate the impact of subsidy.

ESTIMATES OF THE IMPACT OF THE DISC SUBSIDY ON EXPORTS

Export subsidy: Some key questions

The range of export subsidies is surely vast. Even policies adopted largely for domestic reasons—for instance accelerated depreciation for capital equipment—may be partially justified for their alleged impact on exports. The particular focus of this study, however, is the Domestic International Sales Corporation (DISC). A U.S. company can receive a partial tax deferral on export profits if the exports are channeled through a DISC and meet certain other standards. The existence of DISC has divided U.S. trade into three categories—exports that receive the subsidy, exports that do not receive the subsidy, and imports.

In studying the impact of DISC on exports, imports, and employment in the presence of flexible exchange rates, the following questions should be considered:

To what extent are the deferred taxes passed on in the form of lower prices?

What effect do lower prices for U.S. exports have on the quantity and value of U.S. exports?

What impact does the increased demand for dollars have on the value of the dollar in foreign exchange markets?

How sensitive are U.S. imports to a decrease (via a depreciated currency) in the price of foreign exports?

What impact does the appreciated dollar have on DISC exports and non-DISC exports and imports?

How responsive is employment to changes in the level of exports and imports?

Lower taxes to lower prices

Neither economic theory nor empirical analysis has provided an answer to the effect of the corporate income tax on pricing decisions. Tax burden studies have generally assumed that the tax falls on capital, or partially on capital and partially on prices. Any analysis of the impact of DISC which assumes that the corporate income tax reduction is fully reflected in price is, therefore, assuming a "best case" from the viewpoint of increasing exports. However, the data presented in the Treasury report on DISC indicates substantial differences in profit margins between DISCs and similar domestic production, suggesting that the tax subsidy is not fully passed through to prices.[1]

DISC and their related suppliers typically earn a relatively high profit margin on sales. The combined profit margin of about 17.3 percent apparently earned by DISCs is much higher than the combined profit margin of 8.4 percent estimated for manufacturing and distribution of goods in the domestic economy.

These differences in profit margins cannot, of course, provide an answer to the effect of the DISC tax reduction on price. However, they do raise some questions as to the extent to which income tax reductions are passed through in the form of lower prices.

Demand for U.S. exports

Once the impact of the DISC provision on prices is assumed, the change in price can be translated into a change in export sales by use of a price elasticity of exports. Price elasticity measures the ratio of the percent change in quantity to the percentage change in price. The higher this price elasticity the greater the impact of the price reduction on export sales and revenues. If the price elasticity is greater than one, the result of a decline in price would be an increase in the value of exports by DISCs.[2] Estimates of the price elasticity of exports are generally greater than one, although the estimates vary.

To summarize, the calculation of the effect of DISC on exports requires (1) a calculation of the effects on the tax benefit on prices, (2) a calculation of the initial impact on exports, (3) a calculation of the adjustment in exchange rates, and (4) a calculation of the effect of this exchange rate adjustment on exports.

Assuming full passthrough of the tax benefits and assuming fixed exchange rates would tend to lead to a "best case" estimate of the impact of DISC on exports. Moreover, one or both of these assumptions have been commonly used in preparing estimates of the impact of DISC on exports.

Treasury department estimates of the impact of DISC on exports

In April, 1976, the Treasury Department released its 1974 annual report on the operation and effect of the DISC provision. This report contains an estimate of a $4.6 billion increase in the value of exports in DISC year 1974 as a result of DISC. The effect of DISC was assumed to be reflected in the difference between the growth rate of DISC and non-DISC exports. These estimates were prepared for the various product classes and the summed differences represent the estimate of the impact.

By is very nature, the post hoc approach has severe limitations. First, it assumes that DISC and non-DISC firms are equally affected by all other factors which affected the level and growth rate of exports including the devaluations of the dollar which occurred during the period under study. Second, it suggests that the decision to establish a DISC does not reflect prior export performance. Third, the post hoc method implies that there are no other relevant systematic differences between the DISC and non-DISC firms. In fact, DISC is more commonly used by large parent companies.

Large firms may have more easily met the transactions costs of establishing a DISC or may have been able to respond more quickly to export opportunities.

Firms with faltering export sales may have ignored DISC as they gradually withdrew from international trade or may have rushed to embrace DISC as a boosting sagging sales. The point is that the lack of correlation between the adoption of DISC and readily expanding export sales cannot be assured and casts considerable doubt on the Treasury results. The Treasury Report is very careful to point out these limitations, but does not allow them to influence its estimates.

The specific methodolgy used in the Treasury study also raises some questions. Essentially the Treasury has used non-DISC growth rates to calculate hypothetical export levels for DISC years 1973 and 1974. Actual and hypothetical export levels for 1974 are then compared to determine the 1974 impact of DISC. Estimates are made by product categories and then summed to produce the final result.

However, there are some product categories where the 1973–74 growth rate in non-DISCs is greater than the growth rate of DISCs. The Treasury approach dropped these non-conforming observations out of the estimate. Therefore, the $4.6 billion represents not the difference in growth rates for DISCs and non-DISCs, but the difference in growth rates for DISCs and non-DISCs in those categories where DISCs grew faster than non-DISCs.

An export subsidy induced reduction in export price would be expected to reduce revenues where the price elasticity for particular categories of exports is less than one. Using the Treasury methods to calculate a "negative" effect for DISC, the apparent loss of export revenues due to DISC is $1.1 billion, subtracting this amount from the Treasury estimate of $4.6 billion results in a total incremental effect of DISC of $3.5 billion.[3] However, as noted earlier, either of these estimates measures the impact of DISC with any certainty, because there is no way to be certain that the differences in the growth rates actually result from DISC.

Nor does the Treasury estimate allow for the impact of flexible exchange rates. An appreciating dollar can be expected to mitigate the effect of DISC export subsidy and reduce non-DISC exports. If this relative adjustment in DISC and non-DISC exports occurs, and the differences in exports are measured on a post hoc basis, the resulting estimate of the change in DISC exports would be too high, because of adding rather than subtracting the estimates. The following example, while in no way intended to reflect the actual magnitudes involved, illustrates this result.

Assume that DISCs and non-DISCs each start with $90 billion of exports and would have increased to $100 billion for that year through normal export growth. Assume further that DISC provisions initially result in an increase in DISC exports of $5 billion to $105 billion. Subsequent adjustments in the value of the dollar result in exports falling $1 billion for DISCs (back to a net $4 billion increase attributable to DISC) and falling by $1 billion for non-DISCs. The impact of DISC on the value of exports is then $3 billion ($5 billion reduced by $2 billion). However, an after the fact measurement such as Treasury's will result in a $5 billion difference. Non-DISCs would have increased by $9 billion (from $90 to $99 billion) while DISCs would have increased by $14 billion (from $90 to $104 billion). The difference measured after the fact would be $5 billion ($14 billion minus $9 billion) because that is the *observed* difference in the growth rates.[4]

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[1] Treasury Report, p. 7.

[2] If the price elasticity is one, no increase in the value of sales would occur from the price decline although an increase in quantity would occur. If the price elasticity is less than one, a price reduction would result in a fall in export values, although an increase in quantity would occur.

[3] As in the case of the Treasury Report, the two categories of exports where DISCs represent more than 80 percent are excluded, as being statistically unreliable. However, it is useful to note that in both of these cases non-DISC exports grew faster than DISC exports.

[4] The Treasury Report does contain several cautionary notes in this regard. In fact, such a note is contained in the beginning of the section on impact:

> Under a system of flexible exchange rates, an increase in exports may affect exchange rates in such a way as to limit, and perhaps completely offset, any trade advantage induced by an initial export expansion. . . . No allowance has been made in this analysis for the effect of flexible exchange rates (page 29).

The caution is not, however, reflected in the Treasury estimates.

In view of these significant limitations in approach in the Treasury study, it would be appropriate to view the $4.6 billion estimate as exactly what it is—a measure of the differential growth rates for DISCs for those product categories where DISC exports grew faster. It cannot be viewed as a measure of the impact of the DISC provision on the total value of U.S. exports.

Price elasticity estimates of export revenue and quantities

There are two major parameters involved in calculating the effect of DISC on export sales. The first is the extent to which a reduction in profits taxes is reflected in price reductions. The second is the price elasticity of exports after taking into account the effect of adjustments in exchange rates. Unfortunately, the measurement of these parameters is extremely uncertain.

Various price elasticity assessments of DISC have resulted in widely varying measures of the impact of DISC on export.[5]

All of these estimates are based on exports channeled through DISCs, and have also relied on price elasticity estimates generated from data prior to the change in the international monetary system. They do not fully reflect the mitigating impact of the flexible exchange rate system and are thus likely to be overstated.

The following calculations illustrate exactly how the use of price elasticities lead to varying estimates depending on the specific assumptions made. The estimate is based on the data reported in the 1976 DISC report for DISC year 1974 (which covers part of calendar year 1973 and part of calendar year 1974).

DISC net pre-tax income reported in that report is $3,148.5 million. The export gross receipts on taxable returns are $44,209.3 billion. The ratio of pre-tax income to gross receipts, is therefore, 7.1 percent. The Federal revenue loss for DISC in that period of $756 million (as reported by Treasury) is the pre-tax income times the effective tax savings of 24 percent (one-half of the corporate tax rate of 48 percent).

The following analysis illustrates the impact of DISC on exports based on three different assumptions regarding the shifting of the tax subsidy under two alternative price elasticities. Although the choice of a price elasticity is uncertain, two widely quoted studies report elasticities of 1.51[6] and 2.85.[7]

The shifting assumptions are: full shifting of the tax to price, shifting of one-half of the tax to price, and no shifting of the tax to price. The full shifting assumption represents a best case estimate of the impact of DISC on exports and the last a worst case estimate.

Under conditions of full passthrough of the tax subsidy to price the tax saving would result in a 1.7 percent reduction in prices (24 percent time 7.1 percent). Using an elasticity of 2.85 this would translate into a 4.8 percent increase in the volume of DISC exports and a 3.1 percent, or $1.35 billion, increase in export revenues.[8]

This amount can be compared with the $756 million in revenue loss estimated by Treasury. The same procedure using a price elasticity of 1.5 results in an increase in export volume of 2.56 percent, and an increase in export revenue of .86 percent or $378 million.

If only one-half of the tax reduction filters down to export prices, the reduction in price would be .85 percent. The resulting impact on export volume, assuming an elasticity of 2.85 would be 2.4 percent and on import revenues 1.6 percent, or $686 million. A 1.51 elasticity would yield an estimate of a $191 million increase in export revenue.

If none of the tax reduction shows up as a price reduction, there would be no impact on exports either in quantity or revenue.[9]

Assuming a relatively high price elasticity, (2.85) and assuming full passthrough of the effects of the tax reduction, therefore, yields a much smaller estimate of the impact of DISC on U.S. exports than that reported in the Treasury Department Report. One result, however, emerges—the estimates of the impact of DISC on exports are highly dependent upon the assumptions made.

EXPORT SUBSIDY AND EMPLOYMENT

Export subsidy and fiscal policy

A change in fiscal policy either through the tax side or the expenditure side is bound to have an effect on the overall U.S. economy. Although as a general rule expenditure increases are widely—but far from universally—expected to have a stronger stimulative impact on the economy than tax cuts, the actual impact depends on the form of the policy action. In an economy operating below full capacity actions stimulating demand are more likely to have faster and stronger influences on the economy than if the economy were at full employment.

If prices of exports fall as a result of DISC, causing an increase in demand for U.S. goods, employment will be generated. The effect, however, would be similar to any other fiscal policy action resulting in the same increase in demand. If the more widely held assumption of limited tax passthrough to prices as a result of a decrease in corporate tax liability is made, the immediate impact on U.S. employment would be minimal. In the long run the resulting increase in profits would filter through the economic system increasing consumption, but primarily for the owners of capital relative to the labor force. In any event, the distribution of the benefit of the tax cut would favor the owners of capital relative to labor more than if the tax cut directly affected disposable income.

The important factor to note, is that so long as only exports are being considered, the feedback effect on employment is identical to any similar increase in demand. The only way DISC could result in a greater impact on employment than any equal cut in corporate taxes in general is if it is assumed that for some reason only tax cuts through DISC are passed on as price decreases or if it is assumed that export demand is more responsive to price cuts than domestic demand. Without further elaboration it is difficult to see why either of these assumptions should be accepted.

A further complication in determining the impact of DISC on domestic employment is the reaction of imports. In an environment of flexible exchange rates an increase in U.S. exports that results in increased export receipts would be offset by an appreciation of the U.S. dollar. Dollar appreciation in turn would result in U.S. consumers facing reduced import prices. The reduction in import prices would lead to increased demand for imports and, therefore, a reduction in demand for the domestically produced competitive items. This reduction in demand would cause a reduction in domestic employment in these industries offsetting any increased employment generated by the assumed increase in export demand. Furthermore, if the U.S. should import goods that require more labor intensive production processes than export goods it is possible that the net change in domestic employment could be negative. In sum, whether or not the actual net change in employment is positive, zero, or negative, would depend on the final changes in demand for exports and imports, as well as the relative level of labor intensity involved in the productive processes of the goods involved.

Treasury estimate

The Treasury Report assumes that for every $20,000 of exports one job is created. Based on Treasury's $4.6 billion estimate of DISC generated exports, 230,000 jobs would have been created. Adjusting the Treasury calculations for apparent DISC induced losses in export revenues reduces the Treasury figure to $3.5 billion or 175,000 jobs. Even if the Treasury method is accepted as valid the employment estimate is probably overstated since it is based on average rather than incremental increases and is not adjusted for the effect of inflation.

Job impact based on price elasticity estimates

Applying the Treasury Standard of one job for each $20,000 in exports to CRS price elasticity based estimates of export growth gives quite different results. Using the full pass through or "best case" assumption and a price elasticity of 2.85 yields 68,000 new jobs. At the lower elasticity of 1.51 some 19,000 jobs would be created. If only half the tax benefit is passed through to prices, the results would be 34,000 for the high elasticity and 9,550 for the lower. If none of the tax benefit is reflected in lower export prices, there would be no job effect.

This calculation, however, understates the employment effect of export. It is the level of output—and not total revenues which affect jobs. The increase in employment would, therefore, be higher than those calculated here if increases in quantity rather than revenue are used. For example, if increases in output produced proportional increases in jobs, the estimates would be the number of jobs before the DISC effect multiplied by the percentage increase in output. Under this assumption, the best case estimates would be 104,000 for the higher price elasticity and 55,000 for the lower one. If half of the tax is shifted, the resulting em-

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[5] Thomas Horst, in testimony before the Senate Budget Committee (DISC: An Evaluation of the Cost and Benefits, November, 1975) reported a simple estimate based on a direct price elasticity calculation of $3.3 billion for 1974; in a paper supplied to the Committee which adjusted for other variables including pass through of the tax benefit in prices, a $2 billion figure was estimated. In the same hearings the Special committee on Export Trade reported an estimate of $6.3 billion. In a report published in September of 1975, the House Budget Committee estimated that based on price elasticity approach DISC increased exports by $243 million from 1972–1975.

[6] Houthakker and Magee, "Income and Price Elasticities in World Trade," Review of Economics and Statistics, 1969.

[7] Reported in the Senate Budget Committee Hearings by Horst, et al., p. 238 as unpublished paper by Goldstein and Kahn, "The Supply and Demand for Exports: A Simultaneous Approach," International Monetary Fund, 1973.

[8] The specific computation was done as follows. The equation: $x/1.7=2.85$ is solved for x, the percentage change in volume.

From this percentage change (4.845) the price change in price 1.7 is subtracted to yield a revenue in increase of 3.145 percent. Then the equation: $\$44,290=x+.03145x$ is solved for $x=\$42,939$.

The $1.35 billion change is the difference between $44,290 and $42,939.

[9] The preceding analysis has been extremely oversimplified. The processes of adjustment to changes in variables are much more complex than those described here. In addition, the price elasticities, particularly because they are derived from data predating the current international monetary system are uncertain.

ployment effect would be 52,000 and 27,500 jobs, respectively. However, an increase in productivity, particularly in a slack economy, would be expected, so that a less than proportional increase in employment would be likely to occur, resulting in an increase in employment of less than 104,000 ("best case" estimate).

Even if one of the preceding estimates actually measures the number of DISC related jobs in the export sector, the net effect of DISC on domestic employment would remain uncalculated. The overall impact would depend on the multiplier effect of an increase in exports, the countervailing implications of an increase in imports and the fiscal policy used to recoup revenues lost through the DISC subsidy.

POSSIBLE IMPACT OF REPEALING DISC

The preceding analysis has raised a number of questions about the efficacy of a DISC type export subsidy in the context of floating exchange rates. Even leaving aside the influence of floating rates, DISC appears to have entailed large amounts of foregone treasury revenues for very modest increases in exports. When the effect of an appreciated dollar on non-DISC exports and imports is included, DISC may well have had no positive impact on either the U.S. balance of trade or U.S. employment.

If DISC has had no impact on employment or exports, its elimination could be contemplated with relative equanimity. But what if the contrary is true? What if DISC has in fact had a genuine, albeit modest, role in increasing U.S. exports and employment, then what will be the impact of eliminating the DISC provision?

Looking first at the 'best case' estimates developed above, DISC has resulted in a 1.7 percent reduction in the price of U.S. exports, and an increase in the value of U.S. exports of $1.35 billion dollars. The DISC induced growth in exports might have accounted for approximately 70–100 thousand new jobs, fewer if jobs were lost in the import sector.

Working under the 'best case assumptions, repeal of DISC would simply reverse these results. The repeal of DISC might result in the loss of 70–100 thousand jobs and job opportunities in the export sector. Depending on the state of the economy and current economic policy, the loss of export jobs could result in a further loss of jobs throughout the economy.

In assessing the impact of DISC repeal, one is faced with three principal questions—How likely are the 'best case' assumptions? How many workers as opposed to job opportunities are likely to displaced? And how resilient is the export sector in the face of minor fluctuations in the price of U.S. exports?

The preceding discussion of the 'best case' assumptions suggests that they may be quite optimistic. These 'best case' assumptions suggest that the DISC tax deferral will be fully and immediately reflected in lower prices. The 'best case' also ignores the impact that flexible exchange rates may have on DISC exports, non-DISC exports, and imports. In sum, it is unlikely that the repeal of DISC would have anything near the impact suggested by the 'best case'.

Nor are the actual dislocations from the export sector likely to be as great as the number of export related job opportunities might indicate. The tendency has been for U.S. exports to grow over time in both current and real (corrected for inflation) terms. In making their estimate of DISC related employment, the Treasury applied a figure of one job for every $20,000 in exports to their estimate of the DISC caused increase in the value of exports. The Treasury approach yielded a total DISC related increase in jobs of 230,000. Similar procedures applied to the 'best case' estimates of export growth indicate that DISC generated 70,000 to 100,000 jobs. The same job/export standard applied to the current dollar growth in U.S. exports produces a 285,000 increase in export related jobs in 1972, 1,080,000 in 1973, 1,350,000 in 1974, and 465,000 in 1975. There would be no actual reduction in employment in the export sector from repeal of DISC. Under either Treasury or 'best case' assumptions, the total impact of repealing DISC would be on the rate of increase of jobs in the export sector.

There are some controversial points that must be considered to fully evaluate the Treasury estimates of DISC related employment. First, employment is much more directly related to the quantity of exports rather than their value. Second, the one job for every $20,000 in exports is based on an average relationship for 1973. Subsequent inflation would tend to raise the actual dollar job ratio and thus tend to overstate any employment effects. Third, the real increase in U.S. exports is much more modest than dollar value. However, following the Treasury approach the relative magnitudes involved can be judged while ensuring comparability of one approach to another.

In more general terms, how disruptive is the repeal of DISC likely to be? The answer appears to be not very. Even the 'best case' approach contemplates less than a 2 percent decrease in the price of U.S. exports. Price fluctuations of this kind are relatively common in international trade. Domestic inflation and the level of business activity abroad are much more important determinants of export behavior.

During a regime of flexible exchange rates, two percent swings in the value of the dollar and hence in the price of U.S. exports are relatively common. Certainly the past pattern of U.S. export behavior has not been disrupted by a two percent change in the price of U.S. exports.

Whatever the merits of the case, the repeal of DISC does not appear to have major implications for either domestic employment or the level of U.S. exports. Even under the "best" case assumptions, the reduction in exports is small and the employment impact involves little actual dislocation.

Summary

The analysis contained in the present study suggests that the impact of the DISC subsidy on exports and employment has been quite modest—particularly in comparison with other variables affecting international trade.

The post-hoc approach adopted by the Treasury appears to have several serious deficiencies. Reasonable assumptions about the price elasticity of demand for U.S. exports and the extent to which the DISC tax subsidy is actually reflected in lower export prices suggests rather minimal effects on either exports or employment. Allowing for the impact of flexible exchange rates on exports and imports would further reduce export and employment estimates.

The repeal of DISC does not appear to have major implications for either exports or the level of domestic employment. Even under assumptions that indicate significant DISC related employment, repeal appears to have a greater impact on the growth in employment in the export sector rather than an actual reduction in export related jobs. In any case, if a given level of fiscal stimulus is maintained there is no reason to expect that the employment effects are necessarily positive or that repeal of DISC will reduce employment.

LIMITED LEGISLATIVE AUTHORITY FOR THE SELECT COMMITTEE ON SMALL BUSINESS

Mr. HRUSKA. Mr. President, on last Thursday Senate official duties of high priority prevented my attendance in this Chamber when a rollcall vote was held on approving Senate Resolution 104. This is a resolution which amended the Senate Rules to confer legislative jurisdiction on the Select Committee on Small Business.

The resolution was approved by a vote of 71 yeas to 12 nays. Had I been present I would have voted yea. Official note of this is contained in the CONGRESSIONAL RECORD in the recorded proceedings pertaining to this vote. This resolution will rectify a serious oversight on the part of the Senate, namely the lack of direct committee representation for the backbone of the Nation's economy—small business.

The small businessman plays an extremely important role in determining our economic well-being. Until today, however, he has not had a separate focal point to bring before the Senate matters which are of concern to him. With the passage of this resolution, that oversight will be corrected. The small businessman will now have a forum through which he can present his concerns directly to the Senate.

That is as it should be, Mr. President. The House recitified this lack of direct representation in 1974, when it provided legislative authority for its own Select Committee on Small Business. It is high time we did the same.

The contributions of small business to our prosperity are manifold; 96.7 percent of all businesses are considered small. These businesses employ 55 percent of the total number of persons working in business in the United States. Perhaps most importantly as an indicator of the contributions of small business, this sector of the economy produces 43 percent of the gross national product.

It is clear from these facts that small business is only small in its individual parts. The sum of those parts is staggering. Yet it is the fate of those individual businesses that will determine whether the economy is growing or contracting, in an upswing or a decline. The problems of those individual businessmen, Mr. President, become the problems of the Nation. It is only fitting that we give small business the consideration and type of representation it deserves.

Twenty-six years ago the Senate created the Select Committee on Small Business. Since that time, it has often been proposed that the Select Committee be given legislative authority. In that 26-year period, the reasons for or against such a move have become well known. One fact, however, is clear. During those years the productive capability of small business compared to that of the remainder of the economy has declined. It is time that we gave this problem the attention it is due. Senate Resolution 104 will begin that process.

In conclusion, Mr. President, Senate Resolution 104 provides the type and quality of representation which small business needs and deserves. The favorable vote of my colleagues in the Senate approving the resolution is gratifying indeed.

NATIONAL ECONOMIC PLANNING

Mr. HUMPHREY. Mr. President, just the other day I received in the mail a form letter addressed to "Dear Senator" together with a paperback book, "The Politics of Planning, a Review and Critique of Centralized Economic Planning." The letter and the book came from a group called the Institute for Contemporary Studies, located in California.

I presume that an identical letter and book has been sent to each of my colleagues, and because the subject matter concerns a bill cosponsored by Senator JAVITS and myself, S. 1795, I wish to make a few remarks about the overall message the Institute for Contemporary Studies is attempting to convey.

In the first place, I should note that this is the same group which in 1975 published another paperback book entitled "No Time To Confuse." This book purported to respond to the Ford Foundation study entitled "A Time to Choose," which was completed in 1974. I bring this up because the tenor of "No Time To Confuse" was similar to the more recent publication. It was, in my judgment, an ideological attack on the Ford Foundation project and came close to being a smear campaign. It certainly was not a rational analysis of the excellent work conducted by the energy policy project of the Ford Foundation over a 2-year period.

For example, the Institute for Contemporary Studies criticized the Ford Foundation recommendation that energy conservation be made a matter of highest national priority, on the grounds that such a proposal could lead to a "planned society which works, if it works at all, only in the context of a police state."

Now such a conclusion about the Ford Foundation's recommendations is obvious nonsense, and it should come as no surprise that the more recent publication draws equally nonsensical conclusions about the Humphrey-Javits bill.

The first error that the Institute for Contemporary Studies makes is to assume that the Humphrey-Javits bill proposes "centralized" economic planning. The sponsors of S. 1795 have gone to great lengths to distinguish centralized planning from national planning. In fact, what we already have today at the Federal level is a form of centralized economic planning under the control and management of the President and a few of his handpicked advisers. These few, including the Secretary of the Treasury, the Chairman of the Federal Reserve Board, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the President's own White House economic adviser, dominate economic policy. One of the major objectives of the Humphrey-Javits bill is to break up the tightly held control of economic policy now in the hands of a few officials in the executive branch.

Therefore, to characterize the Humphrey-Javits bill as an effort to bring about "centralized" economic planning is a complete distortion. The Humphrey-Javits bill provides for democratic, long term economic planning. It provides procedures for broadening the base of economic policymaking to include Congress, the States and localities, and citizens.

As for the proposition that planning does not work, ask any corporation or nonprofit institution whether planning is worthwhile. Ask the Department of Defense, which has the most highly developed planning procedures of any Government agency.

The real question, as so many thoughtful persons have pointed out, is not whether the Nation should plan, but how it should plan.

In my judgment, planning can work. I also believe it is only a matter of time before our Government leaders comprehend the wisdom of adopting planning procedures.

LET'S STOP UNDERMINING THE CIA

Mr. GOLDWATER. Mr. President, recently a former colleague of ours, the Honorable Melvin Laird, wrote an article for the Reader's Digest entitled, "Let's Stop Undermining the CIA." I could not agree with him more; and I think that now that the select committee has finished over a year's delving into the CIA's activities it is time we read the reports, consider them, look at the legislation that is being proposed, consider that, and then answer the question as to which is best for the United States.

While I will not maintain that the CIA was the world's best intelligence organization, I can say that among the experts in this field around the world it was fast becoming the best collecting agency in the world, and my advisers tell me that they knew it would not be long until our ability to interpret the intelligence would be equal to our ability to gather it. If I can say one thing after the 15 months of the select committee, it is that the CIA came out looking pretty well; and if there are people to be blamed—and I am not saying they are to be blamed—those people lived in the White House.

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:

LET'S STOP UNDERMINING THE CIA

(If the United States is to continue as a flag-bearer against totalitarianism, says this former Secretary of Defense, it must protect and preserve our international intelligence network).

(By Melvin R. Laird)

We Americans are on the verge of doing ourselves what our worst enemies have been unable to do: destroy our intelligence services.

Last year, Senate and House committees began searching investigations of the Central Intelligence Agency. The investigators' intent was honorable, and they have brought to light malpractices that must be curbed. According to Congressional findings and CIA admissions, during the 29 years the CIA has existed—1947 to 1976—agency personnel perpetrated the following questionable acts of domestic espionage: They illegally entered four homes or offices, tapped the phones of 27 people, placed five U.S. citizens under surveillance and infiltrated ten agents into the anti-war movement. For over two decades, they opened private mail received by Americans from communist countries. Additionally, in examining possible foreign influence on the anti-war movement, the CIA accumulated files on approximately 10,000 American citizens.

The side effects of these investigations, however, have proved much more harmful to the country than the ills that Congress sought to remedy. As CBS commentator Eric Sevareid recently declared: "We've had Congressmen breaking solemn agreements with the Executive by leaking classified information in the name of higher laws of their selection. We have had journalists breaking their word on information received off the record by leaking it to other journalists, which is morally the same as publishing it themselves. And, worse, we've had zealots publishing the names of American intelligence personnel—which, in this time of terrorists everywhere, increases the risk of kidnapping and murder. To do this is to commit the moral equivalent of treason."

The dubious acts committed by the CIA have been distorted and magnified, while lurid charges flourished, often without a scintilla of substantiation. For example:

Allegation: The CIA jeopardized public health by conducting biological-warfare experiments in New York City subways. *Fact:* The Army, to assess vulnerability of the transit system to sabotage, placed some innocuous powder in a subway, then measured how far it was wafted down the tunnel. The test menaced nobody. The CIA had no part in it.

Allegation: The CIA placed secret informants on the White House staff to spy on the Presidency. Its chief White House "contact man" for a while was Alexander P. Butterfield, later director of the Federal Aviation Administration. *Fact:* Butterfield never had any connection with the CIA. For the past 20 years, like other agencies, the CIA, at White House request, has routinely assigned specialists to the Presidential staff.

Allegation: The CIA has assassinated foreign leaders and perhaps even some Americans. *Fact:* More than a decade ago, when a *de facto* state of war existed between the United States and Cuba, the CIA involved itself in unsuccessful plots to kill Fidel Castro. It also considered poisoning Patrice Lumumba of the Republic of the Congo. But the prosaic truth, as established by the skeptical Senate investigators, is that the CIA never assassinated anyone anywhere.

HEMORRHAGE OF SECRETS

As the CIA's legitimate secret operations are exposed and its sensitive intelligence-gathering methods irresponsibly illuminated, our first line of defense against attack—and our only defense against covert attack—is becoming increasingly paralyzed. In foreign parliaments and press, the feasibility of confidential collaboration with America has been publicly questioned. Some countries have stopped confiding in us almost entirely for fear their confidences will be broken by Congress or the press. Individual foreigners who have risked their lives to secretly serve the United States—including agents well placed in the Soviet bloc and the Third World—have quit out of fear of identification. The difficulty of enlisting reliable new foreign sources has increased greatly.

Meanwhile, scores of gifted American men and women in the CIA possessing priceless expertise and experience have been disgusted at the pillory with which their patriotism has been rewarded, and many have even left. Important intelligence undertakings, approved by Congressional committees and the President as essential to the national interest, have collapsed in the glare of publicity. For instance, disclosures that the United States has used submarines in Soviet territorial waters to monitor Russian weapons tests have greatly diminished the flow of this vital intelligence.

The hemorrhage of secrets is also destroying the CIA's capacity to *act* covertly in Western interests. Sometimes the discreet provision of money, information, advice and

other requested help affords the only practical means of countering subversion abroad. Repeatedly, the Soviet Union has sought to subvert other nations by buying control of politicians, bureaucrats, journalists and trade-union leaders, by surreptitiously supplying vast sums to build the local communist party into the dominant political force. Plans to combat such subversion lose all effectiveness if announced. If identified, recipients of our assistance forfeit credibility and become instant targets of venomous attack by communists and others.

RECORD OF SUCCESS

In an ideal world, we would need neither intelligence services nor armed forces. But we must have both if we are to survive in the real world of 1976, which has become very unsafe for democracy and the United States. Of the earth's 158 nations, only 39 presently maintain democratic, representative governments and open societies. Many of the totalitarian nations are fanatic in their hostility to freedom and to America. Our access to many indispensable natural resources depends upon fragile regimes. The complex daily functioning of our society in threatened by the phenomenon of international terrorism. Meanwhile, the Russians—besides their worldwide subversion, fomenting of revolution and support of terrorism—persist in an enormous, costly effort to attain undisputed military supremacy with which they hope to intimidate the West into further retreat.

To cope with all these threats and uncertainties, we must keep ourselves continuously and accurately informed as to what is happening, especially in those areas shrouded in totalitarian secrecy. To repel covert aggression, we must resort at times to covert methods. President Harry Truman and Congress recognized this when they created the CIA in 1947. And this unchanged reality has been recognized by every subsequent President—and Congress, except the present one.

Having served first on one of the Congressional committees that oversee our intelligence apparatus, and later as Secretary of Defense, I am familiar with some of the accomplishments of our intelligence services. Consider:

During the past 25 years, the Soviet Union has not developed a single major new weapon without our knowing it well in advance. Without such knowledge, we undoubtedly would have wasted untold billions preparing to counter threats which did not actually exist. Current efforts to negotiate curtailment of the nuclear-arms race are possible only because our precise intelligence enables us to count every Soviet missile, submarine and bomber, and to monitor Soviet compliance with the treaties achieved. If we destroy the effectiveness of the CIA, we will destroy with it whatever hope there is of negotiating any significant disarmament.

Timely intelligence has helped avert war. During the 1973 Arab-Israeli conflicts, U.S. intelligence—live agents and technical surveillance—detected Soviet preparations to dispatch troops to the Middle East. Thus alerted, we were able to initiate urgent diplomatic and other actions that persuaded the Russians to forgo military intervention.

A few years ago, our agents—or spies, if you will—ascertained that one non-communist country was about to attack another. Details cannot yet be made public. But we quickly and privately brought the countries together, laid out the facts, induced them to negotiate. CIA espionage thus prevented a war.

Since late 1973, U.S. intelligence has given both Israel and Egypt considerable sense of security by continuously showing each what the other is doing militarily. Given proof that neither is about to pounce on the other, the Arabs and Israelis have been willing at least to try to devise a formula for Middle East harmony. Our intelligence has bought the necessary time.

Through infiltration of various terrorist movements, the CIA has aborted numerous plots. On at least two occasions, the CIA has forestalled assassins bound for the United States with orders to kill elected public officials. It has also thwarted plans to kill prominent American Jews with letter bombs.

While Israel's premier Golda Meir was visiting New York City on March 4, 1973, police rushed to busy midtown intersections and hauled away two cars with enough Soviet-made explosives to kill everybody within a 100-yard radius. The terrorist explosives were timed to detonate at noon, when streets would be most crowded. The disaster was prevented because we had advance warning of it.

Shortly before Christmas, 1973, the CIA learned that six small, hand-carried Soviet SA–7 missiles—extremely accurate against low-flying aircraft—were being smuggled in Libyan diplomatic pouches to Black September terrorists in Europe. The terrorists planned to shoot down a 747 landing in Rome. However, acting on CIA intelligence, European governments disrupted the operation and spared the lives of hundreds of holiday travelers.

The CIA has frustrated communist subversion of other nations. After World War II, the Soviet Union sponsored a massive clandestine effort to impose communist dictatorships on a weakened Western Europe. Communist operatives, dispensing millions of dollars, organized strikes to block Marshall Plan aid and engender chaos. They infiltrated the press, tried to buy elections. By providing intelligence, money and counsel, the CIA gave anti-totalitarian factions a fighting chance to resist. Given this chance, the Europeans proceeded to build healthy democracies, indispensable to our own welfare.

During the 1960s, with Soviet backing, Cuba tried to ignite guerrilla warfare and violent revolution in Latin America. While quietly urging needed social reforms, the CIA offered Latin Americans the intelligence and training they needed to repel Cuban aggression. The communists were defeated in Bolivia, Venezuela, Brazil, Uruguay, Guatemala and the Dominican Republic. Much the same pattern was repeated in sections of Africa where the Russians sought to establish new colonies for themselves. In the Middle East, too, the CIA has repeatedly aborted Soviet plots to seize control of Arab nations.

In retrospect, it is obvious that not all of the covert actions undertaken by the United States in the past 20 years have been wise or justified. I strongly believe that we never again should attempt to use military force covertly. Military action can succeed only if understood and endorsed by the public as well as Congress. However, if we abandon our capacity to discreetly help those who wish to resist externally inspired subversion—totalitarianism of either the left or right—we will reduce ourselves to a choice of abandoning them entirely or sending in the Marines.

In sum: If we allow our intelligence services to be rendered impotent, we will signal friend and foe alike that we lack both the will and the means to complete with totalitarianism. Unable to protect ourselves, or our friends abroad, America will shrink into isolationism, and our economy, denied essential foreign resources, will shrivel. Then we, and certainly our children, will discover too late that there is no place to hide from totalitarianism.

As a former Secretary of Defense, I believe that we should maintain armed forces stronger than those of any potential enemy. But without an equally strong intelligence service, our nation can never be secure. I know that. So do our friends and antagonists throughout the world.

LINOWITZ ON LATIN AMERICA

Mr. KENNEDY. Mr. President, I want to call to the attention of my colleagues two recent articles by Sol Linowitz, the distinguished former Ambassador to the OAS, on Latin American policies.

Mr. Linowitz continues to be a leading spokesman for an alternative policy toward Latin America, an alternative that is surely needed after the failures of the recent past.

In the article in Saturday Review, Mr. Linowitz comments on some of the elements of a new policy. I urge it to my colleagues for their consideration.

I ask unanimous consent that the article "Reflections on Kissinger's Latin American Foray" by Ambassador Linowitz, be printed in the RECORD.

Also, in a recent article in the Los Angeles Times, he points to some of the major areas of tension and among those cites the need for a firm stand against violation of human rights in the hemisphere. In this area particularly, it is frustrating and sad that the administration, in our Bicentennial Year, must be reminded of the need not only to advocate respect for human rights in public forums, but to act in defense of those rights as well.

I also ask unanimous consent that the article, "Dangerous Times Ahead Unless We Can Agree," be printed in the RECORD.

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

REFLECTIONS ON KISSINGER'S LATIN AMERICAN FORAY

(By Sol M. Linowitz)

Secretary Henry Kissinger's recent Latin American trip once again focused fleeting attention on the relationship between this country and Latin America. For a number of months Latin Americans had been waiting patiently for the long-promised visit by the American Secretary of State. When it came, its impact was, in a word, underwhelming. For its major features appear to have been a reaffirmation of familiar promises of economic cooperation and the signing of a new consultative agreement with Brazil that caused predictable indignation and concern in a number of other Latin American countries.

When Secretary Kissinger undertook the trip, he was all too aware of the fact that his November 19, 1974, call for a "New Dialogue" with Latin America had left behind a deep and widespread sense of disappointment. For once again words were not translated into action, and the "New Dialogue" remained a slogan without substance. On this trip Kissinger was clearly determined to avoid overblown expectations, and in this he unquestionably succeeded.

One can quarrel with what Kissinger did or did not achieve during the trip, but certainly no one can take issue with his premise that we can no longer take Latin America for granted. The simple fact is that we are in a new ball game with Latin America. No longer can we treat Latin Americans patronizingly. No longer can we threaten to take our bat and ball and go home.

For the world has changed, Latin America has changed, and the United States has changed. Today the hard fact is that we need Latin America just as much as Latin America needs us. And what we need is not only Latin American oil and raw materials but also—as the vote on the U.N. anti-Zionist resolution clearly demonstrated—their cooperation and support in the global arena. This calls for a whole new approach and a drastic change in our perceptions about our relationships in this hemisphere.

The first point to be recognized is simply that interdependence has displaced security, in its narrow sense, as the *raison d'être*

for American foreign policy. Today there are a number of other important centers of power in the world besides the superpowers. Transnational forces, including the multinational corporations, have become featured actors on the international scene. The line between domestic and foreign policy has become increasingly blurred, and our interests abroad have become inextricably intertwined with our interests at home.

When we talk of security in this kind of a world, we have to think not only of military and political power but also of oil and copper and bauxite. We have to consider what the urgent prospect of world famine resulting from the scarcity of food and fertilizer will mean to our own future. We have to ponder the impact that the population problem on this planet will have on us—and the fact that 4 billion people dwell on this earth and by the turn of the century there will be 8 billion or more.

While these dramatic changes have been taking place in our international system—multipolarity, transnationalism, scarcity of raw materials and food stuffs, population growth—tremendous changes have also been taking place within the various countries and regions of Latin America. Rapid urbanization and mass communications have produced political awareness among people who do not yet participate in the economic growth of their countries. As a result, governments face increasing demands to provide jobs and services. To meet these internal demands, Latin Americans have sought freer access to the markets of the United States and other developed nations for their manufactured and semi-maufactured products and their raw-material exports. They have also sought better access to both capital and technology.

In their search for helpful responses to these needs, Latin Americans have become increasingly active participants in the world community beyond the confines of our hemisphere. So we have begun to hear new voices coming out of Latin America—voices of identity, voices of nationalism, voices of outrage at lingering dependency.

Meanwhile, as we know all too well, we have also been undergoing drastic changes at home. No longer do we dominate world economic and military affairs as we once did. No longer is it appropriate or feasible for the United States to try to be a policeman or tutor everywhere in the world. Moreover, in the face of the challenges we have been confronting—unemployment, racial conflict, the long war in Vietnam, the major crisis of governmental leadership—we have found our coherence as a nation severely strained and tested by an energy crisis, commodity shortages, and worldwide inflation.

Deeply aware of these changes and concerned about their impact, the Commission on U.S.-Latin American Relations—an independent group of 23 private citizens, some having held high government positions*—recently issued a report based on an analysis of hemispheric affairs. In the report that was presented to the President and to the Secretary of State, the commission arrived at the following conclusions:

The premises of past American policies, from the Monroe Doctrine to the Alliance for Progress to Mature Partnership, have been seriously undermined by the major changes in the world, in Latin America, and in the United States.

Our policies in the future must be based on the recognition of the fact that Latin America is not our "sphere of influence" to be insulated from the rest of the world, and that Latin American countries are playing an increasingly active and important role in a world of growing interdependence.

U.S. policies must also recognize that there is a diversity among Latin American countries and that our interests do not require ideological conformity. We must respect their independence and their capacity to act independently.

Our mutual concerns today center not on military security but on economic development, on the well-being of our citizens, on the coherence of our societies, and on the protection of individual liberties—all goals that cannot be attained in isolation or at the expense of our neighbors.

Both self-interest and our fundamental values requires that we nurture our common interests and historic ties in the Americas and cooperate in building a more equitable and mutually beneficial structure of international relations.

Pursuant to these conclusions, the commission made 33 specific recommendations for action by the United States. They included: an end to covert U.S. intervention in the internal affairs of Latin American countries such as took place in Chile; strengthening of efforts to assure protection of human rights in the hemisphere; developing an initiative in seeking to normalize relationships with Cuba; signing and ratification of a new Panama Canal treaty; encouraging arms-limitation agreements in the hemisphere; repeal of the Hickenlooper and Gonzalez amendments and avoiding other threats, such as unilateral economic sanctions; elimination of the U.S. veto power over fund operations of the Inter-American Development Bank strengthening OAS conciliation and peacekeeping capacities; elimination of travel and migration restrictions to and from Latin America; enactment of a generalized trade preference that would be truly helpful to Latin America; establishment of a regional system for exchange of commodities supply-and-demand projections and exploration of mechanisms to offset wide fluctuations in commodity supply, demand, and price; collaboration between the United States and Latin America in the development of codes of conduct defining rights and responsibilities of foreign investors and governments as well as the establishment of impartial fact-finding mechanisms; and U.S. assistance in the development of scientific and technical capabilities.

Little has been done since the issuance of the commission's report and recommendations to improve the general climate of relationships in the hemisphere. The trend toward divisiveness and indifference is a matter of real concern. Erosion of mutual trust and respect has increased as U.S.-Latin American relations have been clouded by revelations of covert intervention in Chile; by the sharpening differences within the hemisphere over how to respond to major violations of fundamental human right; by the failure to make real progress in the vital area of economic cooperation; and by the continuing uncertainty concerning the strength of the U.S. commitment to the solution of hemispheric problems.

During his trip Secretary Kissinger did undertake to deal with some of the economic concerns, but more—much more—remains to be done:

The revelations regarding CIA involvement in Chile make it imperative that the United States renounce clearly and forthrightly any unilateral intervention—overt or covert—in the internal affairs of Latin American countries. An unequivocal Presidential declaration reinforced by a congressional resolution is called for. Any equivocation on this score will be regarded as inconsistent with our professed support of a mutually respective world order in which governments are responsible for their own policies and actions.

The reports of extensive repression in Chile and elsewhere underscore the importance of having the United States take a much firmer stand in implementing its proclaimed commitment to the protection of fundamental human rights. The United States should press for an international investigation—by the United Nations or the OAS—of alleged repressive practices, and should cease providing aid and support to regimes that systematically violate human rights. At the same time, measures for providing relief to the victims of repression should be made effective.

Although negotiations with reference to a new treaty with Panama for the Panama Canal are slowly making progress, in an election year there will be great temptation to try to make the canal a political issue. To do so would be to prejudice the negotiations in a manner that might well endanger the possibility of settlemen. It is important for the President strongly to reaffirm his support for the new treaty negotiations now under way, and for the administration to begin to build requisite public and congressional backing for the treaty.

New tensions and developments have interrupted progress in the normalization of relations with Cuba. Cuba's position with reference to Puerto Rico and its intervention in Angola have imposed roadblocks to such normalization. Despite these setbacks, the United States must stand ready to explore in the right way and at the right time such measures as lifting the blockade on food and medicine to Cuba in return for an appropriate Cuban response.

Steps such as these will be helpful as indications of our commitment. But basic problems will remain, and one that is least recognized is the failure of the United States to learn that what we have in common with Latin America is a good deal more than Latin America itself. Secretary Kissinger took this into account in the consultative agreement entered into with Brazil. But Latin America consists of much more than Brazil. In international arenas such as the United Nations, we cannot assume an easy or permanent mutuality of interest between us and the countries of Latin America. We must expect that the Latin American countries will act in ways which they determine to be best for themselves—whether or not these will be helpful or harmful to the United States. Therefore, it is in our best interest to try to work with the countries of Latin America in developing common approaches to global issues so that the Latin American countries will in turn find it in their own interest to cooperate with us.

We will not begin to deal realistically with Latin America until we recognize that in Latin America we are playing for high stakes, much higher than in so many other parts of the world that over the years have absorbed our attention and have been given so much higher priority on our list of concerns. For what we are playing for is a chance to work with our neighbors in shaping our own hemisphere and in trying to bring into being the kind of world we have so long sought—one free from war and want.

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*The members of the commission were: W. Michael Blumenthal, G. A. Costanza, Prof Harrison Brown, Prof. Albert Fishlow, Prof. Samuel B. Huntington, Nicholas de B. Katzenbach, Theodore M. Messer, Charles A. Meyer, Dr. J. George, Harrar, Rita Hauser, Dr. Alexander Heard, Henry J. Heinz II, Andrew Heiskell, Rev. Theodore Hesburgh, Lee Hills, Arturo Morales-Carrion, Peter G. Peterson, Elliot L. Richardson, William D. Rogers, Nathaniel Samuels, Prof. Kalman Silvert, and Dr. Clifton Wharton, Jr. Sol M. Linowiz served as chairman.

DANGEROUS TIMES AHEAD UNLESS WE CAN AGREE

(By Sol M. Linowitz)

To most Americans, Latin America is a homogeneous glob of countries and people, one indistinguishable from the other. Few Americans can name a Latin American presi-

dent. Far fewer can name a Latin American artist, author or musician. Except for occasional attention to the shenanigans of Castro, the chilling tales of repression or torture in one Latin American country or another, or an explosion in the hemisphere, James Reston's dictum still stands: Americans will do anything for Latin America except read about it.

But a lot has been happening in Latin America while we were not reading and looking. And the Latin America Henry Kissinger sees today is far different from the one of a few years ago. For suddenly Latin America has changed; the relations between Latin America and the rest of the world have changed; and the relations between Latin America and the United States have changed.

We are in a new ball game with Latin America and old assumptions are no longer relevant. No longer can we treat Latin America patronizingly and take it for granted. No longer can we threaten to take our bat and ball and go home.

Today we need Latin America as much as Latin America needs us, for we are living in an interdependent world when security means more than military and political power. When we think of security we have to think of oil and copper and bauxite. We have to think of what we can do to improve the prospects for a peaceful and cooperative world. And these are problems we confront here in our own hemisphere.

In Latin America today, millions of people who have not yet become part of the economic system of their countries have through rapid urbanization and mass communication acquired political awareness. Faced with increasing demands to provide jobs and services, Latin American countries have pressed for freer access to the markets of the United States and other developed nations for their manufactured and semi-manufactured products.

At the same time we have been hearing new voices from Latin America—voices of nationalism, voices of independence, voices of outrage at lingering dependency. Some have been asserting their independence stridently and provocatively. Others have done so more quietly, but also resentfully. To Latin Americans the United States remains a giant in a crowded room.

Two years ago, Secretary of State Kissinger called for a new dialogue between the nations of the hemisphere. Latin American expectations were again raised but once again remain unfulfilled. In recent months we have witnessed a continued erosion of mutual trust and respect as U.S.-Latin American relations have been clouded by revelations of covert intervention in Chile; by sharpening differences in the hemisphere over how to respond to major violations of fundamental human rights; by the failure to make real progress in the vital area of economic cooperation; and by continuing uncertainty as to the strength of the commitment by the United States to the solution of hemispheric problems.

If one thing is clear it is that we are headed for difficult and dangerous times if we continue to focus our attention and concern on other parts of the world and ignore our own hemisphere. Venezuela is a major exporter of oil to the United States. Other Latin American suppliers of important commodities—bauxite, copper, iron ore, sugar—speak of increasing prices or curtailing production without regard to the effect on the American economy. Argentina and Brazil have turned to other nations for technical assistance in the development of nuclear power plants. Panama is supported by virtually every other country in the hemisphere in its insistence that the outdated 1903 Panama Canal Treaty be revised.

What are the major areas of tension?

Trade and investments: Economic matters are a vital concern to the countries of Latin America today. As they continue to grow and develop it is likely that their economic interests will diverge from those of the United States. Such differences are inevitable. But confrontation can be avoided if the United States pursues policies that reflect a sensitivity to the problem. In an address to the United Nations, Secretary Kissinger launched new initiatives and a broad constructive approach to the economic problems affecting Latin America and the rest of the developing world. But in Latin America there is great concern that once again words will not be implemented by actions. We must make clear to Latin America that significant initiatives will be carried into practice this time.

A new Panama Canal Treaty: There is virtually unanimous support for a revision of the treaty throughout Latin America. It is one issue on which all the countries seem to have made common cause. It is therefore of the utmost importance that the Administration's support for the new treaty negotiations be strongly reaffirmed. An unequivocal commitment must be made to assure necessary Congressional and public support.

A firm stand against violation of human rights in the hemisphere: Documented reports have continued to substantiate allegations of torture and repeated violations of basic human rights in some Latin American countries. But there has been no strong protest from the United States. The United States should make clear that it is ready to press for an international investigation—by the United Nations or by the Organization of American States—of alleged repressive practices and to cease providing aid and support to regimes which systematically violate human rights. No other position is consistent with the principles to which we have so long expressed our commitment.

Relations with Cuba: Clearly Cuban intervention in Angola and its position with respect to Puerto Rico constitute major roadblocks to the formalization of relations between the United States and Cuba. It is important, however, that the United States let Latin America know that it stands ready, in return for an appropriate Cuban response, to move toward normalization of relations. Initial measures could include lifting the blockade on food and medicine.

Steps such as these will be helpful indications of our commitment, but basic problems will remain. We will have to understand that Latin American countries will continue to act in ways which they determine to be best for them—whether or not these will be helpful or harmful to the United States. We cannot assume an easy or permanent mutuality of interests. It is simply in our best interests to try to work cooperatively with the countries of Latin America.

By the same token, Latin America will have to recognize that in this changed world it will have to assume responsibility for its own future and that it must fulfill that responsibility with discipline and self restraint. Kicking Uncle Sam around may be great fun, but it can also be costly in terms of investment, tourist travel, development of markets and in many other ways. The heart of the matter is that all of us—both in the United States and in Latin America—are playing for high stakes at a critical time. We can all win if we work together to shape the kind of hemisphere we seek—one free from war and free from want.

DISMAL RECORD ON ENERGY LEGISLATION

Mr. BARTLETT. Mr. President, an editorial appearing in the March 24, 1976 issue of Energy Information newsletter capsules aspects of Congress dismal record on energy legislation.

I ask unanimous consent that this editorial be printed in the RECORD.

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

CRUDE PRODUCTION MILESTONES REFLECT IMPACT OF UNWISE POLITICAL DECISIONS

The general press has recently given prominent publicity to the fact that crude oil imports, at least for one reporting period, rose above domestic production. The stories had a sort of incredulous and plaintive tone which seemed to say, "We've been expecting this, but we didn't really believe it would happen."

It was bound to happen. The "help" extended to the petroleum industry over the past few years, particularly, has been instrumental in making sure that dependence on foreign energy sources would increase.

Look at the record:

1969-changes in the tax laws took $600 million annually from the petroleum industry's cash flow.

1973-crude price controls instituted.

1975-percentage depletion was substantially done away with. This hit annual cash flow another lick worth at least $1.5 billion.

1976-effective February 1, composite crude oil prices were rolled back.

1976-decontrol of interstate gas prices beaten and a threat of intrastate controls intensified.

1975–1976-and continuing . . . the threat of forced dismemberment cast a cloud of fear and uncertainty over the entire industry.

Through some or all of the period since 1969 emotional and extreme environmental concerns curtailed leasing and exploration, construction of the Alaska Pipeline, etc. And, official assessments of domestic potential since the 1973 embargo have been universally pessimistic, creating the attitude in the public and political mind that it's not really very important to intensify our exploration and development efforts because they can't really help much.

That's not a comprehensive record. But it is enough to make the point. Whether a decline of domestic production to a point below imports could have been averted with maximum effort is not clear. But it is clear that the actions cited and the continuing pressures placed on the industry forestalled maximum effort and hastened the day when imports exceeded domestic production.

Confronted by crisis, the country's reaction was one of disillusioned injury. Without comprehension of the problem, the public placed the blame on the energy-providers and turned to its politicians to "Get us out of this mess."

The sum total of the help extended is pretty well summed up in the record above. All in all, it is rather remarkable that things are not worse than they are.

ROZELLE RUNS WRONG WAY—WHY?

Mr. PROXMIRE. Mr. President, last Tuesday the distinguished chairman of the Communications Subcommittee, the Senator from Rhode Island (Mr. PASTORE), announced to the Senate that the commissioner of the National Football League had agreed to observe the anti-blackout law for another two seasons even though it had expired last December 31.

Now, I happen to be happy about that result—happy because I am a football fan, and happy because I proposed such a law 6 years ago and introduced a bill to that effect 5 years ago.

But I am also unhappy—unhappy, be-

cause law has been made without action by the legislative branch and without action by the executive branch of Government as the Constitution requires.

I am also unhappy, because the "extension" of the law for 2 unofficial years shows that the Government exercises control over the press that was not envisioned by the first amendment.

Does anyone suppose for a second that the distinguished Senator from Rhode Island would have been able to acquire such an agreement from Mr. Rozelle had there been no governmental control over the content of broadcasting?

The NFL fought the passage of the antiblackout bill. It lost. Now, victory in sight with the impasse between Senate and House conferees, Rozelle picks up the ball and runs to the wrong goal: "Wait a minute, PROXMIRE. Don't you have this all messed up? Aren't you the guy who wanted to free broadcasters from governmental control? Yet, aren't you now advocating it?"

A little background before I go on.

The antitrust laws contain an exception that permits professional football, baseball, basketball, and hockey leagues to act in concert to package television agreements and to black out games on home sets. In other words, the Congress and the President had given the sports business the privilege of legally conspiring so that the public could see big league games on their home screens.

But the control was through the teams. Broadcasters were free to buy or not to buy. But, of course, they bought—and buy—because sports attract big audiences, and big audiences attract advertising dollars in large amounts.

So to control the telecasting of home games in home areas, all the Congress needed to do was to put a few strings on the exemption to the antitrust law. Since the televising of sold-out games would cost the club owners nothing, that was the route to take. And because only pro football games were sold out with any regularity, baseball, basketball, and hockey would not be injured.

And most important to me—at least in retrospect—there were no controls over the first amendment rights of broadcasters. And there were no economic sanctions involved either, for broadcasters were generally anxious to carry profitable sports shows, advertisers were ready to sponsor them, and viewers were eager to watch.

But the bill that became law and the law that will now be honored in absentia by the NFL invalidates any agreements that might exist for the blackout of home games. It did that by adding a new section to the Communications Act. In other words, it is a governmental regulation over the content of broadcast programing.

One version of the bill that did not pass was much less subtle. It would have ordered television broadcasters—and cable operators, too—not to honor contracts calling for blackouts. And that would have been accomplished by inserting a new subsection under the section of the Communications Act dealing with the allocation of broadcast licenses.

So now we come to the present: a law that is no longer a law but which will be honored by the one sport that was the cause for its passage in the first place.

Why?

Without ascribing motives to anyone's action, it seems that it can safely be assumed that the National Football League will benefit from voluntarily abiding by the spirit of the expired legislation, because of the money involved.

In 1973, when the legislation was being considered, each team in the league got about $1.5 million from TV rights. The sale of television rights is vital to the profit-and-loss statement of each team.

That being true, the NFL cannot afford to offend the Government that controls television, and the Government in this area is controlled by the Congress and the heads of the committees with jurisdiction.

The NFL can afford to be magnanimous when it comes to the blackout law.

Right now, because of complex regulations—governmental regulations—professional sports organizations that sell television rights may not switch next season, or the following, or the season after that to pay TV. No, there has to be a gap of many years—long years without any revenue from the sale of TV rights.

But pay TV is starting to show signs of growing. Right now, according to the National Observer, there are about 500,000 pay-cable subscribers. That could double this year.

Some 3,400 cable systems serve about 11 million homes—and those cables run by another 20 million homes—all potential customers.

To tap even that market means a lot more money than at the turnstiles and the networks combined.

If pay TV takes off—and it is too early to tell if it will, really, what with all kinds of Federal regualtions—sports could prove to be a bonanza.

There was a time in arguing against the antiblackout legislation that professional sports interests bemoaned the possibility of stadia becoming studios with cheer tracks instead of laugh tracks.

But with pay TV to pour $2 and $3 admissions from millions upon millions of home tubes—instead of $11 to $15 from 53,000 seats—to cite one NFL team's situation—there would be a gargantuan pot to split instead of just a huge one.

And who has the say about all of this?

The Government.

Pete Rozelle is not running the wrong way. He is running toward pay dirt.

REFLECTIONS ON PUERTO RICO

Mr. KENNEDY. Mr. President, I would call attention to a recent lecture by the distinguished president of the University of Puerto Rico, Dr. Arturo Morales Carrion, at the University of Massachusetts in Boston.

Dr. Morales Carrion has been a leader both in the field of education in hemisphere affairs as well as a noted historian.

His discussion recalls much of the special history of the people of Puerto Rico, of their relationship with the United States, and of the need to continue to examine and reform the flaws that remain in the unique Commonwealth institution.

I ask unanimous consent that his lecture be printed in the RECORD.

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

I am delighted to have the opportunity of participating in the lecture series at the University of Massachusetts on "Spanish Speaking People in Urban America" and I wish to thank President Woods, Chancellor Golino and Professor Marshall for inviting me here.

It is my pleasure to bring all of you a most cordial and fraternal greeting from the University of Puerto Rico. We feel honored that you have dedicated the opening lecture in your series to Puerto Rico. Let me express the hope that this occasion will prove to be the first in a fruitful series of inter-changes between our Universities in the years to come.

At the outset, I should like to dwell briefly on one theme: this is the year when the American Republic celebrates its Bicentennial. For over 75 years—more than one third of the Bicentennial—Puerto Rico has been linked politically with the United States. Puerto Ricans have been United States citizens for 59 years. And yet, a question is in order: Do we know each other well? Is American public opinion aware of what Puerto Rico is all about, as an island, as a people, as a cultural fact?

If we turn to the history books which tell us about the growth of the American republic, we find very scant reference to Puerto Rico. If we take, for instance, the excellent textbook put out by the late Richard Hofstadter, William Miller, and Daniel Aaron, The United States: The History of a Republic (N.Y., Second ed., 1967), Puerto Rico suddenly appears in connection with the Spanish-American War. It is ceded, of course, by Spain in the Treaty of Paris. It is mentioned in connection with the Insular Cases brought before the U.S. Supreme Court, and then it vanishes into thin historical air.

An outstanding diplomatic textbook, Thomas A. Bailey's A Diplomatic History of the American People (N.Y., Seventh Ed., 1964), tells us that President McKinley decided to take Puerto Rico in order to banish Spanish power completely from the Americas. Linking Puerto Rico with the Philippines, the author recalls how "Senator Pettigrew of South Dakota declared, wih no little truth, that bananas and self government could not grow on the same section of land." Having disposed of Puerto Rico as a banana split, he leaves it to disappear in its thick tropical foliage.

The great scholar, Samuel Eliot Morison, in his Oxford History of the American People (N.Y., 1965), does much better. He duly points out that the island was ceded by Spain, and in describing the organic acts of Congress correctly infers that "the parallel with the Old British empire is suggestive". As early as 1965, he takes note of the Puerto Rican migration to the United States, a feat of historial insight when compared with the performance of his eminent colleagues concerning the island.

There are, of course, special studies on Puerto Rico, but the vast majority of Americans seldom hears about them. Absent from U.S. history books, which are more concerned with Cuba, Hawaii or the Philippines, Puerto Rico remains an unknown world, a baffling land, coveted by the tourist agencies, defined by traveling journalists, so near, in many ways, and yet so far apart. It is now the subject of a radical literature, tinged with anti-yankismo, which has become good business for capitalistic publishing enterprises. There are fat profits to be made in telling how radical and anti-U.S. Puerto Ricans should be. Puerto Rico is debated at the U.N. as

another Vietnam or Angola, or Mozambique, by people who do not have the faintest idea of what or where the island is. A few days ago in Paris it was even stated that life in Puerto Rico today is worse than in France under the Nazi occupation! For many of us who live and toil in Peurto Rico, the stories now being told about the island and its people seem often to be like Alice's adventures after she went through the looking-glass. They could have been written by Tweedledee if not Tweedledum.

The facts of history, though, are even stranger than this contemporary fiction. Puerto Rico's ties with the U.S. mainland do not date back for only three quarters of a century. It was not General Nelson Miles who first debarked from an American ship in Puerto Rico. It was the crew of the sloop *Dragon*, one of the first Massachusetts privateers, which sailed to the island in the XVII Century and engaged there in illegal trade. Long before the affair at Lexington, a host of seamen from what became the Middle Atlantic and New England states began trading with Puerto Rico. We sent our sugar and molasses to help you produce your "rumbooze" or "Killdevil". Rum has always been a close bond between us! You sent us flour from the Eastern seaboard. We were part of the extended triangular trade that flourished in colonial times between America, Africa and the West Indies. Throughout the Nineteenth Century, it was the sugar we sold and the flour we bought in the United States that paid enough duties to support the Spanish budget and enabled Spain to keep its military and bureaucratic hold over the island.

At one stage in the 1830's we received Ralph Waldo Emerson's brothers, Charles and Edward. They went to the West Indies and Puerto Rico to escape from Bostonian winter weather and from the scourge of TB. Their letters are found in the collection of the Ralph Waldo Emerson Memorial Association at Harvard. It was Charles Emerson who first lectured on Puerto Rico to New England audiences.

While I was preparing this lecture I was shown the reports in the New York Times about the zero temperatures, the ice and snow, and bitter winds that were assailing New York and New England last week, and I could not resist the temptation to include here an extract from a lecture that Charles Emerson delivered before the Concord Lyceum in January, 1833.

Both Emersons, I should note, were firm believers in such traditional New England virtues as thrift, self-reliance and hard work, and both were staunchly anti-Catholic, so that they had some serious criticisms of the way of life they found in sunny, Catholic Puerto Rico. They, of course, did not know of the Irish Boston that was to come!

But they came to recognize some virtues as well. As Charles said in his remarks at Concord:

"If they are not energetic enough in efforts to improve their condition, they are exceedingly good humored in tolerating all its disadvantages. They are a people of beautiful manners. Their courtesy seems to be a constituent part of their language . . . We know, however, that the character of a language is only a reflection of the character of the people which speek it. There was something very agreeable in the greetings of acquaintances in the streets. They never passed one another with hasty step and slight recognition as in our busy towns, but always found time for a hearty and affectionate salutation . . . This looked, to be sure, as if they had nothing to do, but it also looked as if doing nothing had had a very good effect on their tempers. Our streets are colder than those of St. Johns and a man may be excused for brushing quickly by his friend when the thermometer stands at 20 or 30 degrees below freezing—but it must also be confessed that the manners of New Englanders are by no means their best part, and we might well learn of the West Indians to recommend ourselves to one another's regard by a more frank and cordial address".

In the 1840's we began receiving your abolitionist literature, to the great dismay of the Spanish authorities. Plans were afoot to extend the Underground System to fugitive slaves from the island. From some documents I have found, I suspect strongly that more than a few American sea captains were willing to introduce—or allow the introduction—into Puerto Rico of inflammatory literature against Spanish power.

There is no doubt that the pull and attraction of the U.S. market greatly encouraged the commercial production of sugar in Puerto Rico. The ups and down of U.S. prices, the fluctuations in the tariff and import duties, greatly affected Puerto Rico's economy long before the Spanish-American War. Economic gravitation in sugar was a fact before 1898. Not so direct investment, which lagged well behind that in Cuba.

There was another link which took time to develop: the strategic link. Preoccupation with Cuba dwindled Puerto Rico's importance in the overall struggle for Caribbean supremacy. Faced with active Southern privateering during the Civil War, however, the victorious North felt the need for coaling stations in the Caribbean after 1865. Samana Bay in Santo Domingo became the initial objective. But the Spanish-American War revealed the importance of Puerto Rico. It was Admiral Mahan who pointed out, in no uncertain terms, that Puerto Rico was for the United States in the Caribbean, that Malta was for England in the Mediterranean—the key, indeed, to naval and imperial hegemony.

From the building up of the naval base in Culebra to the relinquishing of the naval interest in the island last year, we have a history of three quarters of a century in which Puerto Rico's strategic significance was a dominant factor in American policy. The U.S. would "muddle through" in devising what type of colonial system would prevail: economic investments would flow to the sugar economy to develop a full plantation model after 1900 and later, after 1950, to help the process of industrialization. U.S. rule from Washington would swing from aggressive to tolerant paternalism, but the crucial, though less obvious, fact—made clear in two World Wars—was the strategic location of the island as the gateway to control of the Middle Caribbean.

Another salient fact of Puerto Rico's history is that throughout the 19th Century we imported people of many origins but they became largely homogeneous. We go from 150,000 inhabitants in 1800, to 600,000 in 1860, and to one million by the turn of the century, making Puerto Rico one of the most densely populated areas in the Western Hemisphere.

Today with 3.1 million inhabitants, Puerto Rico's population density is close to a 1,000 per square mile, a figure that has great socio-economic implications for a small island.

From 1800 to 1900, to repeat, we imported people. They came from all regions of Spain, from Corsica, from the Canary Islands, from Africa, from Louisiana, Haiti, Venezuela and the Lesser Antilles. At the end of the Century, we had a British group in the South: we had Germans conducting a flourishing trade with Hamburg; we had Dutch and Danes. That all these migrants were forged into a Puerto Rican type, with a common language and an emerging cultural ethos, is amazing. Even more than Manhattan has Puerto Rico been a melting pot, one that is specially noteworthy because in Puerto Rico the whole idea of minorities never took root. You may have had class and economic including racial prejudice. But the general thrust was towards homogeneity despite great differences in ethnic origin.

How this melting pot came to be could well constitute the subject of a social history. On this occasion we can mention just two decisive factors.

The first was a Spanish decree of 1815, known in Puerto Rico as the *Cédula de Gracias*. This decree marked the formal abandonment by Spain of its long cherished exclusivist doctrine, for it opened Puerto Rico to trade with the United States and to settlement by foreigners. Many are the records in the archives of Puerto Rico which show that so-and-so, native of Ireland, or Curacao, or France, or Austria, obtained naturalization by virtue of the *Cédula de Gracias*.

The second is that slavery ended peacefully in Puerto Rico in 1873, thanks in no small measure to the efforts of the Puerto Rican abolitionists, and to the gradual decline of the institution itself. A report from the British Consul in Puerto Rico to the Foreign Office in London in 1866, which came to light only a few years ago, noted that, "Puerto Rico contains 600,000 inhabitants, of whom 308,430 are white and 292,750 are colored. Of these, 41,600 only, or 7 per cent, are slaves, and this condition of things must be borne in mind when the Spanish colonies are spoken of, for nothing can be more dissimilar than those of Cuba and Puerto Rico".

Thus, a Puerto Rican may be blonde or black; may show some traces of an Indian heritage; or may look Corsican or Sicilian. Or he may have a French, Danish, British or German surname. And, of course, he may look Andalusian, or may be taken for a Catalan. But let no one be fooled; he *is* a Puerto Rican.

Census classifications based on Spanish surnames will not tell the whole ethnic story about Puerto Ricans. He or she may be an Antonini or an Oppenheimer, a Gautier, a Todd, a Bothwell, a Girod, a Chardón, a Mattei, a Colberg, a Riefkohl, a Petrovich and be 100 per cent Puerto Rican.

For the Puerto Ricans in Puerto Rico the Spanish language has been the great catalyst, the obvious cultural link. The American educators who at the turn of the century thought that Puerto Ricans spoke a "patois" that could be easily swept away were greatly disappointed. These naive souls found themselves besieging a Gibraltar—a citadel that was never taken. In pressing to downgrade or eliminate Spanish, they touched a raw nerve.

Their failure was everybody's gain, but their attempt left deep psychological scars and a sense of estrangement which can still be felt even today, a generation after the language issue was resolved. Indeed, probably the greatest single barrier separating many Puerto Ricans from their American counterparts has been the so-called language question. From a rational standpoint, it is a senseless controversy. No educated Puerto Rican should reject English, the universal language of our times. By the same token, no educated American should resent Puerto Rico's attachment to Spanish as a core of its culture and its character. Spanish, after all, is not a picturesque dialect lost in a linguistic sea. It is one of the greatest, most dynamic and powerful languages of our times—a macro-language we may call it—ranking with Chinese, English and Russian as one of the main world languages. If some projections are right, Spanish will be the language of the largest number of people in the Western World in the XXI century.

It is a big mistake for educators anywhere to force any language down a people's throat. All they do is to create resentment and cultural trauma. Learning a language should be an attractive experience, a gateway to new revelations, never an instrument for psychic disruption or cultural denigration.

Puerto Ricans in Puerto Rico have taken and will take many things from the towering technological civilization that the U.S. has been exporting around the world: consumerism, supermarkets, speedways, Coca-Colas and Burger Kings. They may enjoy air conditioning, minis and midis, blue jeans and long hair. They may even use American slang. They will however, retain their Spanish; will blend its accent with West Indian sounds; will add all kinds of words with a plastic, dynamic, linguistic, élan. Knowledge of English may be good for the professions or the chores of trade; but in Puerto Rico when it comes to loving, swearing, singing and enjoying human company, you naturally turn to Spanish.

Puerto Ricans here of the second or third generation may well find the same high fulfillment using English. They are fighting their way in a tough world, starting sometimes at the very bottom of the social ladder. Some feel highly rejected by the surrounding social milieu, and then also find, on visiting Puerto Rico, that they do not feel entirely at home.

The great migratory wave that gained momentum after the Second World War—a two-way phenomenon—has, indeed, divided Puerto Ricans into two segments, two communities, two social groups: the inner community, closer to the Island's mores; the outer community, now struggling for its place in a competitive and often hostile world. In some ways we have become different. Human beings are always defined or explained or shaped by interactions with their environment. Even within our tight, huddled Island, we see differences emerging between our vast San Juan metropolitan area, suffering from so many urban ills, protecting itself behind its grilled ironworks, and the more open, friendlier and natural society of the countryside. We are developing in the face of contrasting environments, different life-styles and behavior patterns—the anthropologists may speak of subcultures—and yet we have a yearning for a core identity as Puerto Ricans. As Puerto Ricans we should work for cultural understanding, not for aggressive tribal isolation. This feeling could be a powerful centripetal force among all Puerto Ricans—the inner, the outer, the urban, the rural, as well as those from other places who feel the pull of the land and eventually become part of us—provided we don't turn it into an ideological shibboleth. It is better to extend a friendly hand than to raise a clenched fist.

We want a Puerto Rico where man has reached a more fruitful ecological balance and has created a society less acquisitive and more geared to service and understanding. We are stressing not a return to old ways but a reaffirmation of enduring human values, especially those which are related to sensitivity, compassion, and respect for human life and for the individual.

Buffeted by conflicting political winds, in the face of an economic recession that has thrown a monkey wrench into the high-pressured growth we experienced in the 1960's, we are turning inward in search for a wiser and more humane way of life. We are discovering new delights in our cultural self-expression, in our natural surroundings, in our flora and fauna. Never have I seen so many young people in Puerto Rico interested in our old dance forms or in learning to play the guitar or the *cuatro* and singing the rich medleys of our folklore. Traditions which seemed to be dead are suddenly reviving. People are reading more Puerto Rican literature and history than ever before. Gardening, along with a renewed love for our plants and trees, is growing in popularity. Amidst our social disorganization, in greater or lesser degree the product of negative social imports, I see signs here and there of a new generation with a stronger, deeper, attachment to the land, the songs, the traditions, the language.

There are many things in our contemporary Puerto Rico about which one may despair, some of which we share with urban communities on the mainland, and some of which are basically our own: the high incidence of crime; the unemployment among young people; the bleak economic picture brought by the energy crisis and the recession; the lack of adequate educational facilities and the heart-rending shortcomings in basic learning skills; the excessive politicization of life; the deterioration of sectors of the natural environment; and the development of a Puerto Rican-type of rat-race.

But there are also other things behind the looking glass: a passion for knowledge among so many students; the smiles on so many young faces; a rebirth of spiritual interest in art, religion and human communications. And in spite of the drug addicts, or the would-be terrorists, a desire for understanding and conviviality.

There are surely many emerging traits among Puerto Ricans here which many also point the way to a new rebirth. It is not for us in Puerto Rico to tell the Puerto Ricans here what to do or how to behave. We should come here not to give prescriptions, but to extend a friendly hand. We should come to explain to U. S. communities what the real Puerto Rico is like. We should help people pierce through all the grotesque distortions and diatribes and see the struggles of a society that, no matter how torn by conflicting political views, holds firmly to democratic ideals and is deeply concerned with shared human values. Contrary to Senator Pettigrew and Professor Bailey, we surely do have bananas, and plenty of them, growing along with democracy on the same section of land and we are anxious to defend and nurture both, simultaneously, on the same ground.

Here I must emphasize one fact. We are not of a piece with Kalamazoo or Topeka, nor are we like Orono or Salem. But neither are we going the way of Angola, Mozambique or Cuba. We are not meddling with any people's life, but to put it bluntly, many of us are getting sick and tired of U.N. ambassadors meddling in our affairs, or of people who can't locate Puerto Rico on the map telling us what we should do or what we shall be.

We hold to the tenet of self-determination but we need no support on that from U.N. delegations because we are exercising it in the best way to exercise it—in free election every four years. Anyone who really gets an insight into our values and commitments will readily see that, like most people everywhere, we may enjoy the standard patterns of a technological civilization, but we also want to be ourselves.

Like everybody else, we are fighting a stiff battle against recession and our urban problems. The statistics on our unemployment may be distressing. One out of every five members of the labor force is looking for work, Governor Hernández Colón reported to the Legislature a few days ago. Our average income level may be low by U. S. standards. Inflation has hit us badly. But we are not despairing; we are reacting. We have an industrial development unmatched in the Caribbean. Our social infrastructure is way ahead of most countries in the world. The proportion of our school age population going to school at all levels, including 115,000 in post-secondary education, is larger than that of most countries of the world including some of the wealthiest nations. We are dissatisfied with our productivity. We have to have more discipline and more know-how as well as more learn-how. But we are all alive and moving and by no means ready to fall prey to the dark forebodings of Casandras from the right or the left. It is my fervent hope that in this area of quiet resolve and dedication we shall have a meeting of minds with the Puerto Ricans of the outer community and with all peoples of good will and emphathetic understanding.

I began this lecture with a reference to the American Bicentennial and a question about how well Puerto Ricans and Americans of whatever origin know each other after three quarters of a century of political association. I have tried to show that there are some serious deficiencies to be corrected. A Bicentennial year is an ideal time to start that process.

For most of its two hundred years, the United States has been strongly nationalistic, thinking of itself as the chosen land, as God's country, and to be sure it has been favored by Divine Providence in many ways. But it is now beginning to understand an observation that Ralph Waldo Emerson made in his Journal: "Nationality is often silly; every nation believes that the Divine Providence has a sneaking kindness for it". The nation has begun to look upon the world with a broader vision, and, I may add, with greater insight and understanding. It has been chastened by recent events and its learning the pitfalls and perils of what Senator William Fulbright called "the arrogance of power".

That empathetic insight has to turn inward as well as outward, to take fuller account of the essencial character of "this nation of immigrants", as John F. Kennedy called it.

One of the deep, powerful strains in the United States is the Hispanic or Latin-American strain. Largely submerged over two centuries, it is now coming to the surface in many sections of the land: the West, the South, the Middle West, the Northeast. Whether culturally or politically or ethnically, it is here to stay. It, too, claims a share of the right to "Life, Liberty and the Pursuit of Happiness". National recognition of that claim is in order. For the "Latin" strain can no longer be boxed in; it has learned to speak through the ballot box, that exemplary boxer of many a political ear.

As part of this empathetic understanding of which I speak there should be keener awareness of what Puerto Rico and Puerto Ricans are all about; of their perplexities and doubtes; their struggles and their hopes; and their own search for identity. I congratulate you, therefore, for leading the way with this series of lectures. It is for universities to break new ground and, in extending the frontiers of knowledge, to probe—always deeper—into the human condition.

TESTIMONY BY W. W. JOHNSON ON GOVERNMENT OVERREGULATION

Mr. THURMOND. Mr. President, a distinguished citizen of Columbia, S.C., Mr. W. W. Johnson, has recently given testimony before the platform committee, Democratic National Committee, Atlanta, Ga., concerning overregulation by the Federal Government. Mr. Johnson, president of Banker's Trust of South Carolina, makes some telling points on the effect of overregulation by the Federal Government, on the consumer and business.

Mr. President, I ask unanimous consent that his testimony be printed in the RECORD.

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

PREPARED TESTIMONY BY W. W. JOHNSON

My name is W. W. Johnson. I am president of Bankers Trust of South Carolina—an enterprise of 1,500 employees, owned by 4,700

shareholders, and serving in the neighborhood of 230,000 depositors in 38 cities and towns. As head of a business institution, it is my job to know the South Carolina marketplace and to understand the way its people think. And, as a financial specialist, it is my task to keep current with nationwide opinions on business and governmental issues. Therefore, it may not be presumptuous of me to say I believe the views expressed here generally reflect those of the majority of consumers and businessmen throughout America.

Both sectors are becoming increasingly discontented with the excesses of government regulation. The consumer knows that ultimately he is going to foot the bill, and the businessman knows that in addition to the tax burden, his efforts to stay in business are perpetually threatened by decisions made by men in government who are not responsible to the electorate.

Of the $130 billion a year that is required to finance government red tape, it is not easy to quantify the cost to the consumer, but perhaps this can be understood more readily when you consider the following estimates:

Item: A large automobile manufacturer says requirements for additional safety and environmental equipment have added $610 to the cost of an average automobile.

Item: In transportation, food retailers claim that federal rules add $250 million a year to the cost of shippers, and, of course, these costs are passed on to the consumer.

Item: It has been estimated that the government paperwork costs each hospital patient $4 extra every day he is in the hospital.

The consumer's need to understand and support reform of government regulations is great. Without significant reform, these bureaucracies will continue to add needlessly to the everyday costs of the consumer.

The businessman's burden is even more onerous when it is considered that his decisions are not even his own; yet, when the decisions prove wrong, he alone faces the music.

These agencies tell businessmen whom they may hire, how they must advertise, and how products are to be made. They dictate safety standards to excess they place restrictions on the treatment of personnel, and they require the filling out of thousands of forms, taking up an annual 130 million man-hours to do the job.

The businessman no longer has the freedom to make profit-and-loss decisions. These decisions are controlled and influenced by bureaucrats who are insulated from pressures of management responsibility. Decision-making is moving away from professional managers who must respond to the marketplace to non-professional managers in government—who are answerable to no authority other than their own agencies. They do not share the responsibility for the losses, the costs and the extra work they cause. There isn't a great deal of company decision-making that isn't controlled or influenced by one or more federal agencies.

The real tragedy is that small businessmen—indeed, all businessmen—have no appeal. It appears the bureaucracy has emerged as the most powerful and independent branch in the country. Where we once considered the three branches of government—the courts, the legislature and the executive branch—we now must consider a fourth. It is that vast group of agencies, commissions, administrations and bureaus created by legislative action. As the chairman of U.S. Steel pointed out: "The agencies' directors and administrators are appointed, usually for periods longer than those who are elected to office, and they are, in effect, answerable to no one. Their staff members are protected, and perpetuated by civil service."

The decision-making rights of every citizen and every business is being placed in the hands of this growing group that is totally out of the mainstream of the political election system.

This power without accountability will lead to the dissolution of the free market system unless it is brought under control. And, the corrective process must be generated very soon.

The private sector of America is the support of the entire political and economic system. Some regulation of the private sector is necessary and desirable, but when controls are excessive and sustaining as we now know them to be, then the ability of the free market to function is impaired.

Already it is late. There is ground lost that can never be regained. Eventually, however, by acting immediately and decisively, the tide may be slowed before the system is damaged beyond repair.

Until now excesses of regulation had not been perceived as threat enough to command widespread attraction. But, today, with continued unemployment and inflation, the movement is no longer insidious. It is being felt at the lowest levels of the economy and in the household of every American. The public is finally understanding the perils of over-regulation. The voter is experiencing directly the diversion of his resources from productive work to compliance activities. Businessmen, workers and consumers alike are sensing the erosion of freedoms in a super-controlled environment. At no time since the first agnecy was created in 1887 has there been such a groundswell for regulatory reform. And, while this problem is not subject to easy solutions, it appears that a movement toward reform must be planned now, or there will be a severe backlash later.

I think it is appropriate that the leadership of the Democratic Party give serious consideration to the cost and economic consequences of over-regulation, and how the trend can be reversed. I know that the solutions are going to be exceedingly difficult, but the alternatives may be disastrous.

I thank you for the opportunity to appear before you, and I appreciate the courteous attention shown me.

NATIONAL COMMISSION FOR MANPOWER POLICY EVALUATES HUMPHREY-HAWKINS BILL—S. 50

Mr. HUMPHREY. Mr. President, the Senate is now in the process of holding hearings and evaluating the Full Employment and Balanced Growth Act of 1976 (S. 50) which I introduced in the Senate several weeks ago. As most of you know, this bill makes a Federal commitment to reduce unemployment to 3 percent within 4 years of enactment, with an associated broad range of economic policies to make that goal realistic.

As I have said on many occasions, the purpose of Senate review is to perfect legislation, and I welcome critiques of the bill so that that can be done. But today, I want to call to the attention of my colleagues what is essentially a favorable evaluation. What is particularly noteworthy about this evaluation, in my opinion, is that it comes from the National Commission for Manpower Policy. This is primarily an independent group that was created to advise both the President and Congress on manpower policy.

In a letter to Congressman AUGUSTUS HAWKINS, the sponsor of the companion bill in the House, the Chairman of the Commission, Eli Ginzberg, a scholar of great ability in the area of manpower policies, made these remarks about the bill:

Dr. Ginzberg indicated first that the Commission shared the conviction that opportunities for jobs for all Americans willing and able to work should be placed at the very top of the Nation's agenda for an activist manpower policy. This is essentially the policy declaration of the Humphrey-Hawkins bill.

Dr. Ginzberg went on to say that the Commission is appalled, as are supporters of S. 50, by the cumulative human, social and economic waste resulting from the serious shortfall in jobs which is particularly severe since late 1974, but characteristic of most of the post-World War II period. In my opinion, this waste of human and capital resources is the heart of the matter, for it undermines the overall function of the economy and our ability to achieve other national priority needs.

The Commission also apparently understands that higher levels of unemployment do not mean lower inflation. They understand that increased economic production means more productivity and is largely anti-inflationary. Let me quote what the Commission itself has said about unemployment and inflation:

> The threat of renewed inflationary pressures does not justify the continuation of policies that carry excessive human and economic costs which this year will exceed $200 billion in lost output alone. . . . In considering the cost of putting individuals back to work it should be noted that there are also substantial costs to doing nothing. It has been estimated that for every percentage point increase in the unemployment above four percent, the federal deficit increases by almost $16 billion.

The Commission understands the relationship of the budget to the economy, and how the economy in turn affects the budget. They reject the notion that our large Federal deficits are primarily the result of runaway spending in Washington. The following is what the Commission said on this matter:

> The Commission fully understands the national desire to exercise budgetary restraint and place a ceiling on deficits. It notes, however, that the present federal budget deficits are due in part to the recent recession with its high levels of unemployment which have resulted in large increases in transfer payments and lower tax revenues. The cost for providing more employment opportunities through expansionary macroeconomic policies would be lessened over the long run by the extent to which the federal payments are reduced and federal tax receipts are increased.

Dr. Ginzberg also indicated that many of the policies advocated in the Humphrey-Hawkins bill are sensible and are the same policies being advocated or investigated by the Commission. He pointed out that the Commission shares the conviction expressed in our bill that the accomplishment of a full employment goal requires the careful articulation of general economic policies and selective manpower policies. One of the major purposes of our bill is to formally marry macroeconomic and manpower policy. Dr. Ginzberg also indicated that the Commission is sympathetic with the range of countercyclical proposals in S. 50, with the need for strengthened youth employment policies, and the use

of reservoirs of employment projects as a last resort employment measure.

In addition, the Commission agrees with our bill on the need for "improved integration of income maintenance programs and full employment programs." I am pleased to see that the Commission endorsed putting people to work rather than keeping them on the dole, when the dole is what is costing the American taxpayer exorbitant amounts of money.

Dr. Ginzberg closed his letter with the expression that the Commission's work is running very much on the same track with what is contained in the Humphrey-Hawkins bill. He said:

I hope that my specific comments convey to you the frequent parallelism between the Commission's preliminary approach to employment problems and the proposals contained in H.R. 50. You can be assured that as the Commission moves ahead to deepen its analysis and formulates its recommendations, it will give close attention to H.R. 50.

Mr. President, we are grateful for this thoughtful letter from Dr. Ginzberg. I believe it reflects support for many of the provisions in the Humphrey-Hawkins bill. At the same time, I want the record to show that the Commission has reservations about some aspects of this bill, and suggestions for further improvement. And as they study the bill more closely, I feel certain they will have additional comments for the Congress.

Mr. President, in order that the record be complete with respect to the letter we have received from Dr. Ginzberg, I ask unanimous consent that this letter be printed in the RECORD.

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

NATIONAL COMMISSION
FOR MANPOWER POLICY,
March 25, 1976.

Congressman AUGUSTUS F. HAWKINS,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HAWKINS: I appreciate your courtesy to permit me to comment on HR–50 by letter rather than by appearing formally at the hearings which your Sub-Committee is holding. The National Commission for Manpower Policy has explored many issues contained in HR–50 during the past several months and my comments are informed by these discussions. However, I want to stress that the Commission will not complete its recommendations on an employment strategy for the nation until it finalizes its Second Annual Report to the President and the Congress which is due in the fall of 1976. Hence my comments must be viewed as indicative of the present thinking of the Commission, not as reflections of its considered conclusions.

1. The Commission shares with HR–50 the conviction that opportunities for jobs for all Americans able and willing to work should be placed at the very top of the nation's agenda for an activist manpower policy. In its first annual report, the Commission outlined manpower policy "as a set of commitments and programs aimed at facilitating the employability of all persons able and willing to work; the strengthening of the manpower infrastructure to enhance the matching of people and jobs; and providing various types of specialized support in the form of temporary jobs, income support and other types of manpower assistance to individuals and groups when the economy is unable to provide adequate employment opportunities." To effectuate such a comprehensive approach will require many of the elements in HR–50.

2. The Commission is appalled as is HR–50 by the cumulative human, social, and economic wastes resulting from the serious short-fall in jobs particularly severe since late 1974 but characteristic of most of the post-World War II period.

The Commission noted in its first annual report "that the threat of renewed inflationary pressures does not justify the continuation of policies that carry excessive human and economic costs, which this year will exceed $200 billion in lost output alone" and that "In considering the cost of putting individuals back to work, it should be noted that there are also substantial costs to doing nothing. It has been estimated that for every percentage point increase in the unemployment rate above 4 percent, the federal deficit increases by almost $16 billion—$14 billion because of reduced tax receipts and $2 billion because of increased transfer payments. The process also works in reverse."

3. The Commission is convinced as is HR–50 that the danger of renewed kindling of inflationary pressures cannot justify a macro-policy that will leave us with such excessively high unemployment rates as have been calculated by both OMB and CBO under their present estimates.

The Commission in its first annual report further noted:

"That the present inflationary pressures did not arise from a shortage of workers and their amelioration should not be sought and cannot be achieved by continuing high levels of unemployment.

"The Commission fully understands the national desire to exercise budgetary restraint and place a ceiling on deficits. It notes, however, that the present federal budget deficits are due in part to the recent recession with its high level of unemployment which has resulted in large increases in transfer payments and lower tax revenues. The cost providing more employment opportunities through expansionary macro-economic policies would be lessened over the long run by the extent to which federal transfer payments are reduced and federal tax receipts are increased.

"In times of excessive inflationary pressures, when a cooling of the economy may be considered desirable—although recent experience raises serious questions about the unemployment-inflation trade off—selective demand management, that is, public job creation, income support, and other manpower programs can provide some cushion in mitigating some of the adverse effects of a deflationary policy."

4. The Commission shares with HR–50 the conviction that the accomplishment of a full employment goal requires the close articulation of economic and manpower policies. The Commission noted in its annual report that "An important aspect of the development of manpower policy is its interrelationship with macro-economic policy. Although macro-economic policies have the primary role in determining the level of aggregate employment, manpower policy can supplement the effective use of fiscal, monetary and budgetary policy in maximizing employment, particularly by addressing structural or geographic problems.

* * * * *

5. Some caution is indicated in establishing a single rate of unemployment as an absolute target. However, the need to set some measurable objectives is appreciated. However, a single rate cannot alone suffice since the distribution of unemployment and its consequences is not spread evenly across the population. Therefore, caution is suggested in developing an operational standard for "full employment"—not however in the pursuit of that goal.

6. The Commission agrees with the emphasis in HR–50 that stresses that a full-employment program must provide "productive non-wasteful jobs."

7. The Commission also agrees with HR–50 that there is "widespread duplication and contradiction among federal departments and agencies." I am forwarding at this time the Commission's special report, *Manpower Program Coordination*. In both this special report and its First Annual Report, the Commission made a number of recommendations for improving the interrelationships among manpower programs. In its First Annual Report the Commission concluded: "that substantial gains can be made from improved coordination of manpower and related programs, but this can be accomplished only if constructive actions are taken at every level—federal, state and local." It is the hope of the Commission that Congress will through future legislation facilitate and mandate coordinaion of existing and future manpower legislation.

8. The Commission agrees with HR–50 in the need for improved integration of income-maintenance programs and full employment policies.

As its First Annual Report states: "The Commission supports early action to convert transfer payments into wages for workers who have been unemployed for long periods of time." Accordingly, the Commission is exploring how a proportion of the estimated $40 billion of emergency income transfer payments in fiscal year 1976 can be converted to creating employment opportunities for the unemployed in the public sector, as well as exploring new approaches for maintaining and expanding job opportunities for the unemployed and potentially unemployed in the private sector.

With regard to the Unemployment Insurance System, the Commission has recommended:

Enactment of legislation to improve the coverage, benefit levels, and financing of the system.

A study to determine ways UI can be transformed in part into a manpower support program with emphasis on expanding training opportunities and mobility assistance.

A study of the various types of work-based earning programs that might be established for the long term unemployed in lieu of further extension of UI or forcing those who have exhausted their benefits onto welfare roles. (The Commission offered as one possibility community development projects which offer employment and training opportunities to the long term unemployed in inner cities and rural areas.)

Elimination of duplication and inefficiencies in work test procedures used in UI, Food Stamps, and Work Incentive programs.

9. The Commission is sympathetic with the range of countercyclical proposals of HR–50 without as yet having had an opportunity to assess them in detail.

10. While the Commission has staff work under way with respect to regional and structural employment policies it is unable at this time to comment on these provisions in HR–50 because it has not yet had a detailed discussion on these policy matters.

11. The Commission shares the concern expressed in HR–50 with the need for strengthened youth employment policies. It is currently issuing a volume of expert papers on this subject which will shortly be available.

12. The Commission is sympathetic to the proposal centered in HR–50 relating to "Reservoirs of Employment Projects" although it has not as yet had the opportunity to explore their potential.

13. The Commission is in accord with the proposal of HR–50 for a Congressonal determination as to priority of claimants for public service employment jobs and other

types of manpower services. In particular family income should be a primary consideration. In its Second Interim Report to the Congress the Commission recommended: "that Congress etablish a maximum family (or household) income ceiling for persons to become eligible for PSE jobs." The Commission advanced this recommendation on the basis of the inequity of having secondary wage earners of some families competing with unemployed family heads of other families for a limited number of publicly supported jobs.

Two additional views of the Commission which pertain to the objectives of HR-50 may be of interest.

In the Commission's First Annual Report, it was noted that "Addressing the continued problems will require significant changes in many of the present concepts and policies, a considerable redirection of many of our programs, and some restructuring of our economic and manpower institutions."

The report went on to state that "In assessing the state of our nation's manpower policy in the fall of 1975, it is this growing acceptance of chronically high unemployment which the Commission judges to be its most critical and the most disquieting finding. If the nation—and its leadership—continues to accept as inevitable a high level of unemployment and consequently lessens its search for early and effective remedies, the unemployed and the nation will have become the victims of a self-fulfilling prophecy."

As indicated in the beginning of this communication, the Commission is presently in mid-stream in formulating its detailed proposals with respect to a national manpower policy, including employment strategy. However, I hope that my specific comments convey to you the frequent parallelism between the Commission's preliminary approach to employment problems and the proposals contained in HR-50. You can be assured that as the Commission moves ahead to deepen its analysis and formulates its recommendations it will give close attention to HR-50.

I am also enclosing a copy of my remarks prepared for the Joint Economic Committee's National Conference on Full Employment since they supplement some of the comments set out above.

Sincerely,

ELI GINZBERG,
Chairman.

TAX FREEDOM DAY

Mr. DOLE. Mr. President, most holidays are observed on approximately the same date each year. We celebrate our independence annually on July 4. Christmas always falls on December 25. Even the federally mandated Monday holidays come at about the same time each year. But on Saturday, we celebrated a different kind of "holiday"—one that must be observed at a later date each year.

Saturday was "Tax Freedom Day," the day when the average wage earner gets through working to pay his local, State, and Federal taxes and starts working for himself and his family. Last year, we could have celebrated Tax Freedom Day a couple of days earlier. The year before last, we could have celebrated Tax Freedoy Day perhaps 4 days earlier. And, just as surely, we will have to "celebrate" a day or two later next year.

That is, unless we in politics—national, State, and local—awaken to the consequences of profligate spending and taxation at all levels of government.

It is a sad state of affairs when the average American wage earner must work nearly 4 months out of each year just to support government. But as long as the trend toward big government continues, we should expect this unfortunate and inequitable situation to prevail.

HOPE FOR THE FUTURE

In 1976, there is at least a glimmer of hope that we in Congress and our elected representatives at all levels of government are beginning to recognize the gravity of the problem. New York City's recent brush with municipal bankruptcy has focused national attention on the need for proper fiscal management at all levels of government. Politicians and government officials are beginning to learn what the American taxpayer has known for years—that there are fiscal limits within which everyone, including governments, must operate. No longer can we expect the public to stand idly by while taxes continue the unending upward spiral mandated by big government.

Suddenly, fiscal responsibility has become fashionable among politicians of all persuasions. Those who in earlier years embraced the "spend and tax" philosophy of big government now question whether Government can or should attempt to solve every problem in contemporary society. I welcome this phenomenon. For unless the surge toward bigger government is slowed—and, ultimately, halted altogether—the very underpinnings of the American economy may be jolted by a well-justified taxpayers' revolt.

WHO IS TO BLAME?

Who is to blame for this unfortunate situation, and what can be done to correct it? I believe that we in Ccngress have the obligation to take the first steps toward restoring fiscal responsibility to the Federal bureaucracy and, thus, reducing the tax burden on our constituents. After all, it was Congress which passed the laws that led to big government. And it is Congress which is in the position to reform or repeal the costly programs which have led us into the present fiscal morass.

The time for action is now. The consequences of profligate spending by Government—any government—have been vividly demonstrated by New York City's financial crisis. Streamlined Federal, State, and local governments can continue to provide an adequate level of public services without incurring huge budget deficits. Moreover, the restoration of fiscal responsibility at all levels of government can lead to lowered taxes, less government interference in our private lives, and more jobs for our citizens.

I commend our distinguished colleague from Maryland (Mr. BEALL) for bringing Tax Freedom Day to our attention. Hopefully, the Congress will favorably consider his legislation, Senate Joint Resolution 139, to officially designate Tax Freedom Day.

If we—the elected representatives in Government—take seriously the problems of overspending and overtaxation, we can reverse the alarming trends of recent years. Then, hopefully, in future years, we can celebrate Tax Freedom Day at an earlier date each year.

DEVELOPMENT OF SOYBEAN PRODUCTION

Mr. HUMPHREY. Mr. President, I wish to share a recent report by Mr. Roderick Turnbull, director of public affairs of the Kansas City Board of Trade, regarding the development of soybean production in the United States which came largely after World War II. This report basically sketches how the U.S. soybean became the "wonder crop" and how Brazil has now become a major competitor on the world market.

The article includes a comment by the American Soybean Association urging greater research to enable the U.S. grower to increase per acreage production, a need which has long been recognized as one most important in the soybean business.

A second article in the April 21 issue of the Wall Street Journal by Jerry E. Bishop is entitled "Pfizer is Developing a Hybrid Soybean That Could Increase Yields 20 Percent to 30 Percent." This article almost takes up where the Turnbull report leaves off, and it indicates that new seeds have been developed which will require 2 or perhaps 3 years to test fully.

Pfizer may have found a way to develop a hybrid soybean seed which utilizes bees to provide the pollination needed.

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD.

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

THE BOARD OF TRADE OF KANSAS CITY, MISSOURI, INC.

(By Roderick Turnbull)

DIRECTOR OF PUBLIC AFFAIRS, KANSAS CITY BOARD OF TRADE

KANSAS CITY.—Soybean interests including farmers, processors, the grain trade and the U.S. Department of Agriculture all seem to have come to a realization recently that currently and from now on, American growers will have plenty of competition on world markets.

This contrasts with the past when the U.S. farmer had almost a monopoly on world trade in soybeans.

The realization obviously isn't something that was an overnight discovery. But it does appear that somewhat suddenly everybody is talking about the situation.

One reason for this, of course, is price. And one major factor in current world prices is Brazil.

Brazil, once a nonentity in the business, has captured a respectable share of the world market and promises to take even more. At the same time, soybean oil never has had a full monopoly on the world vegetable oil market, and now palm oil, a relative newcomer at least as to size, has become a new challenger.

So, the U.S. soybean, the "wonder crop" now must compete for its share of the market. To some, the situation is scary. Other analysts regard the developments as natural and they are confident not only that American farmers can compete, but that the world eventually will want all the soybeans that are grown, both for the oil and the high protein meal.

Perhaps it was inevitable that the world, considering the demand for soybean and soybean products, would find a way either to grow more of this crop or produce competitors. High prices in America and the embargo a few years ago added impetus to the development.

The soybean earned its title as a wonder or Cinderella crop by its rapid growth in America. The bean itself is as old as history, but it wasn't until after World War II that it burgeoned in this country.

In the 1920's and early 1930's, soybeans were grown in America primarily for hay, and reports at the same time said it wasn't particularly good hay. Most of the beans harvested were used for seed. In the latter part of the 1930's, the soybean acreage got a boost because this commodity could be grown in land taken out of production of the so-called basic crops under government control programs.

The first real send-off for soybeans came with World War II, when this nation and the world needed more edible oils. The U.S. soybean production jumped from 90 million bushels in 1939 to 204 million in 1946. While it was the demand for oil that primarily spurred U.S. soybean production during the war, it was also during the war that a new appreciation developed for soybean meal as a protein supplement in livestock and poultry feed. This was helped along by an improvement in quality of the meal.

The export demand for soybeans and the products began to expand in the 1950's. So did domestic usage. The result was the soybean acreage increased almost every year, and every year there seemed to be a market for what was produced. The United States not only was the world's greatest producer, but it had a lion's share of the export market. It still does have a major share of the market, but Brazil is climbing.

Don Paarlberg, Director of Agricultural Economics of the USDA, recently put together some data on soybeans relative to the U.S., Brazil and the world market.

Production of soybeans in Brazil, he said, rose from 1.5 million metric tons in 1970 to 9.7 million tons in 1975, and the current harvest is being estimated at over 11 million and up to 12 million tons. By 1985, he said, Brazil is expected to be producing about one-fourth of the world's soybeans compared with 15 percent in 1975. The U.S. proportion of world soybean production has declined from 73 percent as recently as 1973 to two-thirds in 1975. In 1985, when Brazil is supposed to be producing about one-fourth of the world's production, the U.S. share may be down to 60 percent or less.

Ironically, as Paarlberg pointed out, Brazil is using U.S. production techniques, but the yields there are slightly below America's averages. Apparently, production costs in Brazil are competitive with those in the U.S., Paarlberg indicated. However, he added, their transportation and storage facilities are far less efficient.

Secretary Earl L. Butz has expressed the opinion that there is a potential market big enough so that both the U.S. and Brazil can expand production. He has suggested that both countries use their energies to build this market.

The America Soybean Association urges greater research to enable the U.S. grower to produce more to the acre, thereby reducing production costs.

It might be pointed out that this isn't the first time soybean growers have been worried. Some authorities in 1969 contended soybeans were in trouble because prices were too low to give growers a profit, yet not high enough to make them competitive with other crops such as corn.

Despite this prediction, soybean prices in a few years reached the highest level in history. All of which may indicate that it is difficult to predict what actually is ahead for anything.

[From the Wall Street Journal, Apr. 21, 1976]

PFIZER IS DEVELOPING A HYBRID SOYBEAN THAT COULD INCREASE YIELDS 20 PERCENT TO 30 PERCENT

(By Jerry E. Bishop)

NEW YORK.—A hybrid soybean that potentially could increase yields 20% to 30% is being developed by Pfizer Inc., a diversified drug and chemical maker.

The first field plantings to see if commercial quantities of hybrid seed can be produced are under way in California and will be started soon in Iowa.

"We're past the greenhouse stage," Roland M. Hendrickson, vice president, agricultural products, said. He estimated it will require two years, or possibly three, to determine fully the hybrid's commercial potential.

"By next summer we should have enough (hybrid seed) to plant a commercial field," Mr. Hendrickson said. At that time, Pfizer should know if it can get enough hybrid seed an acre from the parent plants to produce a commercial product. It also should be able to determine if the hybrid plants will yield enough to attend the farmers.

If successful, the Pfizer seed would become the first hybrid soybean to become commercially available. Agricultural scientists have been trying unsuccessfully for years to develop a commercial hybrid soybean.

Pfizer received a patent on the new hybrid soybean in September but has said little about it. In remarks at the company's annual meeting yesterday, Gerald D. Laubach, president, made only a passing reference to the new plant. "The major economic and social contribution to hybrid seed corn will hopefully be duplicated with the soybean—where Pfizer genetics last year reported a significant advance," Mr. Laubach said. Later Mr. Hendrickson said Mr. Laubach was referring to the receipt of the patent.

Hybrid plants result from cross pollinating two different strains of the same plant. This produces a hybrid seed that is planted the following season to produce the new hybrid crop. The seed from the hybrid crop, however, is sterile and the farmer each year has to buy a new supply of hybrid seed. For corn and feed grains this situation has led to a large hybrid seed industry. The development of hybrid soybeans presumably would lead to a fairly large hybrid seed business.

Pfizer researchers apparently found a way around the major obstacle to hybrid soybeans. Unlike corn, where the male tassle and female pistil are in different places on the plant, the male and female organs in the soybeans are contained inside the same floret, or bud. Ordinarily, the soybean floret stays tightly closed until the plant pollinates itself. This makes cross pollination between two strains to produce hybrid seed almost impossible on a large scale where hundreds of acres of plants have to be cross-pollinated.

Pfizer researchers overcame this problem with the help of bees, Mr. Hendrickson said. The company uses two strains of natural soybean plants that have been bred to produce a loosely bound floret. The florets are loose enough to be penetrated by leaf-cutter bees that then can carry the pollen from one strain to another.

Commercial swarms of bees commonly are used by farmers to pollinate such crops as alfalfa. To produce hybrid soybean seed, Pfizer presumably would use swarms of the leaf-cutter bees for the cross-pollination.

One question Pfizer has to work out, Mr. Hendrickson said, is the yield of hybrid seed. The bees couldn't cross-pollinate every plant, so some seeds harvested wouldn't be hybrid seed. But the hybrid seeds are a different size than natural seed and might be able to be sorted out mechanically, he said. "These are the kind of questions we have to work out in the next year or two," Mr. Hendrickson said.

Under experimental conditions Pfizer has obtained hybrid plants with soybean yields 50% higher than natural soybean plants, the executive said. However, the production of hybrid seed may be too low with this variety. "We may have to go with a second generation, so maybe we will have to shoot for a 20% to 30% increase in yield," he said.

At the shareholders' meeting, Pfizer reported first quarter earnings rose 10% to $37.9 million or 54 cents a share, from $34.4 million, or 49 cents a share, a year earlier. Sales climbed 29% to $455.1 million from $380.3 million.

Research and development spending this year will rise to $95 million from $79 million in 1975, Edmund T. Pratt, chairman and chief executive officer, said.

GOVERNMENT HANDOUTS

Mr. BARTLETT. Mr. President, each of us is constantly receiving requests for assistance to increase funds for particular programs or to assist a particular group or individual in seeking assistance from a Federal program. Some of these requests have great validity and assist in needed areas or affect a large number of persons toward a better life. Other requests are very marginal and, in some cases, actually waste taxpayers' dollars. Today I have the opportunity to bring to your attention an interesting request from Mr. John E. Kirkpatrick, who has been one of the more significant benefactors in the State of Oklahoma.

Mr. Kirkpatrick has assisted numerous groups and individuals over the years with both money and personal time. His efforts have often been in coordination with Federal grant-in-aid programs.

The letter I present today is self-explanatory, but I believe that Mr. Kirkpatrick has expressed the feeling that many citizens have about the ability of this country's Federal Government to pay for items and programs that have been, and currently are, supported by local contributions. Mr. Kirkpatrick implies that the Federal Government must more carefully analyze its expenditures and reduce them whenever possible.

I ask unanimous consent to have John E. Kirkpatrick's letter printed in the RECORD.

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

MARCH 29, 1976.

Hon. DEWEY BARTLETT,
140 Russell Senate Office Building,
First and "C" Streets NE.,
Washington, D.C.

DEAR DEWEY: I have been asked by the National Committee for Symphony Orchestra Support to write to you recommending an increase in their Federal Grants.

I am most certainly opposed to this being done. The Federal Government simply does not have the money to spend on such unimportant things that benefit such a limited portion of our population. It is very difficult to muster up decent crowds for Symphonies. It is also very difficult to give away tickets. For the past twenty-five years, I personally have been one of the principal supporters of the Oklahoma City Symphony. I feel it is appropriate for me to do so. I do not, however, feel it is the responsibility of the Federal Government to support local Symphonies; rather, that the local citizenry who happen

to be interested in this particular activity provide the necessary support.

Very truly yours,

JOHN E. KIRKPATRICK.

INDIAN WATER RIGHTS IN CENTRAL ARIZONA

Mr. KENNEDY. Mr. President, all Americans place high premiums on health, education, housing and jobs. But to American Indians, land and water have always led the list of those matters deemed essential for both present livelihood and future survival. For Indians know that any threats to or diminution of their land and water rights may constitute threats to their very existence.

This is why tribes fought so hard during the last century to stem the movement of whites across their lands. And this is why they have been struggling ever since to maintain those land and water rights which they retained when they relinquished the vast portion of their holdings to the white man.

Congress and the Executive have, over the past 8 years, reawakened to the needs and problems of American Indians. Slowly, but surely, we have moved to right old wrongs, to undo the injustice of the past, to restore property illegally taken. The list of things to be done, however, remains long.

One unfinished item on our national agenda is insuring to the five Indian tribes of central Arizona sufficient water for future economic self-sufficiency. To this end I introduced on April 13, S. 3298, a bill to settle the water rights of those five tribes and to provide them with sufficient water for their present and future uses.

The junior Senator from Arizona has suggested to this body that my introduction of this bill was precipitous. I would like to take this opportunity to respond briefly to his comments in the RECORD of April 26.

First, Mr. President, I would like to reject as completely untrue the Senator's contention that I told him or anyone else that I would refrain from introducing the bill without consulting further with him. The Senator did seek such an assurance. But while indicating that I understood his position, I specifically and deliberately declined to give any assurance regarding introduction of the bill. Indeed, my staff had spent considerable time with Senator FANNIN'S staff in an attempt to understand all aspects of potential opposition to the bill; my conversation with the two Senators from Arizona was the normal courtesy they had a right to expect, and was simply by way of advising them in advance of my interest in introducing the bill. I gave no pledge or promise or commitment whatsoever to Senator GOLDWATER, and he is seriously mistaken in asserting otherwise. Nor did I give any such pledge to Senator FANNIN. I might say that I resent having the value of my word attacked by Senator GOLDWATER, or anyone else. I emphatically deny the Senator's allegation, and ask him to comprehend that my word is not given simply because it is sought.

Senator GOLDWATER observed that someone had sold me "a bill of goods" on this bill. That is hardly the case.

As I stated upon introducing S. 3298, I first learned of the grievous water problems of the five central Arizona tribes when my Subcommittee on Administrative Practice and Procedure held hearings in 1971 and 1972 on Federal failures to protect Indian natural resources. Our hearings took us to the Gila River Reservation in January 1972, where we heard from tribal representatives of the problems they faced. The legislation I have introduced is entirely consistent with data gathered at that time, and incidentally, the material provided the Interior Committee in 2 days of hearings last October.

I was convinced by leaders from the five tribes to introduce this bill, because they certainly know most directly and personally what the tribes' needs are. While I fully recognize, as I stated earlier, that the terms of the legislation are by no means impervious to adjustment and compromise through the legislative process, I am fully satisfied that it generally represents the most constructive and sensible approach to an equitable resolution of this difficult and complex problem.

Senator GOLDWATER stated that the problem at issue is purely a State matter, and went on to assert that it is one which "Arizonans and their Indians have long ago solved." This argument is reminiscent of the one which used to be heard here to the effect that the cavalry solved the Indian problem 100 years ago at Wounded Knee. The so-called solution to the Indian water rights problem in Arizona has been for non-Indians to deprive Indians of water which had been theirs for 2,000 years, and to which, under applicable Supreme Court doctrine, they remain entitled in large degree. It is precisely because the tribes repudiate the "solutions" proposed so far as fatal to their future that we now have legislation before Congress.

Nor does S. 3298 address itself to strictly a State matter. The distinguished Senator, whose office is adorned with a remarkable display of Indian art, surely understands that the rights and well-being of Indian peoples constitute a fundamental Federal obligation, over which Congress always retains plenary jurisdiction. The Senator also knows that the many Federal reclamation projects so vital to his State, including the Central Arizona Project for which American taxpayers will pay an estimated $1.7 billion, would not exist save for authorization by Congress and expenditure of tax moneys of Massachusetts, as well as Arizona, residents.

The issues underlying S. 3298 are not greatly different from those involving the Colorado River tribes which were before the U.S. Supreme Court in Arizona versus California. These are Federal issues. They are national issues. They are no more issues of only local interest than the settlement of Alaska Native Claims or restoration of tribal status to the Menominees of Wisconsin. Ever since Congress returned Blue Lake to the Taos Pueblo Indians, we have rejected the argument time and again that Indian interests are local interests or that Indian rights are to be left to the States for protection or resolution. As one who is mindful of the inescapable Federal fiduciary obligation to Indian tribes, I for one will not abdicate my responsibility as a U.S. Senator in favor of State interests.

The Senator from Arizona suggests that a group of tribal attorneys are the source of this legislation, and that it promises to bring them "a major fee of 20 percent." Let me assure my distinguished colleague that if he will reread the bill he will discover that it entails no funds for lawyers whatsoever; in fact, it entails no funds for the tribes. Many suggestions have been made to give the Indian tribes money in lieu of water; the tribes have rejected this course, however, and I believe wisely so. Attorneys who contributed to the drafting process did so on the instructions of their tribal clients, who are quite as entitled to the benefit of legal counsel as any other person or groups.

Contrary to the *mistaken* impressions of some, S. 3298 would not reduce the total amount of cultivated land in Arizona. Rather, it would substitute for a few hundred non-Indian agriculturalists thousands of presently destitute Indian farmers, whose water rights are paramount.

Nor would the legislation impede construction and operation of the central Arizona project. Rather, its construction would be necessary for the delivery of at least 44 percent of the water which would be acquired by the tribes under the bill.

The legislation would not prejudice the question whether Orme Dam should be built on the Fort McDowell Reservation. That question should be decided solely by the people of the Fort McDowell Indian community.

Mr. President, I admit to being somewhat baffled as to why the mere introduction of this piece of proposed legislation has caused such consternation among certain interests in Arizona. No one is attempting to resolve a difficult and complex issue unilaterally or by fiat. All that is involved here is the initiation of the democratic process of legislative consideration, a process which should be as open to Indians as to Arizona municipal, industrial, and agricultural interests or any other groups in our society who seek to petition Congress for the redress of grievances.

Mr. President, I have proposed a legislative solution to the water rights dispute involving the five central Arizona tribes. But this is certainly not the tribes' only alternative. If a legislative resolution is not forthcoming, the tribes may well turn to the courts.

There has been growing sentiment among some of the tribes and their representatives to seek to reopen the Kent and Gila River court decrees, which they believe to be flagrantly inconsistent with Supreme Court rulings on Indian water rights. They may also move to obtain an adjudication of Indian rights to San Pedro River water. And in the interim, they may well be able to delay or interrupt the progress of the central Arizona project itself.

If the people of Arizona would pre-

fer to have the matter of the water rights of the five tribes settled in the courts, they may have that opportunity. For I do not doubt that the tribes will pursue this course if the Congress does not adopt a legislative solution, such as the one contained in S. 3298.

At the same time, Mr. President, litigation is always costly for all parties involved. It is extremely time consuming: water rights adjudications can be particularly lengthy, taking decades for final resolution. And court orders frequently do not take adequately into account the equitable interests of those—in this case, the non-Indians—who may assert legal positions which the courts do not find valid. Legislative action can be swifter, surer, and more sensitive to the needs of all parties. That is why I introduced S. 3298.

This is a matter of interest, concern and responsibility for all people—not just for Indian people or the people of Arizona. We must all face up to it and fashion a swift and effective legislative remedy here in the Congress of the United States.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S. census approximations, the total population of the United States as of May 1, 1976, reached 215,398,292. This represents an increase of 1,683,017 Americans since May 1 of last year. It also represents an increase of 129,350 since April 1 of this year, that is, in just one short month.

Thus, in this last year, we have added enough additional people to our population to nearly fill the cities of: Washington, D.C. and Baltimore, Md. And in 1 month our population has grown enough to more than fill a city the size of Medford, Mass.

THE STIGMAS OF DISCHARGE

Mr. McGOVERN. Mr. President, earlier this month I voted in support of Sentor CRANSTON'S amendment to the Senate concurrent budget resolution which would have added $800 million to the budget for veterans' benefits and services. Unfortunately the amendment was tabled by a vote of 53 to 21. Had it passed, however, we could have come closer to meeting some of our important commitments to veterans, such as cost-of-living adjustments, GI bill reform, and improvements of health care facilities and treatment. As it stands now, many of these critical concerns of veterans will be ignored.

The frustration that many veterans must have felt after this vote has given me cause to talk about another group of veterans—those who were probably not even aware of this amendment or what it might have meant for veterans. These are the veterans with less than honorable discharges, the veterans who have already been ignored for years. Most of them would not receive a penny in VA benefits, no matter how generous the President or Congress decided to be.

For one reason or another, these individuals were denied honorable discharges, the tickets to VA benefits and frequently to employment. Often, the reasons they have been issued the less than honorable discharges are not justified, but the consequences are always harsh. Bad papers, as they are referred to, can be an indelible stain covering a veteran's spirit and ambitions and blotting out his hopes and plans.

Recently, an article by free-lance journalist Peter Slavin, himself a veteran of Vietnam, appeared in the Washington Post describing the difficulties and desperation that follow so many veterans holding bad papers. Last fall, I introduced a bill, S. 1254, which would represent a step toward what Mr. Slavin recommends in his article—removal of the inequities of the discharge system by improving the appeal procedure for the many thousands of young veterans who have been released from the Armed Forces with less than honorable discharges. Mr. President, I think that my colleagues, after reading this article entitled "The Stigmas of Discharge," will agree that clearly this situation is unfair and must be changed. I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington Post, April 18, 1976]

THE STIGMAS OF DISCHARGE

(By Peter Slavin)

Marine Pfc. Leon Coates, who was wounded in a mortar barrage in Vietnam, was given an Undesirable Discharge in 1969 for "drug abuse," although no charges were ever brought against him. Why the discharge? Coates says his superiors were out to get him, that they "were paranoid" about black power and he was "talking plenty of black nationalism."

Back home in Washington, Coates could not get a job. "Every time they'd see I'd been in the service, they'd ask to see my DD214 (discharge paper)," he recalls. ". . . A couple times I knew I had the job and, as soon as the interviewer knew I had an Undesirable Discharge, it went out the window." He says the fire department told him, "We do not even consider people with discharges less than Honorable."

Those days were "a struggle." His discharge disqualified him for both unemployment compensation and veterans benefits. After nine months, Coates found a part-time job as a janitor, but only by hiding the fact that he'd been in the service. He has gotten other jobs since, as a messenger, stock clerk and newspaper editorial aide, but always by concealing the nature of his discharge, as he was advised to do by people on the job.

With legal help, Coates finally got his discharge upgraded in 1974. That qualified him for the GI Bill's educational aid, and today he is working and studying for a BA in journalism. "I was one of the lucky ones," he observes.

Since 1950, over 1.5 million American veterans have been the victims of "bad papers"—discharges carrying a black mark which haunts them all their lives. Many holders of bad papers are denied veterans benefits, and all face social stigma and a host of economic handicaps, including discrimination by employers, unions and colleges. In particular, they are apt to be turned away from jobs with state and local governments, jobs with federal contractors and posts requiring bonds or a security clearance.

For many, a bad paper is a ticket to America's underclass. And for the poor, the semi-educated, blacks and Latinos, a bad paper may be a bar to ever leaving it. Prison statistics suggest that a large number of veterans with bad papers, unable to find decent jobs, turn to crime.

The numbers and proportions of bad discharges rose dramatically during the Vietnam years. From 1965 through 1973, 446,000 enlisted personnel received a less than fully honorable discharge. Few of those given a bad paper had been convicted of a court-martial offense. Many had fought in Vietnam; some were decorated, some wounded. But their discharge papers made them little better in the eyes of civilians than deserters or draft dodgers.

Perhaps because it has been largely unknown, the question of bad papers has always been a neglected problem. The problem has grown worse since Vietnam. In the past four years, one GI in every nine has received a less than Honorable Discharge. Last year bad discharges were issued at the highest rate in 25 years.

The public, unfortunately for veterans, tends to believe there are simply two kinds of discharge, Honorable and Dishonorable. In fact, there are five. They are, in descending order, Honorable, General, Undesirable, Bad Conduct and Dishonorable.

Honorable discharges are awarded for "honest and faithful service," General discharges for "satisfactory service," and Undesirable discharges for "unsatisfactory service." Bad Conduct and Dishonorable discharges are punitive; they follow a court-martial conviction for certain offenses. In most cases, recipients of a punitive discharge forfeit all veterans' benefits.

SEVERE CONSEQUENCES

At the heart of the discharge problem lie the Undersirable and General discharges. Although they result from administrative action rather than criminal convictions, they too have severe consequences. General discharges are regarded as "under honorable conditions," and in 1944 Congress authorized the entire array of valuable veterans benefits for nearly all those holding them. But Congress left it to the Veterans Administration to decide the eligibility of those with Undesirable discharges. In practice, the VA has denied benefits to nearly all those with Undesirables, a policy to which Congress has given silent approval. A veteran denied benefits can only turn to higher authority within the VA; he cannot appeal to the courts.

Civilian society tends to cast a jaundiced eye on anyone with other than an Honorable Discharge. Studies show that private and public employers, unions and colleges are all apt to count administrative discharges against veterans. Such discharges may be enough to blackball them entirely.

An administrative discharge can dog a veteran for years. In 1965, a New York City schoolteacher received an Undesirable Discharge for homosexuality; in 1975, he privately expressed fear it would prevent his getting tenure with the school system.

In 1974, a computer programmer found the federal government refused to consider hiring him because he was given an Undesirable Discharge some 25 years earlier.

The law now offers relief against some job discrimination based on discharge. But the problem goes beyond employment. Those who work with veterans holding administrative discharges report that they suffer discrimination of many kinds. They find it harder, if not impossible, to obtain credit, licenses, rental housing, mortgages, life and medical insurance. Their discharge raises questions about their character and makes them "bad risks."

Social observers have noted that the term "undesirable" conjures up a far worse image than does "bad conduct." So an Undesirable Discharge may provoke far more prejudice

from society than the criminally tainted Bad Conduct Discharge.

Ironically, the acts which earn administrative discharges are often neither criminal nor serious. An Undesirable Discharge may result from friction between a GI and his first sergeant. Or from smoking marijuana. For some during the Vietnam years, it came from frequenting GI coffee houses or exercising the right to protest the war.

Attorneys David F. Addlestone and Susan H. Hewman, two of the country's foremost experts on discharge, put it this way: "Frequently, the only 'crime' is an inability to conform totally or to adapt to military life or to the whims of a commander."

Some administrative discharges seem a product of racial bias. An investigation of military justice by a Pentagon-appointed civilian-military task force found that in 1970–72 black enlisted men received bad discharges at more than double the rate of other GIs, even after making some allowance for differences in aptitude and education. The task force found that many black servicemen felt administrative discharges were used to get rid of black GIs considered outspoken or militant. The investigators heard accounts of officers harassing black soldiers until they agreed to take an administrative separation.

This points to still another failing: the lack of due process in administrative discharge proceedings. In some situations a GI facing administrative release has a right to a hearing before a board of officers. But Addlestone says that "a sense of futility, bad advice and immaturity" cause "the vast majority" of GIs to waive the hearing and to leave the discharge decision to the commanding officer, subject to approval by higher authority. "The General discharge," he concludes, "is normally awarded without a hearing."

Even worse, so are Undesirable discharges. It works this way: A GI in trouble may be threatened with a court-martial unless he accepts an Undesirable discharge. Fearing the stockade primarily, a GI will take an Undesirable discharge, especially as it is a ticket to what he most wants under the circumstances—to get out of the service fast. Hardly any GIs realize the consequences of an administrative discharge, observers say, and some have been led to believe such discharges can easily be changed later.

In many of the cases, says Addlestone, the GI would have been better off if he had chosen trial by court-martial. He might have been acquitted. And even if convicted of a typical offense, say 30-plus days AWOL, he would have served his time and probably returned to duty. Had he shaped up afterwards, he still could have earned an Honorable discharge, and his minor court-martial conviction would cause little trouble in civilian life compared to the impact of an Undesirable discharge.

The military itself has admitted that commanders frequently resort to administrative discharges to avoid holding courts-martial, which take time, evidence and substantial due process to win. Given the severe consequences of administrative discharges, some critics maintain the military has thus turned them into an alternative means of punishing service members. Nothing in the law, they say, authorizes this practice.

THE VIETNAM YEARS

After declining in the first years of the Vietnam War, the number of administrative discharges shot upward beginning in fiscal 1970. In 1964–69 the number of General and Undesirable discharges averaged 32,000 per year, but by fiscal 1972 they had soared to 81,000. Percentage-wise, they accounted for only 4.1 per cent of all discharges during the first years of the war, but by fiscal 1972 they amounted to 9.7 per cent.

None of the reasons for the upsurge do the military much credit. Perhaps the main cause was the little-known manpower crisis.

According to David Cortright, who wrote the powerful book "Soldiers in Revolt" after spending 1968–71 in the Army, evasion and defiance of the draft, enlistment, re-enlistment and desertion rates all reached critical levels during the war. Indeed, in fiscal 1971, more men applied for conscientious objector status than enlisted. The success of middle class youth in beating the draft by hook or crook, says Cortright, meant that an abnormally high share of poorer class men, traditionally those with the greatest difficulty in adapting to military life, entered the ranks. Presumably, their inaptitude made these men particularly susceptible to bad discharges.

Another factor apparently was an officer response to the so-called GI resistance movement, the agitation in the ranks against the war and racial discrimination and in favor of greater rights for the enlisted men. Internal turmoil grew so great, critics contend, that many commanders responded in panic and used discharges to oust the men they believed were endangering the combat effectiveness of their units.

In 1973, the Navy handed discharges—most of them Generals—to 2,959 sailors. Cortright believes this was an effort to get rid of dissenters and notes that it followed a series of incidents climaxed by the black rebellions aboard the carriers Kitty Hawk and Constellation. The Navy denies that the discharges were the result of the shipboard disorders and describes them as "a pilot early release program" for "substandard performance."

Discharges were also used to weed out unpromising new personnel, with growing numbers of recruits issued an Honorable or General discharge during their first six months on duty. In the navy, the recruit attrition rate jumped from 2.5 per cent in fiscal 1968 to nearly 10 per cent in fiscal 1972; in the Marines, from 4.2 per cent in fiscal '68 to 22 per cent in fiscal '71.

In addition, in the late 1960s thousands of GIs were court-martialed and/or issued administrative discharge for use or possession of drugs or for drug-induced offenses, such as "disrespect" or short absences without leave to purchase drugs. In July 1971, the military instituted a drug "amnesty" program, but this neither ended punishment nor repaired the damage done by the bad discharges.

An overriding cause for the jump in bad discharges during the Vietnam period was the legislation in 1969 adding greater due process to the court-martial system. This made use of administrative discharges to get rid of unwanted personnel more attractive than ever. Officers were well aware that even minor transgressions—being five minutes late, wearing an improper uniform—could serve as the basis of an administrative discharge. At the same time, unit commanders were under pressure to trim personnel in line with the cutback in military manpower accompanying the troop withdrawal from Vietnam.

In short, commanders had every incentive in 1969–73 to use administrative discharges to get rid of unwanted GIs.

THE PROBLEM GROWS

The continuing climb in bad discharges in the post-Vietnam era is more surprising, but a few possible reasons can be offered. First, there remain the advantages of administrative discharges over courts-martial in dealing with problem GIs. Second, the military still has drug problems. Third, all four services are now volunteer in the true sense for the first time since 1941; and studies reportedly show that volunteers are more apt to get into trouble than draftees, presumably because their higher expectations for military service make them less tolerant of its shortcomings. At the same time, the ever more technical nature of military occupations puts less intelligent recruits increasingly in line for menial work, frustration and perhaps an outburst of foolish behavior.

Finally, hard economic times have presented the services with more would-be recruits than they need, thereby enabling them to drop personnel deemed substandard. And, in fact, in 1973 the Army and Navy initiated "marginal performer" discharge programs to speed up the removal of unsatisfactory personnel through "simplified procedures" for issuing Honorable and General discharges. By last December, an estimated 20,000 enlisted persons had received General discharges in mid-tour under these programs.

The military claims any veteran who gets a bad discharge through error or injustice can have it changed through administrative review of his case. However, discharge review has proven more of a remedy on paper than in practice. Since the mid 1960s, only about 1 veteran in 27 issued a bad discharged has gotten it upgraded. And many, if not most, upgrades are only to a General discharge, still a bad paper.

Discharge review is a three-tier system. Each service has a Discharge Review Board, composed of military officers. If a Review Board turns down a veteran's request for upgrade, he may appeal to his service's Board for the Correction of Military Records. Correction boards consist of civilian employees of the Defense Department. If a correction board rules against a veteran, he can appeal to a federal court. Very few take that last step within the alloted time out of ignorance of their right to do so and because of the legal expenses.

Official figures indicate that a veteran has little chance (roughly 1 in 6) of winning an upgrade, unless he appears personally before a board. But correction boards rarely grant hearings; they prefer everything in writing. And they sit only in Washington, forcing the few petitioners invited to make a trip they may be unable to afford. The burden falls unequally on minority group members with their lower average income.

Review boards do grant hearings to all, but for years they, too, met only in Washington. Last year, in reaction to congressional criticism, the Pentagon authorized traveling and local review boards.

So far, regionalization has paid off: requests for appearances have climbed. In response, the Army and Air Force have temporarily made access to their review boards easier. The Air Force is currently holding hearings, in rotation, in four cities and at seven bases; the Army is holding hearings in 13 locations. The Army is also sending a board member equipped with videotape machinery to veterans in "the hinterland" to record testimony for the full board's consideration.

The services stress, however, that these changes are not necessarily permanent. Their continuation will depend on financial and manpower resources and on the extent of the demand.

Few veterans even realize they can challenge their discharge. Between fiscal 1967 and 1975, some 548,000 bad discharges were issued, but only 62,000 veterans petitioned the various review boards.

Few who apply have adequate legal assistance. The Red Cross and old-line, charter veterans organizations such as Veterans of Foreign Wars represent thousands of veterans without charge, but they do not use lawyers, and observers say they are too swamped with applicants to prepare cases adequately.

Another problem: discharge review proceedings are short on due process. The boards lack subpoena power and pre-trial evidentiary procedures, have only the broadest written standards for making decisions and deny or approve upgrades without stating their reasons. Rulings are "haphazard" and "arbitrary," hinging "on the personalities and predilections of individual board members," says attorney Susan Hewman. The

army review board defends the procedures on the ground that boards only settle questions of fact, not of law. But some attorneys maintain this is an oversimplification.

Finally, the boards are too few in number and the members of some boards hold other jobs. The result: case backlogs ranging from a few months to two years.

Despite everything, some veterans win their cases. The advantages of aggressive, savvy legal help and a personal appearance are clear from the accomplishments of the American Civil Liberties Union and the National Military Discharge Review Project at Georgetown University Law Center in Washington. Attorneys and law students working for these groups, which say they take all but hopeless cases, have represented 162 veterans and won upgrades for 81 per cent. If 4 or 5 bad discharges can be overturned, they say, something obviously is wrong with discharge practices.

ARTICLE BY MELVIN R. LAIRD ON THE CIA

Mr. THURMOND. Mr. President, an excellent article by former Secretary of Defense Melvin R. Laird reference the Central Intelligence Agency appeared in the May 1976 issue of the Reader's Digest.

Entitled "Let's Stop Undermining the CIA," Secretary Laird has boiled down to a few words the heart of this issue.

I urge every Member of the Congress and every reader of the CONGRESSIONAL RECORD to carefully study this article and the valid conclusions drawn by this distinguished American.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

LET'S STOP UNDERMINING THE CIA

(By Melvin R. Laird)

(NOTE.—Melvin R. Laird was a U.S. Congressman from Wisconsin for 16 years, before serving as Secretary of Defense from 1969 to 1973. He is now Reader's Digest's senior counsellor for national and international affairs.)

We Americans are on the verge of doing ourselves what our worst enemies have been unable to do: Destroy our intelligence services.

Last year, Senate and House committees began searching investigations of the Central Intelligence Agency. The investigators' intent was honorable, and they have brought to light malpractices that must be curbed. According to Congressional findings and CIA admissions, during the 29 years the CIA has existed—1947 to 1976—agency personnel perpetrated the following questionable acts of domestic espionage: They illegally entered four homes or offices, tapped the phones of 27 people, placed five U.S. citizens under surveillance and infiltrated ten agents into the anti-war movement. For over two decades, they opened private mail received by Americans from communist countries. Additionally, in examining possible foreign influence on the anti-war movement, the CIA accumulated files on approximately 10,000 American citizens.

The side effects of these investigations, however, have proved much more harmful to the country than the ills that Congress sought to remedy. As CBS commentator Eric Sevareid recently declared: "We've had Congressmen breaking solemn agreements with the Executive by leaking classified information in the name of higher laws of their selection. We have had journalists breaking their word on information received off the record by leaking it to other journalists, which is morally the same as publishing it themselves. And, worse, we've had zealots publishing the names of American intelligence personnel—which, in this time of terrorists everywhere, increases the risk of kidnapping and murder. To do this is to commit the moral equivalent of treason."

The dubious acts committed by the CIA have been distorted and magnified, while lurid charges flourished, often without a scintilla of substantiation. For example:

Allegation: The CIA jeopardized public health by conducting biological-warfare experiments in New York City subways. Fact: The Army, to assess vulnerability of the transit system to sabotage, placed some innocuous powder in a subway, then measured how far it was wafted down the tunnel. The test menaced nobody. The CIA had no part in it.

Allegation: The CIA placed secret informants on the White House staff to spy on the Presidency. Its chief White House "contact man" for a while was Alexander P. Butterfield, later director of the Federal Aviation Administration. Fact: Butterfield never had any connection with the CIA. For the past 20 years, like other agencies, the CIA, at White House request, has routinely assigned specialists to the Presidential staff.

Allegation: The CIA has assassinated foreign leaders and perhaps even some Americans. Fact: More than a decade ago, when a de facto state of war existed between the United States and Cuba, the CIA involved itself in unsuccessful plots to kill Fidel Castro. It also considered poisoning Patrice Lumumba of the Republic of the Congo. But the prosaic truth, as established by the skeptical Senate investigators, is that the CIA never assassinated anyone anywhere.

HEMORRHAGE OF SECRETS

As the CIA's legitimate secret operations are exposed and its sensitive intelligence-gathering methods irresponsibly illuminated, our first line of defense against attack—and our only defense against covert attack—is becoming increasingly paralyzed. In foreign parliaments and press, the feasibility of confidential collaboration with America has been publicly questioned. Some countries have stopped confiding in us almost entirely for fear their confidences will be broken by Congress or the press. Individual foreigners who have risked their lives to secretly serve the United States—including agents well placed in the Soviet bloc and the Third World—have quit out of fear of identification. The difficulty of enlisting reliable new foreign sources has increased greatly.

Meanwhile, scores of gifted American men and women in the CIA possessing priceless expertise and experience have been disgusted at the pillory with which their patriotism has been rewarded, and many have even left. Important intelligence undertakings, approved by Congressional committees and the President as essential to the national interest, have collapsed in the glare of publicity. For instance, disclosures that the United States has used submarines in Soviet territorial waters to monitor Russian weapons tests have greatly diminished the flow of this vital intelligence.

The hemorrhage of secrets is also destroying the CIA's capacity to act covertly in Western interests. Sometimes the discreet provision of money, information, advice and other requested help affords the only practical means of countering subversion abroad. Repeatedly, the Soviet Union has sought to subvert other nations by buying control of politicians, bureaucrats, journalists and trade-union leaders, by surreptitiously supplying vast sums to build the local communist part into the dominant political force. Plans to combat such subversion lose all effectiveness if announced. If identified, recipients of our assistance forfeit credibility and become instant targets of venomous attack by communists and others.

RECORD OF SUCCESS

In an ideal world, we would need neither intelligence services nor armed forces. But we must have both if we are to survive in the real world of 1976, which has become very unsafe for democracy and the United States. Of the earth's 158 nations, only 39 presently maintain democratic, representative governments and open societies. Many of the totalitarian nations are fanatic in their hostility to freedom and to America. Our access to many indispensable natural resources depends upon fragile regimes. The complex daily functioning of our society is threatened by the phenomenon of international terrorism. Meanwhile, the Russians, besides their worldwide subversion, fomenting of revolution and support of terrorism—persist in an enormous, costly effort to attain undisputed military supremacy with which they hope to intimidate the West into further retreat.

To cope with all these threats and uncertainties, we must keep ourselves continuously and accurately informed as to what is happening, especially in those areas shrouded in totalitarian secrecy. To repel covert aggression, we must resort at times to covert methods. President Harry Truman and Congress recognized this when they created the CIA in 1947. And this unchanged reality has been recognized by every subsequent President—and Congress, except the present one.

Having served first on one of the Congressional committees that oversee our intelligence apparatus, and later as Secretary of Defense, I am familiar with some of the accomplishments of our intelligence services. Consider:

During the past 25 years, the Soviet Union has not developed a single major new weapon without our knowing it well in advance. Without such knowledge, we undoubtedly would have wasted untold billions preparing to counter threats which did not actually exist. Current efforts to negotiate curtailment of the nuclear-arms race are possible only because our precise intelligence enables us to count every Soviet missile, submarine and bomber, and to monitor Soviet compliance with the treaties achieved. If we destroy the effectiveness of the CIA, we will destroy with it whatever hope there is of negotiating any significant disarmament.

Timely intelligence has helped avert war. During the 1973 Arab-Israeli conflicts, U.S. intelligence—live agents and technical surveillance—detected Soviet preparations to dispatch troops to the Middle East. Thus alerted, we were able to initiate urgent diplomatic and other actions that persuaded the Russians to forgo military intervention.

A few years ago, our agents—or spies, if you will—ascertained that one non-communist country was about to attack another. Details cannot yet be made public. But we quickly and privately brought the countries together, laid out the facts, induced them to negotiate. CIA espionage thus prevented a war.

Since late 1973, U.S. intelligence has given both Israel and Egypt considerable sense of security by continuously showing each what the other is doing militarily. Given proof that neither is about to pounce on the other, the Arabs and Israelis have been willing at least to try to devise a formula for Middle East harmony. Our intelligence has bought the necessary time.

Through infiltration of various terrorist movements, the CIA has aborted numerous plots. On at least two occasions, the CIA has forestalled assassins bound for the United States with orders to kill elected public officials. It has also thwarted plans to kill prominent American Jews with letter bombs.

While Israel's premier Golda Meir was visiting New York City on March 4, 1974,

police rushed to busy midtown intersections and hauled away two cars with enough Soviet-made explosives to kill everybody within a 100-yard radius. The terrorist explosives were timed to detonate at noon, when streets would be most crowded. The disaster was prevented because we had advance warning of it.

Shortly before Christmas, 1973, the CIA learned that six small, hand-carried Soviet SA-7 missiles—extremely accurate against low-flying aircraft—were being smuggled in Libyan diplomatic pouches to Black September terrorists in Europe. The terrorists planned to shoot down a 747 landing in Rome. However, acting on CIA intelligence, European governments disrupted the operation and spared the lives of hundreds of holiday travelers.

The CIA has frustrated communist subversion of other nations. After World War II, the Soviet Union sponsored a massive clandestine effort to impose communist dictatorships on a weakened Western Europe. Communist operatives, dispensing millions of dollars, organized strikes to block Marshall Plan aid and engender chaos. They infiltrated the press, tried to buy elections. By providing intelligence, money and counsel, the CIA gave anti-totalitarian factions a fighting chance to resist. Given this chance, the Europeans proceeded to build healthy democracies, indispensable to our own welfare.

During the 1960s, with Soviet backing, Cuba tried to ignite guerrilla warfare and violent revolution in Latin America. While quietly urging needed social reforms, the CIA offered Latin Americans the intelligence and training they needed to repel Cuban aggression. The communists were defeated in Bolivia, Venezuela, Brazil, Uruguay, Guatemala and the Dominican Republic. Much the same pattern was repeated in sections of Africa where the Russians sought to establish new colonies for themselves. In the Middle East, too, the CIA has repeatedly aborted Soviet plots to seize control of Arab nations.

In retrospect, it is obvious that not all of the covert actions undertaken by the United States in the past 20 years have been wise or justified. I strongly believe that we never again should attempt to use military force covertly. Military action can succeed only if understood and endorsed by the public as well as Congress. However, if we abandon our capacity to discretely help those who wish to resist externally inspired subversion—totalitarianism of either the left or right—we will reduce ourselves to a choice of abandoning them entirely or sending in the Marines.

In sum: If we allow our intelligence services to be rendered impotent, we will signal friend and foe alike that we lack both the will and the means to compete with totalitarianism. Unable to protect ourselves, or our friends abroad, America will shrink into isolationism, and our economy, denied essential foreign resources, will shrivel. Then we, and certainly our children, will discover too late that there is no place to hide from totalitarianism.

As a former Secretary of Defense, I believe that we should maintain armed forces stronger than those of any potential enemy. But without an equally strong intelligence service, our nation can never be secure. I know that. So do our friends and antagonists throughout the world.

ECONOMIC RECOVERY

Mr. McGOVERN. Mr. President, the signs that our economy is finally beginning to move out of the deepest and most protracted slump since the Great Depression are encouraging. But as Hobart Rowen, the distinguished financial columnist, observed in a recent article, recovery is proceeding in spite of, rather than because of, administration policies.

Quoting Prof. Otto Eckstein of Harvard, Mr. Rowen argues that three key measures—extension of the 1975 tax cuts, Federal aid to New York City and continued controls on oil prices—are responsible for the slowdown in the inflation rate and the general upturn in economic activity. The administration vigorously opposed all of these measures, but now wishes to take credit for their results.

I am not surprised at a sudden lapse of memory in an election year, but I do hope that the current wave of positive economic news will not obscure the fact that this administration has shown an extraordinary capacity to do precisely the wrong thing at the wrong time for the wrong reasons.

When a tax cut was plainly in order to stimulate a sagging economy, for example, the President came out for a tax increase. When cost-push inflation, fueled mainly by food and fuel price increases, was raging, the administration lobbied hard for an end to oil and natural gas controls. And now that the administration's own strategy of paying welfare rather than creating jobs for the unemployed has produced a record Federal deficit, the administration would have us believe that the deficit, rather than the people who purposely produced it, is our most important economic problem.

Mr. President, I ask unanimous consent that the Rowen article, which appeared in the April 25, 1976 edition of the Washington Post, be printed in the RECORD.

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

[From the Washington Post, April 25, 1976]

FORD'S "DEFEATS" MAY CLINCH VICTORY ON ECONOMY ISSUES

(By Hobart Rowen)

Harvard Professor Otto Eckstein has been saying that a Democratic Congress has assured the election of President Ford by defeating him on all economic issues that could have hurt him. Exaggeration? Maybe not.

The key to economic recovery has been the extension of the 1975 tax cut into this year (originally vetoed), the federal bail-out of New York City, and an energy bill that—at least temporarily—is keeping a lid on petroleum prices.

Without the tax cut extension, the smart first-quarter annual growth rate of 7.5 per cent in the gross national product, of which Mr. Ford is now so proud, would have been aborted by the equivalent of a tax increase.

Aid to New York City, which President Ford fought for months, reduced the country from the depths of a crisis of confidence. And the energy bill, over which the President agonized and finally signed despite his distaste for controls—along with good luck on food prices—explains the spectacularly low 3.7 per cent inflation rate.

"The Democrats put the fuel in the tank," says a former Johnson administration official, "and the Republicans are enjoying the ride."

But the public has a short memory. So as the President campaigns around the country claiming that his "steady" hand on the economy should get the credit for the recovery and lessened unemployment, there is little doubt that he is scoring points.

The economic mismanagemnt of the Nixon-Ford years is consigned to history. If the Democrats should win, it will be despite economic recovery, not because the nation suffered the worst recession in 1974–75 since the Big Depression.

The important economic question is what lies ahead. There can be little doubt that the news is going to be mostly good for the rest of this year and well into 1977.

The duration of four post-war recoveries (omitting an extraordinary cycle covering the Vietnam period) averaged 36 months. Should the present recovery last that long, it would carry through the first three months of 1978. But the good news that lies immediately ahead will be in terms of growing GNP, increased production and sales, and booming corporate profits. The same pace won't necessarily hold for jobs.

Consider this: A solid 7 per cent expansion in the economy for 1976 as a whole would produce a GNP annual rate of about $1.3 trillion in the fourth quarter, $60 billion over the pre-recession peak of $1.24 trillion in the fourth quarter of 1973.

But the unemployment rate, according to revised administration projections, still would be about 7 per cent, compared with 4.8 per cent in that peak fourth quarter in 1973.

Let's assume that the administration has a private, even more optimistic scenario, showing unemployment down to 6.5 per cent by year's end. Why hasn't the jobs recovery paralleled the upturn in the gross national product?

The persistence of unemployment is testimony to the terrible cost of recession in a steadily expanding population and labor force.

Over the three-year period to the end of 1976, real GNP had to grow about 13 per cent just "to stand still." But actual growth, assuming a continued upturn, will have been only 5 per cent.

It will take another 2 to 2½ years of economic expansion at an unprecedented 7 per cent or better each year to bring the unemployment rate down to where it was late in 1973.

So, euphoria over what is unquestionably a good first-quarter report should give way to a calm perspective. Half of the fast-paced growth, after all, was in inventory building rather than final consumption. There was zero growth in real government spending.

The pact of inflation, moreover, doubtless will quicken as recovery continues. That's only natural. But pressures from the union wage side could worsen the trend. Some economists, notably Pierre Rinfret, believes that industrial capacity bottlenecks are likely to develop more quickly than Federal Reserve Board figures show. Treasury Secretary William E. Simon, briefed by Rinfret, tends to agree.

The President is placing all his bets for a sustained recovery in 1977 on a booming private economy. But even if such a scenario pans out, the jobless rate is likely to hang high, without an additional government spur.

And that, essentially, is what divides the Republicans from the Democrats. The G.O.P. would settle for a slow recovery and sticky unemployment rates to insure no recurrence of a serious inflation. Democrats, looking at the jobless levels, would play the risks the other way.

FARMERS FOR FULL EMPLOYMENT

Mr. HUMPHREY. Mr. President, as a part of a growing national coalition, I am pleased to report that the National Farm-

ers Union has endorsed the Full Employment and Balanced Growth Act of 1976. In an excellent newsletter, the National Farmers Union provides the facts and figures that led them to this conclusion. I think my colleagues will find some of their arguments interesting and useful.

As many of you know, the so-called Humphrey-Hawkins bill is a general economic policy act designed to strengthen and supplement the Employment Act of 1946. It is not a simple jobs bill. Instead, it provides a broad range of policies to improve Government management of the economy, stimulate production and employment in the private sector, restrain inflation, and carefully target special employment policies for chronically depressed areas, the young, and for other hard to employ people in our society. Federal employment is used only as a last resort and principally as a substitute for increased welfare expenditures. This is a work bill, not a welfare bill.

The Farmers Union supports the bill because they recognize that boom and bust is neither a good farm policy, nor a good national economic policy. Farmers feel they would be better off without the severe ups and downs of the past 3 years, and they recognize that the policies of S. 50 and H.R. 50 would serve to stabilize the American economy.

The farmers also realize that there is a discernible, positive relationship between low rates of unemployment and fair farm prices and incomes. The last time the Nation enjoyed both full employment and farm parity is when they occurred together in 1952 and 1953. This is because as production and employment rise, incomes of our families rise, which allow them to increase their purchases for food and other essentials. Food consumption studies show that food purchases increase in response to a decline in the number of jobless citizens.

The farmers also recognize that full employment means economy in Government. Because of disastrously high unemployment, the Federal food stamp program is under heavy strain in a very costly period. This is also true of unemployment compensation and our welfare system. Each percentage point increase in unemployment adds about $5 billion to the Federal deficit in increased expenditures for food stamps, unemployment compensation, and other welfare expenditures.

The principal way to end the spiralling costs of welfare, and the degradation to families who are in poverty, is to substitute work for income support to the maximum extent feasible.

The Farmers Union also supports the bill because they understand that full employment would lead to a condition in which the Federal budget would be in balance. The Nixon-Ford economic policies of maintaining high unemployment—essentially, a reserve army of the unemployed to drive down wages—has brought this Nation Federal deficits of almost $200 billion since fiscal year 1970. That is the largest peacetime record of Federal deficits in U.S. history. It is a national scandal and should be labeled so.

In short, the National Farmers Union supports the Full Employment and Balanced Growth Act of 1976 because they know that the achievement of full employment is the foundation upon which all our other national objectives and priorities must be built. They realize that the loss of $200 billion in economic production each year, because of the Nixon-Ford policies of economic stagnation, is like pouring money down a rathole. They realize that the people of this country are workers, who want to build and produce and play a productive role in our society.

The National Farmers Union has also published a comprehensive review of the main issues of the full employment debate. This Farmers Union special issue, titled "Jobs," is one of the best overall discussions of the Full Employment and Balanced Growth Act. It also reports on the views of many economic experts and community leaders as they relate to full employment problems in general and S. 50 in particular. The material presented here will be most useful to all interested in the employment problems of the U.S. economy.

Mr. President, I ask unanimous consent that the National Farmers Newsletter of April 1976, and the special issue on "Jobs" be printed in the RECORD.

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

[From the National Farmers Union, Apr., 1976]

100,000,000 JOBS—WHY IT MATTERS TO U.S. FARMERS

100 MILLION JOBS—A FULL EMPLOYMENT TARGET FOR 1980

In 1980 or soon thereafter, the United States will need 100 million jobs to sustain a full employment situation for its labor force. In 1975, by comparison, the U.S. labor force was estimated at 92.6 million persons. There were 7.8 million workers among the full-time unemployed, with another 2.8 million part-time unemployed.

Congress is now considering H.R. 50—S. 50; the "Full Employment and Balanced Growth Act of 1976," which would require measures to reduce unemployment to no more than 3% of the labor force as soon as possible, but in any event within 3 or 4 years of enactment.

National Farmers Union supports the improvement of the Employment Act of 1946 as proposed in H.R. 50—S. 50, regarding this as important both to the national economy generally and to the economic well-being of farmers.

In March, 1945, Farmers union challenged the nation to think in terms of 60 million jobs to assure a "full-employment" economy within a year after the close of the war. Farmers Union's proposal, the "Patton Amendment," eventually emerged as the Employment Act of 1946.

STABILITY, RATHER THAN "BOOM-AND-BUST"

"Boom-and-Bust" is neither a good farm policy, nor a good national economic policy. Farmers feel they would be better off without the severe ups and downs of the past three years, but recognize that they are hurt too by recession and high unemployment.

Farmers recall that in the boom and bust cycles, they are typically the first to suffer and the last to recover.

STRONGER FOOD DEMAND, BETTER FARM PRICES

Under conditions of full employment, food demand and farm prices would both strengthen and become more dependable.

There is a discernible, positive relationship between low rates of unemployment and fair farm prices and income. The last time the nation enjoyed both full employment and farm parity was when they occurred together in 1952–53. This relationship is neither accidental nor coincidental. Over the past 15 years, almost without exception, low unemployment has tended to be accompanied by low farm prices.

STRONGER PURCHASING POWER FOR FOOD

Food consumption studies show that food purchases increase in response to a decline in the number of jobless.

As incomes increase among low-income families, average food expenditures rise toward levels which provide nutritionally adequate diets. In contrast to the 15 to 16% of spendable income which average families expend for food, low-income families tend to spend 20 to 25%.

UPGRADING THE DIET OF AMERICAN FAMILIES

Full employment and stronger food purchasing power tends to reflect itself in upgrading of diets rather than a mere increase in per-capita calorie intake.

Nutritional studies indicate that as incomes rise, families tend to redirect their food spending in favor of meat, milk, eggs, poultry, fats, proteins, fruits and vegetables. These are the products for which producers tend to get a larger share of the consumer food dollar.

REDUCTION OF FOOD STAMP, WELFARE AIDS

High unemployment forces many families to seek food stamps and other federal or state welfare aid, as has been demonstrated during the past two years.

Because of disastrously high unemployment, the federal food stamp program is under heavy strain and very costly. One recent study has indicated that for every 100 people who become unemployed, 60 persons join the food stamp rolls.

In contrast, a condition of full employment would reduce food stamp rolls and other assistance programs, bringing families back into the market economy.

One study has indicated that full employment would remove 6 million persons from the food stamp program, of the present total of 19 million recipients. The other 13 million are the young, the old or disabled, who are not in the work force, and therefore would not be affected by the full employment program directly.

FARMERS—VICTIMS OF INFLATION

The spiralling costs of farm production and family living have been among the heaviest burdens borne by U.S. farm families in the past three years. Inflation has tended to nullify price and income gains which farmers otherwise would have made.

Prices paid by farmers have virtually doubled over the level of ten years ago.

High unemployment is not a cure for inflation. The two tend to go together. This is why attempts to reduce inflation by maintaining abnormally high rates of unemployment have not succeeded.

This also explains why little improvement is anticipated either in employment or reduction of inflation.

Since the "Full Employment and Balanced Growth Act of 1976" is designed principally to achieve its goals through stimulating the private business sector, it should tend to encourage a situation of general price stability.

BALANCING THE FEDERAL BUDGET

Full employment would lead to a condition in which the federal budget could be regularly in balance.

Measures to reduce unemployment would require substantial private and public investment. However, these costs would be minimal in comparison with the current high cost of unemployment.

Each 1% of unemployment costs the gov-

ernment about $17 billions in unemployment compensation, welfare aids and foregone tax revenues.

The budget for the current fiscal year will be about $50 to $60 billions out of balance. Under conditions of full employment, government revenues would be up sufficiently and expenditures down sufficiently to bring the budget into balance.

WHO'S HURT BY THE DEFICIT IN NATIONAL PRODUCTION AND INCOME

The American people suffer a reduction in family income because the business economy is functioning far below capacity, making poor use of resources and resulting in high unit costs.

The U.S. national economy is currently operating at a deficit estimated at about $200 billion a year. With full employment and full production prevailing, the Gross National Product (GNP) would be $200 billions higher, a situation which would result in high average family income and a stronger tax base.

The standard of living and the quality of life would both improve with full employment. Similarly, governmental units would have a level of revenues which would allow needed investments to be made.

RURAL JOB OPPORTUNITIES, END TO RURAL MIGRATION

A condition of full employment would assure better job opportunities in Rural America.

This would assist the unemployed and under-employed in rural communities. It would tend to make unnecessary the exodus from rural areas to urban centers.

In the past three years, the movement of people out of agriculture has declined, not because economic conditions have been good in farming, but because of the absence of off-farm employment.

JOBLESSNESS STILL AT TOLERABLE LEVELS

Although unemployment has receded somewhat from the 8.5% level of 1975, the situation is still too drastic to be tolerable. The true level of unemployment is still in excess of 10%, the full-time unemployment in February was 7.6%, but the rate for some groups was much higher: construction workers, 15.5%, nonfarm laborers 14.1%, teenagers 19.2%, non-white teenagers 35%.

[From Fairness Union Service Special "Jobs"]

NEW HUMPHREY-HAWKINS FULL EMPLOYMENT ACT PROVIDES TOOLS TO PUT AMERICANS BACK TO WORK

(By Milton D. Hakel)

In sharp contrast to Ford Administration economic policies which see little prospect of reducing joblessness much below 7 per cent by the end of this decade, a new "Full Employment and Balanced Growth Act" has been introduced in the Congress, mandating achievement of national full employment (not more than 3 per cent unemployment) within three or four years of enactment.

Co-sponsoring S. 50-H.R. 50 are U.S. Sen. Hubert H. Humphrey of Minnesota, Chairman of the U.S. Joint Economic committee, and Rep. Augustus F. Hawkins of California, chairman of the equal opportunities subcommittee of the U.S. House committee on education and labor.

Currently, official government data estimates national unemployment at 7.6 per cent of the labor force, but it is clear that the figure understates the nature and the extent of unemployment. (See additional data, page four of this section).

The House and Senate bills, introduced March 16th, are revised and improved versions of the legislation originally introduced in January, 1975. Nine Senators have joined Humphrey as authors of the bill on the Senate side, while some 120 House members are backing the House version, among them such prominent House leaders as Speaker Carl Albert, majority leader, Congressman Richard Bolling, Education and Labor committee Chairman Carl Perkins and Banking committee chairman Henry S. Reuss.

In addition to this strong and growing support in the Congress, Senator Humphrey noted at a March 12th press conference that the bill has the support of the AFL–CIO, the National Farmers Union, many governors, mayors, local government officials and a broad array of church, community and business groups, in a coalition known as the National Committee for Full Employment.

Tony T. Dechant, president of National Farmers Union, has termed adoption of "full employment" legislation as vital to a "full production, full employment and full parity" economy.

"Farmers Union understands very well that farmers' customers must have jobs and must earn good incomes in order to buy and use the abundance our farms can produce," he said.

AFL–CIO President George Meany has said his organization backs the measure without reservation and believes it to be achievable.

"The measure would really implement the Employment Act of 1946," Meany said, in contrast to the "trickle-down" theory of economics prevailing in the Nixon-Ford Administrations.

"The opportunity to find a job at decent pay must be made a fundamental economic right, commented Leonard Woodcock, president of the United Auto Workers.

"For nearly three decades, the Employment Act of 1946 has promised but never mandated a national policy of full employment," Woodcock explained. "The millions of people chronically ill and cyclically unemployed are testimony to the failure of the nation to move beyond a stated aim to the actual implementation of a full employment."

Sen. Humphrey stressed that the bill is designed largely to achieve full employment through the private sector.

"It is a general economic policy bill that proposes fundamental reform in the management of the economy so that full employment and balanced growth are achieved and maintained," he said.

LAST TIME UNITED STATES HAD FULL EMPLOYMENT, FULL PARITY—THEY OCCURRED TOGETHER

The last time farmers of the nation enjoyed 100 per cent of parity prices was in 1952 under Harry Truman—the last time the U.S. had unemployment as low as 3 per cent was in 1952–53, U.S. Senator Hubert H. Humphrey recently pointed out.

"I think it's more than a coincidence that the last time we had either full parity or full employment was when we had them together," he declared.

"Although recent statistics show some decline in the numbers of jobless, the reality is that the American economy faces some fundamental long-term problems which seriously threaten the strength and vitality of our capitalistic system," Humphrey maintains.

Asking how many more times our producers will have to be "burned by volatile markets?" Humphrey declares it is time to turn away from the neglect and failures in national farm and food policy.

If there is any parallel in which the Ford Administration is failing as badly as in food policy, Humphrey asserts it would be in its policies relating to "employment, inflation and economic growth."

"Something is wrong with a farm policy which rarely lets farmers see the benefits of high productivity and high prices—which allows farmers to go broke—and something is wrong with economic policy which has lost the nation about $500 billion in production of goods and services in the 1970–75 period. We will not tolerate waste instead of spurring productivity. We now give people welfare payments instead of work," he charged.

LATE WRIGHT PATMAN BEGAN HIS "FULL EMPLOYMENT" EFFORT IN 1934

Rep. Wright Patman, the vice chairman of the U.S. Joint Economic Committee who died early in March, was a pioneer of the full employment concept.

Patman, looking for a way to rally the country from depression, proposed a bill calling for expansion of the national money supply until there could be substantially full employment without inflation.

Patman's bill chose as a recovery target the attainment of employment levels of 1926, when unemployment was just under 2 percent

When the backers of another bill in the mid-40's were looking for the ideal House author, they chose the Texas populist. He helped enlist 72 other House members as co-sponsor and served as the chief House spokesman.

"To my mind it will be impossible to have free enterprise survive in this country *unless* something is done in the direction of full employment and full production. We must create a climate that is such that it will encourage private business to employ people and keep them substantially and generally employed up to the limit," he said in testimony in September, 1945.

Patman went on to pilot the bill successfully through the U.S. House.

In 1975, Patman became an enthusiastic co-sponsor of the Hawkins bill, H.R. 50.

ALONG WITH FARM PARITY, FULL EMPLOYMENT RATES HIGH PRIORITY WITH FARMERS UNION, SAYS TONY DECHANT

Strong purchasing power in the hands of city and worker families is the economic engine which over the years has generated the development of an efficient and productive family farm system of agriculture in the nation, Tony T. Dechant, president of National Farmers Union, has stated in testimony to the U.S. Joint Economic committee.

"That's why Farmers Union leaders more than 30 years ago were in the forefront of the sponsors and supporters of the Employment Act of 1946," he said.

"We wanted it to be a full employment act and we still do—that's why we are supporting the Humphrey-Hawkins approach.

"In our society, working at a decent job at decent wages confers purchasing power—the right to eat, to be sheltered, to be clothed, to support a family," he explained. "Full employment is the way to achieve the production of maximum wealth in goods and services for all of us to share."

The Farmers Union official declared that the national Administration, by tolerating extremely high rates of unemployment and by its willingness to accept them for the balance of this decade, is sharply reducing available purchasing power of the nation's citizens for food.

"Right now with extremely small supplies of pork, the slow liquidation of the beef cattle herd and with an absolute shortage of milk, we are courting nutritional disaster for the American people," Dechant insisted.

PATTON AMENDMENT TURNED RECONVERSION PLAN INTO EMPLOYMENT ACT OF 1946

Although Congressional amendments are rarely named after laymen, it was the "Patton Amendment" which turned the Congress from consideration of the Kilgore postwar reconversion plan to a plan for postwar planning for full employment.

James G. Patton, president of National Farmers Union, had been espousing full employment planning since 1942. It was in

August, 1944 that Patton's comprehensive amendment to the Kilgore Bill was widely circulated. Such notable Senate leaders as Thomas of Utah, Johnson of Colorado, Wallgren of Washington, Wagner of New York, LaFollette of Wisconsin, Pepper of Florida, Hill of Alabama, Guffey of Pennsylvania and Truman of Missouri were then co-sponsors of the Kilgore bill.

In January, 1945, the Patton proposal was introduced as a separate bill by Montana Senator James Murray.

In August, 1945, hearings, Patton declared that unemployment compensation, defensible as it may be as a last resort, was no substitute for jobs.

"The day that the Congress writes into law the declaration that the people of the United States are determined to end employment forever—to have done for good with boom-and-bust cycles—that day may well become one of the landmarks in history," Patton said.

Patton pointed out that the nation's farmers have a stake in full employment because "it offers an opportunity to go forward with an agricultural program."

"This country has gone too far along the road of abundance for it to turn back and try to travel again the old road of scarcity," he told the 1945 hearing. "Thus, full employment has become indispensible for agriculture as well as for industry."

But Patton was doomed to frustration and disappointment when the 1946 legislation was watered-down to something much less than a total commitment to end unemployment.

The crushing blows were dropping of the word "full" from the title of the bill and the concession which was made to Senator Robert Taft of Ohio, changing the terminology from a "right" to employment to an "opportunity" for employment.

Patton has been contemptuous of the way in which the 1946 Act has been ignored and misused in some administrations, allowing unconscionable levels of unemployment to prevail.

Now, Patton sees the 1976 proposal as the chance to pick up the original basic commitments of the 1946 proposal and to go beyond them to economic management adaptable to today's conditions.

NEXT ADMINISTRATION, CONGRESS WILL HAVE TOOLS NEEDED, SAYS HAWKINS—UNITED STATES AT ECONOMIC CROSSROADS, BUT HAS BETTER ALTERNATIVES, SAYS HUMPHREY

The "Full Employment and Balanced Growth Act of 1976" provides better answers to the economic crises of the past five years, sponsors of the bill insist.

"Under this law, the next Administration and the next Congress will work together to translate into reality the individual right of all adult Americans able, willing and seeking employment to opportunities for useful paid employment at fair rates of compensation," said Rep. Augustus F. Hawkins, chief House author.

"It mandates consistent and coordinated policies and programs to replace the chaos, inconsistency and irresponsibility that have characterized the recent years of unemployment, inflation and stogo, roller-coaster economics," he said.

Reviewing the tragic consequences of the economic "stagflation" which has settled over the land, Senator Humphrey listed:

Ten million unemployed right now, 20 million at one time or another during the last two years, affecting as many as 65 million people in the families of household units affected.

Inflation of food, clothing, housing, construction and medical costs imposing a crushing burden.

Federal deficits of $187 billion since fiscal 1970.

Reduced business sales and profits, underutilized capital, retarded investment and widespread business failures.

Enormous social costs, in crime, poor health, family problems.

"We stand today at a historic crossroad. We can accept the economic policies that have brought stagflation and, according to the Administration's own economic projections, continue that stagflation for the foreseeable future," Humphrey said. "Or we can reject the discarded economic doctrine of the past several years and replace it with a new economics that puts all of America's resources back to work."

The Full Employment proposal, Humphrey explained, emphasizes a broad strategy which begins with the idea that work and productivity are better than waste and welfare.

"The bill does not end at the right of Americans for useful jobs at fair wages," he said. "It is a general economic policy bill that proposes fundamental reform in the management of the economy so that full employment and balanced growth are achieved and maintained.

"All of the reforms provided in the bill are set in the context of achieving a goal of reducing unemployment to 3 percent of the adult labor force as promptly as possible, but within no more than four years after the date of enactment of this act.

"Such a commitment, and the policies to support it, can restore the strength of the economy and the wellbeing of our people," Humphrey concluded, "thus renewing the confidence in America of our people."

WHAT IS H.R. 50—S. 50—FULL EMPLOYMENT ACT OF 1976?

The Full Employment and Balanced Growth Act of 1976 establishes the right of all adult Americans able, willing, and seeking to work to opportunities for useful paid employment at fair rates of compensation. To support that right, the act commits the U.S. Government to fundamental reform in the management of the economy so that full employment and balanced economic growth are achieved and sustained. This includes the creation of a permanent institutional framework within which the President, the Federal Reserve Board, and the Congress are systematically encourged to develop and establish the economic goals and policies necessary to provide productive employment for all adult Americans, as well as the mandating of specific employment programs to achieve the goal of 3 per cent unemployment as promptly as possible, but within not more than 4 years after the date of the enactment of this act.

SECTION-BY-SECTION ANALYSIS

Sections 1 and 2. These sections include the title, table of contents, and general findings. Among the most important general findings are: (1) the high social and economic costs of unemployment; (2) the need for explicit economic goals and a coordinated economic policy among the President, the Federal Reserve Board and Congress; (3) that inflation is often aggravated by high unemployment; and (4) that there must be direct employment and anti-inflation policies to supplement aggregate monetary and fiscal policies to achieve and maintain full employment and balanced growth.

TITLE I—ESTABLISHMENT OF GOALS, PLANNING AND GENERAL ECONOMIC POLICIES

Sec. 101.—Statement of purpose. The purpose of this title is to declare the general policies of the act, to provide an open process under which annual economic goals are proposed, reviewed, and established; to provide for the develop of a long-range Full Employment and Balanced Growth Plan, to provide for economy in government measures, to insure that monetary, fiscal, anti-inflation and general economic policies are used to achieve the annual economic goals, to support the long-range goals and priorities of the Full Employment and Balanced Growth Plan, and generally to strengthten and supplement the purposes of the Employment Act of 1946.

Sec. 102.—Declaration of policy. The Employment Act of 1946 is amended to declare that all adult Americans able, willing, and seeking work have the right to useful paid employment at fair rates of compensation. Moreover, the Congress further declares that the Federal Government use all practical means, including improved anti-inflation policies to promote full employment, production and purchasing power.

Sec. 103—Economic goals and the economic report of the President. The Employment Act of 1946 is amended to require the President in each annual Economic Report to recommend numerical goals for employment, production, and purchasing power, as well as policies to support these goals and achieve balanced growth and full employment of the Nation's human and capital resources promptly as possible.

Sec. 104.—Full employment and balanced growth plan. The Employment Act of 1946 is amended to establish a process of long-range economic planning, through the Council of Economic Advisers, to analyze developing economic conditions, to recommend long-term goals for full employment, production, and purchasing power, and to propose priority policies and programs to achieve such goals and to meet national needs. A long-term full employment goal is set at 3 per cent adult unemployment, to be attained as promptly as possible, but within not more than 4 years after the date of the enactment of this act.

Sec. 105.—Economy in Government. This section establishes policies and procedures to improve the effectiveness of the Federal Government through the comprehensive planning framework established under this act. In conjunction with the submission of each Full Employment and Balanced Growth Plan, the President shall submit proposals for improving the efficiency and economy of the Federal Government, including, but not limited to, a review of existing Government rules and regulations to determine if they still serve a purpose, and an annual evaluation of 20 per cent of the dollar volume of existing Federal programs.

Sec. 106.—Fiscal and monetary policies. The Employment Act of 1946 is amended to require that monetary and fiscal policies be utilized in the optimum manner necessary to achieve full employment and balanced growth, including the requirement that the President determine the extent to which fiscal policy can be relied upon to achieve our economic goals and priorities, so that it becomes possible to estimate what supplementary job creation and anti-inflation policies must be utilized to achieve the objectives of this act.

This section also requires the Federal Reserve Board to make an independent report to the President and Congress, in conjunction with each Economic Report, identifying the extent to which the Federal Reserve will support the economic goals recommended in the President's Economic Report and, if the Federal Reserve Board does not support such goals, to provide a full justification of why and to what extent its policies will differ from those recommended by the President. If the President determines that the Board's policies are inconsistent with proposed economic goals and priorities, the President shall make recommendations to the Board and Congress to ensure closer conformity with the purpose of this act.

Sec. 107.—Anti-inflation policies. The Employment Act of 1946 is amended to require that each Economic Report contain a comprehensive set of anti-inflation policies to supplement monetary and fiscal policy, including, but not limited to, analyzing inflationary trends in individual economic sec-

tors; actions to increase the supply of goods, services, labor, and mechanism for critical materials in short supply; recommendations to increase productivity in the private sector; recommendations to strengthen and enforce the antitrust laws; and recommendations for administrative and legislative actions to promote reasonable price stability if situations develop that seriously threaten national price stability.

Sec. 108.—Council of Economic Advisers. The Employment Act of 1946 is amended to require the Council of Economic Advisers to prepare the Full Employment and Balanced Growth Plan, to consult with the Advisory Committee, and to meet other requirements under this act.

Sec. 109.—Advisory Committee on Full Employment and Balanced Growth. The Employment Act of 1946 is amended to establish a 12-member private Advisory Committee on Full Employment and Balanced Growth to advise and assist the Council of Economic Advisers on matters relating to the Economic Report and this act. The members of the committee shall be appointed proportionately by the President, the Speaker of the House of Representatives and the President pro tempore of the Senate in a manner broadly representative of the Public.

TITLE II—COUNTERCYCLICAL, STRUCTURAL AND YOUTH EMPLOYMENT POLICIES

Sec. 201.—Statement of purpose. This title establishes supplementary employment policies to close the employment gap, if one should exist, between the levels of employment achieved through aggregate monetary and fiscal policy and the employment goals established in sections 103 and 104. Accordingly, this title establishes a system of comprehensive and flexible employment policies to create jobs in both the private and public sectors of the economy. These supplementary employment policies shall vary according to economic conditions and the other actions taken under this act, but focus broadly upon reducing cyclical, structural, regional, youth unemployment, and unemployment due to discrimination. This title also establishes a Full Employment Office within the Department of Labor to use special means for training, assisting, and providing employment for those people who are otherwise unable to find employment. Finally, this title mandates improved integration of income maintenance programs and full employment policies.

Sec. 202.—Countercyclical employment policies. This section requires the development and submission by the President, within 90 days of the enactment of this act, of a coherent and flexible countercyclical program to reduce high unemployment arising from cyclical movements in the economy. This comprehensive program shall include, as appropriate, public service employment, standby public works, antirecession grants for State and local governments, skill training in both the public and private sectors, and other programs. Moreover, this program shall be automatically implemented during periods of high unemployment, allocate employment assistance to areas of highest unemployment, provide for a well-balanced combination of job creation and related activities in both the private and public sectors, and incorporate transitional mechanisms to aid individuals in returning to regular employment as the economy recovers.

Sec. 203.—Coordination with State and local governments and private sectors economic activity. This section requires the development of policies that facilitate harmonious economic action between the Federal Government, regions, States, localities and the private sector. As a primary effort to achieve these ends, the President is required to submit legislation, within 90 days of the enactment of this act, creating a permanent, countercyclical grant program that will serve to stabilize State and local budgets during periods of recession and high unemployment. This program shall be automatically implemented when the national unemployment exceeds a specified level and distribute its funds to those areas of most serious unemployment.

Sec. 204.—Regional and structural employment policies. This section requires the establishment of comprehensive employment policies designed to reduce the chronic underutilization of human and capital resources in certain areas of the country and in specific groups within the labor force. As a primary effort to reduce unemployment in chronically depressed areas, the President is required within 180 days after the date of enactment of this act to submit legislation providing on institutional means to make credit available: (1) for public and private investment in economically depressed regions, inner cities, and economic sectors; and (2) to provide an alternative source of capital funds for local and State governments to finance public facilities.

Sec. 205.—Youth employment policies. This section requires the development and submission by the President, within 90 days of the enactment of this act, of a comprehensive youth employment program to: (1) foster a smoother transition from school to work; (2) prepare disadvantaged youths with employment handicaps for self-sustaining employment through education, training, medical services, counseling and other support activities; (3) develop methods of combining training with work, including apprenticeship and on-the-job training in the private sector; and (4) provide job opportunities in a variety of tasks including conservation, public service activities, inner-city cleanup and rehabilitation and other jobs of value to States, local communities, and the Nation.

Sec. 206.—Full Employment Office and job reservoirs. To insure that full employment is achieved under this act, the President, through the Secretary of Labor, shall develop policies and programs to provide job opportunities to adult Americans who, despite a serious effort to obtain employment, are unable to do so in the general economic environment, or through any of the other provisions of this act. There is established within the Department of Labor a Full Employment Office to assist the Secretary of Labor in providing such job opportunities through counseling, training, and referral to job opportunities in the private sector and in positions drawn from sections 202, 204, and 205 of this act. Additional job opportunities will be provided, subject to regulations on job need and eligibility, through reservoirs of federally operated or approved employment projects, to be phased in by the President in conjunction with the annual employment recommendations required under section 3 of the Employment Act of 1946, and to achieve 3 per cent unemployment within 4 years of enactment of this act.

Sec. 207.—Income maintenance and full employment policies. This section requires that full empolyment policies: (1) provide quality jobs that strengthen income and eliminate substandard earnings; (2) integate existing income maintenance polices with the full empolyment policies established by this act; and (3) substitute work for income maintenance to the maximum extent feasible.

TITLE III—POLICIES AND PROCEDURES FOR CONGRESSIONAL REVIEW

Sec. 301.—Statement of purpose. This title establishes procedures for congressional review and action with respect to the annual economic goals in the Economic Report, the Full Employment and Balanced Growth Plan, the report of the Board of Governors of the Federal Reserve System, and the other policies and provisions of this act. This title also establishes a Division of Full Employment and Balanced Growth within the Congressional Budget Office to assist the Congress in meeting its responsibilities under this act.

Sec. 302.—General congressional review. This section establishes the responsibilities of the Joint Economic Committee, the Committees on the Budget, and other appropriate committees of Congress.

Sec. 303.—Congressional review of economic goals in economic report. This section requires the Joint Economic Committee to review and make recommendations to Congress on annual numerical goals for employment, production, and purchasing power proposed by the President under section 3 of the Employment Act of 1946. The Joint Economic Committee shall submit such recommendations to the Committees on the Budget of both Houses, for incorporation in the first concurrent budget resolution, subject to such modifications as necessary to fulfill the objectives of this act and to meet the requirement of section 3A of the Employment Act to achieve full employment within not more than 4 years after the date of enactment of this act.

Sec. 304.—Congressional review of full employment and balanced growth plan. This section provides for congressional review of the Full Employment and Balanced Growth Plan, including reports to the Joint Economic Committee from the standing committees of Congress on matters that relate to the plan, public hearings before the Joint Economic Committee, and consideration of State and local views on the plan. Following the above actions, the Joint Economic Committee shall report a concurrent resolution to Congress approving, disapproving or modifying the proposed plan, with such a resolution serving as a long-term guide to the Congress with respect to the goals, priorities, polices, and programs recommended in the plan. The President is to be notified of changes in the proposed plan, for such, actions as deemed appropriate.

Sec. 305.—Division of full employment and balanced growth. This section establishes a Division of Full Employment and Balanced Growth within the Congressional Budget Office to assist the Joint Economic Committee in the discharge of its duties under this act, particularly with respect to long-term economic analysis and planning, and to assist other committees and Members of Congress in fulfilling their responsibilities under this act.

Sec. 306.—Exercising of rulemaking powers. This section provides that the provisions of this title, other than section 305, be incorporated into the rules of the House of Representatives and Senate, respectively, with full recognition of the constitutional right of either House to change such rules.

TITLE IV—GENERAL PROVISIONS

Sec. 401.—Nondiscrimination, No person in the United States shall on the ground of sex, age, color, religion, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this act. The Secretary of Labor is empowered to enforce such nondiscrimination through the Attorney General, title VI of the Civil Rights Act of 1964, and such other actions as may be provided by law.

Sec. 402.—Labor standards. This section provides that policies and programs implemented and mandated under this act shall provide that those empolyed are paid equal wages for equal work, and that the policies create a net increase in employment through work that would not otherwise be done. The section further prescibes a range of labor standards applicable to particular situations of employment.

Sec. 403.—Authorizations. Being a general economic policy act, the sums authorized for appropriation are those necessary to estab-

lish long-range economic planning, the Advisory Committee on Full Employment and Balanced Growth, the establishment of the Full Employment Office and job reservoirs, and other administrative matters. The authorizations and appropriations for other programs mandated under this act are to be determined in conjunction with each separate piece of legislation.

HIGHLIGHTS OF THE HUMPHREY-HAWKINS FULL EMPLOYMENT AND BALANCED GROWTH ACT

The proposed Full Employment & Balanced Growth Act seeks to assure that every American able to work will have the opportunity for a useful job at fair wages.

It establishes a national goal of bringing the unemployment rate down to 3 per cent or less within four years—and keeping it there. It sets up procedures for the President, the Federal Reserve Board and Congress to pull in the same direction of full employment, production and purchasing power.

As a starter, the bill directs the President's Council of Economic Advisers to shape both long-term and short-term plans for a full employment economy. The council would be assisted by an advisory committee representing the major groups in the economy.

It requires the Federal Reserve Board, which now has almost unchecked power over the money supply and interest rates, to report to the President and Congress on the policies it plans to follow in order to further the full employment goals—or to justify its refusal to do so.

The bill accepts the fact that government monetary and fiscal policies may not always be sufficient to achieve the full employment goal. Therefore, it directs the President to submit to Congress within 90 days a "countercyclical" program to keep down unemployment when the private sector falters. This would be permanent legislation, triggered by rising unemployment and phased out as the economy improves.

The President is directed to consider in shaping his legislation proposals such ingredients as public service jobs and accelerated public works. The final form of the legislation would, of course, be determined by Congress.

A separate section of the bill requires the President to submit "a permanent, countercyclical giant program that will serve to stabilize state and local budgets during periods of recession and high unemployment."

Other provisions require development of special programs to utilize the nation's economic and human resources in "chronically depressed areas" and establishment of a comprehensive youth employment program. This would be designed to ease the transition from school work and to provide job training for youth with employment handicaps.

The bill seeks to hold down federal costs in non-priority areas by providing an annual review of 20 per cent of the government's continuing programs to determine if they still serve a need.

It also directs the Council of Economic Advisers to keep an early-warning watch for inflationary signs and to recommend actions to promote price stability if inflation threatens.

WHAT THEY SAY ABOUT H.R. 50—S. 50

Senator Jacob Javits, N.Y.—This is the 30th anniversay of the Employment Act of 1946. The irony of the situation lies in that we are further away from the promise of that legislation than we were then.

Economist Hendril Houthakker—We have not yet found a good way of combining reasonably full employment with reasonable price stability. Public concern forces policy makers to counteract inflation even at the expense of employment. Even if the public were prepared for it, continued inflation would probably not ensure continued high employment.

Economist Byron Johnson—We who were economists in Washington during World War II know that this nation can do better, because it has done better, under far more strains than we now face. It is not enough to want to fight inflation, as the Administration does. For the high unemployment it tolerates not only has a heavy economic cost—it places an unreasonable social and political cost upon the whole nation.

Economist Walter Heller—The public may oppose big spending and bothersome controls, yet support good programs and measures to speed the return to full employment. To be sure, this road is posted with 55-mile-an-hour speed limit signs, but also with reminders that the minimum speed is 45 miles per hour.

Bishop James S. Rausch—(U.S. Catholic Conference)—Bishop Rausch cited the National Conference of Catholic Bishops which declared that "opportunities to work must be provided for those who are able and willing to work. Every person has the right to useful employment, to just wages, and to adequate assistance in cases of real need."

Rev. Arthur B. Keys, Jr.—(National Council of Churches)—Rev. Keys said that his organization considers full employment a prerequisite for social progress in other areas. He said the federal government has a "duty and an obligation to assure a job for every person willing and able to work."

Rabbi A. James Ruben—(American Jewish Committee)—Rabbi Ruben said that the committee fully supports the goals and concepts of the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1976.

UNEMPLOYMENT TODAY?—HOW MUCH IS TOLERABLE?

(By Dr. Leon H. Keyserling)

Unemployment reached a peak of 8.9 percent in May, 1975, averaged 8.5 per cent for the year and had declined to just under 8 per cent at the end of the year.

These figures, however, understated the real extent of unemployment.

Dr. Leon H. Keyserling, who helped inspire and draft the Employment Act of 1946 and then gave leadership to implementation of the system as chairman of the President's Council of Economic Advisers under President Harry S. Truman, has estimated the current levels of unemployment as follows in a new study published in January, 1976, entitled "Toward Full Employment Within Three Years:"

In December, 1975, full-time unemployment was 8.3 per cent of the labor force.

The full-time equivalent of part-time unemployment was 1.7 per cent.

Concealed unemployment of those no longer counted as unemployed because they have been discouraged from active search for jobs by the scarcity of job opportunities was equal to 1.2 per cent of the labor force.

Dr. Keyserling said that the number of unemployed in all three categories was 10.6 millions in December, 1975 and this equalled a total of 11.2 per cent true unemployment.

More light on the depth and character of unemployment is indicated in data from the U.S. Joint Economic Committee and the Congressional Budget Office.

Joblessness among workers in particularly distressed industries, of course, is severe. Among construction workers, for example, unemployment is 15.5 per cent.

Among non-white teenagers more than one-third—a total of 35.2 per cent—are without work.

Half of today's unemployed are under the age of 25 years.

The average duration of unemployment has doubled in the past year.

From January, 1974 to November, 1975, the percentage of heads of households who were without work increased from 2.9 per cent to 5.6 per cent.

When the Employment Act of 1946 was adopted, it was considered that full employment would prevail if unemployment was at 3 per cent or below.

During the decade of the 1950's this 3 per cent goal was still adhered to by economists and national leaders as a reasonable and attainable figure.

President Dwight Eisenhower's Commission on National Goals said in November, 1960, that "we must seek to keep unemployment consistently below 4 per cent of the labor force."

In January, 1962, in the Economic Report of the President, John F. Kennedy said that "in the existing circumstances, an unemployment rate of about 4 per cent is a reasonable and prudent full employment target."

Now, in 1975 and 1976, it appears that Administration economists consider that an unemployment rate of 6 per cent would be acceptable.

Sponsors of the Humphrey-Hawkins bill consider that a 3 per cent target for unemployment is reasonable, attainable and essential.

FOREIGN POLICY ASSOCIATION POLLS THOUSANDS ON U.S. FOREIGN POLICY

Mr. SPARKMAN. Mr. President, the Foreign Policy Association is the oldest nationally based grassroots international affairs organization in the United States. FPA, which conducts the yearly great decisions program, met in Washington for a conference on "Great Decisions in U.S. Foreign Policy."

On Tuesday, April 27, 109 members of the group from 37 States, including, I might add, George M. Faulk of the University of Alabama in Tuscaloosa, met with Senators DICK CLARK, CLAIBORNE PELL, and me to discuss foreign policy and report on an interesting survey taken by the association.

Literally thousands of Americans discussed eight topics during the year and then expressed their opinions in written form so that there could be a general picture of what informed citizens thought about the subjects.

I believe it is important for Congress to be aware of the opinions of such an impressive and involved group, seriously interested in the operations of our foreign policy.

With that in mind I ask unanimous consent that a brief summary of those opinions in the form of a statement from the Foreign Policy Association be printed in the RECORD.

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

STATEMENT OF FOREIGN POLICY ASSOCIATION

For the first time in the 22-year history of the nationwide Great Decisions discussion program, the Foreign Policy Association has conducted a national tabulation of opinion ballots. The ballots permit participants to express their views on eight major foreign policy issues confronting the nation. This year's topics were Arabs vs. Israelis, Our Mediterranean Commitments, Latin America and the U.S., Asia After the Vietnam War, The American Dream Among Nations, The U.S. in the World Economy, India, and Rethinking U.S. Foreign Policy.

Over 60,000 participants in 47 states and the District of Columbia took part in the Great Decisions program and submitted an average of 5,000 ballots on each topic.

ARABS VS. ISRAELIS

A large majority favored the creation of a Palestinian state, but less than half would recognize the PLO as representing the Palestinians. Large majorities favored the presence of U.S. technicians in the Sinai and an active U.S. role in mediating between Arabs and Israelis. Arms sales to Israel were favored by about half, but arms sales to Egypt by less than a third. Most ballots opposed either U.S. or NATO security guarantees to Israel.

OUR MEDITERRANEAN COMMITMENTS

A sizable majority favored maintaining the U.S. Sixth Fleet at its present level, but opinion was almost evenly divided on whether or not to match any build-up of Soviet naval strength. A majority opposed any intervention in Portugal by the U.S. alone to prevent a Communist takeover, but a slight plurality would accept NATO intervention for this purpose. A large majority opposed the idea of abandoning our bases in Spain and making a new agreement until a democratic government is established there. A clear majority opposed any U.S. attempt to exert political and economic pressure on Italy in order to prevent Communists from being taken into a coalition. On the Cyprus dispute, a majority were opposed to pressing Turkey to make concessions to Greece and opposed the use of arms sales for this purpose. An even stronger majority favored letting Greece and Turkey settle the Cyprus dispute by themselves.

LATIN AMERICA AND THE U.S.

Regarding the Panama Canal, only 18 percent favored the U.S. giving up effective sovereignty. However, 47 percent expressed approval of a new treaty which would limit the right to defend and operate the canal within a definite time period. Opinion was almost evenly divided on lifting restrictions on direct trade with Cuba. There was overwhelming support for maintaining profitable economic and friendly relations with all Latin American nations, with a smaller majority favoring some official disapproval of the repressive policies of authoritarian regimes. There was also a majority for amending the 1974 Trade Act which now denies preferential treatment to Venezuela and Ecuador.

ASIA AFTER THE VIETNAM WAR

A large majority opposed renouncing the U.S.-South Korean defense treaty; a smaller majority would maintain U.S. military forces in South Korea at their present level for use against any invasion from the North. However, a clear majority favored gradual removal of the U.S. military presence from Korea. The security of Japan is regarded as vital to the United States by an overwhelming majority, which favored continuing the U.S. "nuclear umbrella." Opinion was divided on whether to press Japan to increase her conventional defense forces. Concerning Taiwan and the People's Republic of China, a majority favored the "Japanese formula"—full diplomatic recognition of the PRC while continuing economic relations, as well as the bilateral defense treaty, with Taiwan. A large majority supported a policy looking toward eventual independence for Taiwan. A majority would establish diplomatic relations with Vietnam. An overwhelming majority favored a continuing U.S. military presence in the Philippines.

THE AMERICAN DREAM AMONG NATIONS

The majority supported a U.S. foreign policy which favors U.S. national interests, conforms to moral principles based on the Judeo-Christian tradition, and seeks friendly relations with all nations which are important to the U.S. for economic or security reasons. However, the majority did favor official disapproval of repressive practices of authoritarian regimes. A majority also believed the CIA should continue covert activities important to national security.

THE U.S. IN THE WORLD ECONOMY

The Great Decisions respondents clearly supported implementation of Secretary Kissinger's September 1975 UN proposals aimed at cooperation between rich and poor nations. The respondents were clearly opposed to the third-world proposal for a "new international economic order" to redistribute the world's wealth. A small majority preferred reliance on a free market and existing economic institutions to promote growth and prosperity.

INDIA

The respondents' views on India supported maintenance of friendly relations with diplomatic correctness while at the same time avoiding official U.S. disapproval of Mrs. Gandhi's actions. A cut-off of aid drew little support. Only a minority would renew the embargo on arms shipments to Pakistan.

RETHINKING U.S. FOREIGN POLICY

On detente with the Soviet Union, over two-thirds favored continuing the present policy. There was similar support for maintaining our present commitment to NATO and pressing for a united Western Europe. Two out of three respondents favored strengthening the UN and making it a major instrument of U.S. policy. There was substantial support for a temporary—but not permanent—surrender of sovereignty to resolve specific global problems like nuclear proliferation. A small plurality spoke for a supranational world government.

GUN CONTROL

Mr. McGOVERN. Mr. President, I would like to call the attention of my colleagues to an editorial on gun control which appeared in the April 16, 1976, issue of the Rapid City Journal.

In the past, the Rapid City Journal has generally opposed Federal legislation to increase regulation of firearms and ammunition, a position shared by many South Dakotans. It is interesting to note, therefore, that this influential newspaper has commented favorably upon the gun control bill recently approved by the House Judiciary Committee.

As the Journal editorial points out, gun control is a topic which arouses very strong emotions. In many of our high crime urban areas, law enforcement officials and a clear majority of the public support strong measures to limit or to eliminate access to handguns of all kinds. In other areas, however, where crime is not so great a problem as it is in the cities, many people are concerned that additional Federal gun control legislation will eventually lead to undue restrictions on the legitimate rights of sportsmen, gun collectors, and individuals who wish to keep guns for self-protection.

The House Judiciary bill, which bans the sale of so-called Saturday night specials and imposes mandatory minimum jail sentences for Federal crimes in which a gun is used, is not likely to be greeted with great enthusiasm by partisans of either side in the gun control controversy. Gun control opponents argue that any bill, even a relatively limited one, sets the precedent for tighter regulation in the future. Many supporters of stronger controls, on the other hand, would no doubt agree with a recent Washington Post editorial which described the House Judiciary bill as "worse than nothing."

I, for one, do not believe that the rights of sportsmen and collectors would be endangered in any serious way by a ban on cheap, easily concealed handguns. As a hunter, I know that there is no sporting use for these inferior weapons. In fact, I believe that the longer we permit criminals and potential criminals to acquire these weapons easily, the more likely it is that aroused public opinion will eventually lead the Congress to adopt stringent limitations on all gun ownership.

The case against the cheap handgun—"the Saturday night special"—is overwhelming. A recent study conducted by the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury, for example, found that 71 percent of 10,617 guns seized by police in street crime arrests in 16 cities were in the "Saturday night special" category. And according to Chicago Police Chief James M. Richford, an analysis of armed robberies in that city in the first 10 months of 1974 showed that of 11,626 reported incidents, 10,646 involved an offender armed with firearms. In 95 percent of these cases, the weapon was a handgun.

That said, however, I think it is necessary to point out, as South Dakota Gov. Richard Kneip has stated that gun control legislation offers no panacea in the struggle against street crime. In the short run, at least, handgun registration and control would probably have little effect on the flow of guns to criminals. This is so because handguns, already abundant in our country, can be stolen from legal owners or purchased illicitly on the black market. If addicts can obtain illegal heroin on our streets, criminals will be able to obtain illegal guns.

I agree with Governor Kneip that no single measure will be sufficient to end the wave of vicious crime and senseless violence in our country. Handgun controls may help, but I believe that the provisions in the House Judiciary bill for mandatory minimum sentences for those convicted of using guns in committing Federal crimes may have a much greater immediate effect, particularly if States and localities enact companion legislation. With mandatory sentencing in effect, many of the habitual criminals, who commit a high proportion of crimes in this country, will either have to find a new line of work or be prepared to spend long stretches behind bars.

Mr. President, both sides in the gun control debate make important points to which we should give the most careful consideration in framing gun-related legislation. I hope that we shall be able to put rhetoric aside on this emotional issue and strike a fair balance between the real interests involved.

In order to illustrate the range of views which responsible Americans bring

to the gun control question, I ask unanimous consent that editorials from the April 16, 1976, Rapid City Journal and the April 21, 1976, Washington Post be printed in the RECORD. In addition I ask unanimous consent to print a letter dated March 4, 1975, in which Governor Kneip outlined the position he continues to hold on gun control and another letter, dated April 15, 1976, from Baltimore City Council President Walter S. Orlinsky on the tragic shooting death of Baltimore City Councilman Dominic Leone.

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

NEW GUN CONTROL PROPOSAL REASONABLE

Gun control legislation that appeared to be dead has been given new life in the U.S. House of Representatives.

The House Judiciary Committee Tuesday reversed an earlier stand and sent to the House floor a modified control bill that omits some features opponents criticized in earlier legislation.

The new proposal would ban the manufacture and sale of small, inexpensive handguns commonly referred to as "Saturday night specials" and would set minimum mandatory prison sentences for crimes involving use of guns.

The legislation would not affect guns already in the hands of private owners.

The bill proposes to extend standards of a 1968 law which bans importation of Saturday night specials to domestic production and sales. The standards spell out which handguns are banned such as pistols less than six inches in length and revolvers with barrels less than four inches in length.

The mandatory penalties for use of a gun in a violent crime include a prison term of at least one year for a first offense and two to twenty-five years for repeat offenders. Those sentences, which couldn't be suspended by a judge or run concurrently with any other jail term, would be in addition to prison terms already provided for the crime involved.

Gun control is a highly emotional subject. Opponents view any efforts at control as the opening wedge in a drive to prohibit private ownership of firearms of any kind.

It would appear, however, that the compromise legislation which will go to the floor of the House following the Easter recess addresses the most critical problem concerning guns—their use in the commission of crimes.

The restriction on the small, cheap handgun would not affect the type of gun which most law-abiding citizens want to own for recreational purposes or to protect their person or property. If would however be a deterrent to traffic in, and use of, easily concealed weapons in the commission of street crimes.

While we recognize regulation can lead to more and stricter regulations, we think the new proposal has merit and is in the interest of the majority of law-abiding Americans. We would oppose further restrictions but think outlawing of the Saturday night special and mandatory jail sentences for the use of guns in the commission of violent crimes is not unreasonable.

[From the Washington Post, Apr. 21 1976]

A GUN BILL WORSE THAN NOTHING

The latest incarnation of a gun control bill on Capitol Hill, voted out of the House Judiciary Committee last week, is more symbolic than substantive. It symbolizes the strength and tenacity of the arms makers and gun lobbyists. The bill's defenders say little more for it than that it is, after all, a bill on the general subject of gun control.

Well, that's something to be able to tell the folks back home. But we trust they won't be fooled into thinking that this is a serious gun control bill. About the time last week that this thoroughly compromised piece of legislation was struggling out of the Judiciary Committee, the folks back home in Baltimore were getting a taste of the real world of handguns. A frustrated and deranged citizen went berserk in the Baltimore city hall with a .38 caliber handgun. When it was over, a city councilman was dead and several people were injured. It is just this kind of senseless slaughter that Rep. Martin Russo (D-Ill.) had in mind when he sought to ban the manufacture of concealable handguns last month. The bill containing his important amendment was sent back to subcommittee by a vote of 18–17. The Russo bill was far from perfect; it met what you might call a minimum standard of decency.

Would that the same could be said for its successor. In the new bill, the concealability standard is gone. A provision that would establish by law a national tracing center to systematically track down the sources of handguns used in crime is gone. Instead, the bill bans the manufacture of cheap handguns, which is an exceedingly modest contribution to the problem of handgun proliferation. The gun that killed the Baltimore councilman, for example, would have had no difficulty passing the Judiciary Committee bill's standards.

If the compromisers in the Judiciary Committee could have hung onto the national tracting center provision in the bill, that might have been its one saving grace. The defeat of that provision points to the fine hand of the gun lobbyists. There is now a tracing center in the Treasury Department, established by regulation rather than by law, and limited in its scope. The kind of tracing center this legislation anticipated would have been a different story, and a potentially embarrassing one to the arms purveyors. That is so because under this law a truly effective tracing process could have been established, one that might have shed light on the sordid underside of the gun business. If and when such a tracing center comes into existence it will be theoretically possible for the police to trace back to its source every gun used in a violent crime. Many of the guns involved in violent crime in this country are relatively high-quality guns that have been stolen, often very soon after manufacture. A full-scale tracing center would reveal the pattern of those thefts and might impart vital information on how guns wind up in the hands of the underworld.

Rep. Thomas F. Railsback (R-Ill.) led the way in killing the tracting center provision, just as he led the way in killing the whole of the concealability bill. This time, his argument was that a tracing center looks to him like the thin end of a long wedge called gun registration. It is in fact no more than a passive police tool that might tell us a great deal about the relationship of guns and crime.

What, then, is left to commend in this sorry legislative performance? One of the groups working for a sane firearms policy in this nation of 40 million handguns has suggested that passing this bill in the House might afford the opportunity for improvement by conference, a risky proposition when the alternative is considered. What happens if no improvement materializes in conference? We are left with this tattered compromise as the law for years to come. Such a result would be undesirable for a number of reasons, not the least of them that Congress can do better if it tries again in a non-election year. It is unfortunate that this bill is all the crime subcommittee of the Judiciary Committee has to show for a long and arduous effort. The subcommittee worked diligently for a serious bill. It was, if you please, outgunned. The result is a bill that is worse than no bill at all.

STATE OF SOUTH DAKOTA,
Pierre, S. Dak., March 4, 1975.

Hon. GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR GEORGE: Thank you for your recent letter and for providing me the opportunity to outline our views concerning possible gun control legislation.

I read with interest the editorial you enclosed. My approach to gun control legislation deals directly with the question, "How will that legislation impact on the problem?" It seems that in those areas where gun control legislation has been enacted, it has had little or no impact on major crimes involving guns. It might be well to note that legislation offers no panacea.

George Bennett, my Secretary of Public Safety, has provided information which is worth noting. Only about 58% of the total major felonies end up as convictions. During the years 1964–1973, 858 law enforcement officers were slain. Some 77% of the identified assailants had records of previous arrests. Approximately 59% had been *convicted* of a crime before. (This needs to be correlated to the 58% conviction rate noted above.) Nearly two-thirds of these were free through parole or pardon at the time the officers were killed.

Our current laws are quite specific in prohibiting the carrying of a concealed weapon. This gives us the authority to deal with the criminal element and their weapons without additional legislation. I do not believe that the registration of guns would change the attitude or habits of the criminal. Since he is already in violation of the law by carrying a concealed weapon, it seems unreasonable to think that he would alter his association with guns because of additional laws on registration and control. The flow of illegal guns to the criminal element will not be prevented and probably would not even be reduced by gun control legislation.

The registration of all handguns is not objectionable. It is not commonly recognized but I believe that the fact that most households do have guns does act as a deterrent to the criminal element. The degree of this deterrence is not known but must exist.

The confiscation of all weapons could eliminate their use in the crime of passion resulting from friend and family quarrels but a careful evaluation of these types of crimes indicates that in the absence of a gun, other weapons are just as effective.

One action that could reduce the use of firearms in criminal activities would be for the courts to treat any crime involving the use of a gun as a major crime and issue judgments accordingly. Those individuals who are convicted of violent crimes involving weapons are identifiable and should pass special psychological tests before being considered for parole.

In summary, we support the registration of *handguns* and encourage the strong enforcements of the current law concerning the carrying of concealed weapons. The difficulty of eliminating illegal gun flow to the criminal element must be a consideration of any new laws that are passed. We should not enhance the criminals' ability to disadvantage society by controlling only the weapons owned by law abiding citizens.

Sincerely,

RICHARD F. KNEIP,
Governor.

BALTIMORE CITY COUNCIL,
Baltimore, Md., April 13, 1976.

DEAR SENATOR: Dom Leone died today. He was a City Councilman in Baltimore, Maryland. There is no real reason that you who

are elected to represent vast populations should take more notice of this than any other stupid act of senseless violence which hour by hour takes place in this vast land of ours. His death is not as prominent as the death of Abraham Lincoln, John Kennedy, Martin Luther King or Robert Kennedy—it is just a passing event like all too many others, except to those who loved and respected the departed. It is the price we pay for living in the world's greatest democracy.

Let me just tell you that Dom Leone would have gladly borne any burden or paid any price, including his very life, for his country. What is not clear to me, however, is that the concept of devotion to our country includes being gunned down because the National Rifle Association and their allies think we should allow our citizens the untrammeled right to carry around and use at will their "Saturday night specials." No one can convince me that Thomas Jefferson, on whose birthday Dom Leone died, conceived of the "Saturday night special" as one of man's inalienable rights.

I hope you will consider this as you vote on the weak, but better-than-nothing, House Gun Bill. How many more must die in this senseless, stupid and wasteful way before we choose to protect our inalienable right to life from the "Saturday night special" whose only purpose is to take life? God only knows.

Sincerely,

WALTER S. ORLINSKY.

TRIBUTE TO BEA JOHNSON

Mr. DOLE. Mr. President, I would like to take a few moments to pay tribute to a woman who devoted the last years and months of her life to the fight against cancer.

Bea Johnson, of Mission Hills, Kans., was a remarkable woman who led the 1975 Johnson County Cancer Crusade and helped turn it into the most successful fundraiser ever held in that area. A nationally known radio, television, and newspaper commentator, Bea last year made a film detailing her personal battle with cancer and her hopes for the future of cancer research. This film has been shown all over the country and has solicited enormous support for the cancer crusade.

Although that personal battle with cancer ended last Thursday, the work she began will go on through the many volunteers she enlisted and inspired.

I ask unanimous consent that two newspaper articles from the Johnson County Sun newspapers be printed in the RECORD. They detail, much better than I could, the outstanding life Bea Johnson led—her contributions and strengths serve as an inspiration to us all.

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

CANCER FIGHTER BEA JOHNSON DEAD

Mrs. Bea Johnson, 5620 High Drive, Mission Hills, nationally known radio, television and newspaper commentator, died Thursday, April 29, at St. Luke's hospital after living with cancer for the past two years.

Mrs. Johnson, who has concentrated the last months of her life in enlisting volunteers in the fight to end the threat of cancer, said she felt the most important thing she ever had done was her work with the American Cancer Society and the Cancer Crusade.

Last year she was co-chairman of the Cancer Crusade in Johnson County, helping guide a drive which raised the greatest amount of money in the Crusade's history in the county. She was serving this year as honorary co-chairman of the campaign.

In recognition of her contribution to the fight against cancer, former Governor Robert Docking, chairman of the Kansas Cancer Crusade, announced the establishment of the Bea Johnson Memorial Fund for the American Cancer Society.

"Bea's greatest wish was that the fight against cancer be carried on by her fellow volunteers," Docking said. "She asked that she be remembered through contributions to the American Cancer Society, and for that reason we have established the Bea Johnson Memorial Fund. We are asking Kansans to remember her by making a special contribution in her name."

Mrs. Johnson was a native of Warrensburg, Mo., and a graduate of the University of Missouri School of Journalism. She entered the field of journalism by writing a newspaper column when she was only 15, and the column later became a syndicated feature.

For 26 years Mrs. Johnson was known for her broadcasts on KMBC and KFRM radio and later KMBC–TV in Kansas City. She did a daily television program, "Bea Johnson's Happy Home."

She is survived by her husband, R. Dean Johnson; two daughters, Jill Jones of Shawnee, and Becky Keller of Malibu, Calif.; a sister, Mrs. Betty McDowell of Kansas City; and four grandchildren.

Funeral services will be at 11 o'clock Saturday morning at the Country Club Christian Church, 6101 Ward Parkway. Burial will be at Johnson County Memorial Gardens.

The family requests that donations be made to the Bea Johnson Memorial Fund of the Kansas Division of the American Cancer Society in lieu of flowers.

BEA JOHNSON'S CAREER SPANNED CONTINENTS, YEARS

(By Judy Katz)

On Bea Johnson's desk for two years lay a statement about fear. Facing pain and the certain knowledge of death, this anonymous quote had meaning for her:

"Fear is a wild horse that needs a tight rein, for it is both friend and foe, both good and evil, and to live effectively, man must learn to master it."

Over a year ago, Mrs. Johnson talked to this reporter about her terminal cancer and said frankly: "I'm not a brave person. I'm the biggest coward in the world. I'm always looking under the bed when I'm home alone!" But she faced known death and she turned it in her own lifetime into a triumph of hope for other people.

Her career as a television personality, national speaker, tour entrepreneur and interviewer of the heads of state of almost every major foreign power meant less to Bea Johnson than her most recent job, that of cochairman of the Johnson County Cancer Crusade.

Bea helped turn the 1975 Cancer Crusade into the most successful fund raiser of all time. The Johnson County Crusade set a new record last year, doubling the amount raised in any previous year.

This year, although Bea Johnson's health has not permitted her to take an active part in the Crusade, she was named Honorary Co-Chairman. Shirley Rose again accepted the responsibility of heading the Johnson County drive.

HER LAST WORK

The film that Bea Johnson made last year, detailing her personal battle with cancer and her hopes for the future of cancer research has been shown all over the country. Everywhere people respond with tears and more importantly to Bea, their support.

Talking directly to her audience, Bea Johnson relates in the film how cancer will affect everyone. The statistics tell the story, she says Two out of three families will have someone in their family suffer from cancer; one out of four women will have cancer.

Bea Johnson often told her daughters, Becky and Jill, she felt her work for the American Cancer Society was the most important thing she had ever done.

The statement has even more meaning when one looks at Bea Johnson's career.

Born in Warrensburg, Mo., and graduated from the University of Missouri School of Journalism, Bea was a radio and TV commentator on KMBC–KFRM and KMBC–TV for 26 years. Her daily television program was called "Bea Johnson's Happy Home."

KINGS AND PRESIDENTS

A correspondent to national and international Big Four conferences, Bea Johnson interviewed presidents, prime ministers, kings and dictators. She was the first woman journalist to interview Premier Khrushchev in his office.

In interviewing these government leaders, Bea said: "If you are to report honestly on today's world and the heads of state who manipulate its fate, you must go to each country to talk to them and their people."

To this end, she organized annual tours to foreign countries for national journalists and arrange for them to interview heads of state and other powerful personages.

Simultaneously with the television show and annual tours, Bea Johnson was speaking nationally about her travels and experiences. In all, she traveled to some 47 states on her lecture circuits and at several, her dinner companion at the banquet preceding the speeches was a young senator named John F. Kennedy.

AWARDS AND HONORS

In response, the country showered Bea Johnson with awards and even more duties. She won 12 of the nation's top radio-television awards, including McCall's Golden Mike award for the broadcaster accomplishing the greatest community service in America; the Zenith award for excellence of programs and distinguished service to American TV; the Ohio State award for outstanding programs directed to women and the Matrix Table Award presented last year by the Kansas City chapter of Women in Communication.

Bea Johnson was named to national committees by both Republican and Democratic presidents, including the Defense Advisory Committee-Women's Division. She was a national director of American Women in Radio and TV, a charter member of the first People to People council, national director of the Advertising Federation of America, national board chairman and president of Gamma Alpha Chi, national advertising fraternity, docent at the Nelson Atkins Gallery and active in the Kansas City Art Institute and an active member of the Philharmonic Association.

"The life of Bea Johnson is a testimonial of service, concern and love," said U.S. Rep. Larry Winn, a long-time friend of the Johnson family. "Her life represents the finest qualities in public service and personal devotion. Her service to the American Cancer Crusade is unparalleled anywhere in America.

"We will miss her deeply, but we will treasure the memory of her total commitment of service to others," Winn said.

It is a fitting epitaph for a gallant woman. Bea Johnson will be missed by more than her many friends. She will be missed by the thousands of cancer sufferers and their families who will all gain from the love and concern she showed for them.

ANIMAL WELFARE AMENDMENTS

Mr. GRIFFIN. Mr. President, recently President Ford signed into law the Animal Welfare Act Amendments of 1976, which should provide better protection for animals in transit, as well as help curb the practice of animal fighting

This morning, the Washington Post reported an unfortunate incident that demonstrates the need for this important legislation—legislation which I was pleased to cosponsor and which has been more than 6 years in the making.

A few days ago, the Christian Science Monitor ran an article which does a good job of summarizing the major points of this legislation.

Mr. President, I ask unanimous consent that both of 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 Washington Post, May 3, 1976]

SIXTEEN HORSES ARE FOUND DEAD AFTER PLANE FLIGHT

RIO DE JANEIRO, May 2.—Sixteen of 52 horses flown yesterday from the United States were dead on arrival aboard a single plane at Sao Paulo International airport; authorities reported today.

Veterinary surgeon Flamarion Suhro said the animals may have died as a result of a sharp change in pressure aboard the aircraft; but he stressed that the cause of death could only be proved by autopsies. All but one of the dead horses were pregnant mares.

Six of the survivors were foals born shortly before the flight. All were receiving medical treatment before being handed over to the importers, a group of breeders in Presidente Prudente, Sao Paulo state.

[From the Christian Science Monitor, Apr. 26, 1976]

NEW LAW HITS ANIMAL "SPORTS" FIGHTING, INJURIOUS SHIPPING

(By David Anable)

NEW YORK.—A six-year effort to guarantee the humane treatment of animals in transit has finally succeeded.

President Ford's signing of the Animal Welfare Act amendments last week enables uniform standards to be established for the humane treatment of the hundreds of thousands of animals which are shipped around the United States every year.

In addition, the new legislation strikes out against the growing "sport" of dogfighting as well as cockfighting. It makes it illegal to sponsor an animal fight or to deliver, buy, sell, or transport an animal in interstate commerce for fighting purposes.

The only exception to the anti-fighting rule is that the law does not cover cockfighting in those states (five of them) where cockfighting is legal.

Humanitarians greeted the passage of the legislation with emotion and relief. There had been some fears earlier that President Ford would veto the legislation, mainly because of what the White House termed "the federal police force implications" of enforcing the ban on animal fighting.

However, the overwhelmingly favorable votes in both houses of Congress appear to have caused the White House to go along with the legislation. The final version was approved in the House, 332 to 31, and in the Senate 90 to 0.

Up to now, weak state laws or poor enforcement of them have enabled dogfighting to grow into a popular underground "sport" with its own related publications and events staged around the country.

Many have been appalled by this development. They point out that this is a viciously cruel pastime.

Dogs are trained to kill using animals such as kittens, chickens, then set against each other in a contest in which they chew each other to a mangled standstill and often death. Heavy betting keeps the "sport" alive.

The cruelty frequently involved in transporting animals also has become the focus of greater concern in recent years, especially with the growth of the pet and puppy farm business.

This can vary from the thoughtless or callous leaving of caged animals to bake at airline terminals in scorching summer sun or to freeze in sub-zero winds. Or it may involve the dispatch of puppies, kittens, and other animals in flimsy, splintering crates so as to save the dispatcher the dollar outlay on decent equipment.

The new legislation permits the Secretary of Agriculture to lay down minimum standards for such things as crates, feed, water, ventilation, and veterinary care. If this legislation is properly applied and enforced, and that is where the next test lies, it is hoped it will save many animal lives.

FBI STANDS IDLY BY WHILE BROADCASTER IS MAIMED FOR ANTI-CASTRO STATEMENTS

Mr. HELMS. Mr. President, last Friday a bomb exploded in the automobile of Mr. Emilio Milian in Miami as he left station WQBA after his evening broadcast. I know Mr. Milian as a courageous and outspoken broadcaster who is not afraid to tell his Spanish-speaking audience the truth about U.S. policy in Cuba, and the aggressive actions of Fidel Castro against the free people of the world. Whoever placed the bomb in Mr. Milian's car obviously sought to put an end to the voice that has been warning hundreds of thousands in the Miami area daily against communism. The terrorists failed to stop his voice, but they succeeded in seriously injuring his body. I am informed that the injuries required the emergency amputation of both legs below the knee, and that doctors are now fighting to save his left arm.

Mr. President, I have spent most of my adult life as a broadcaster, and I know what it means to go on the air and accept the full consequences of broadcasting news and opinion to the public. But needless to say, I have never thought that the consequences should include maiming and death. Freedom of speech is a constitutional right in the United States, and it is a right which should be enjoyed without the chilling effect of terror.

It is for this reason that I am appalled by the failure of the Federal Bureau of Investigation to probe adequately the continuing wave of terrorism in the Miami area. There should be some way to establish with certainty whether or not the terrorist acts are the product of Castro's agents in the United States; yet the Bureau seems to adopt an attitude of helplessness and ho-hum as though the Cuban exile community were somehow bringing the terrorism upon themselves.

Yet there has been ample warning that the terrorism is part of a calculated strategy to diminish anti-Castro expressions of sentiment. It is not by coincidence that Emilio Milian was attacked. Last fall, three anti-Castro leaders in Miami were threatened with death in an underground Castroite paper circulated in the Miami area, entitled "Verde Oliva." Shortly after the paper was published, one of the three, Rolando Masferrer was brutally assassinated on October 31, 1975. The second one threatened with death by the Castro underground was Emilio Milian. On April 30, Mr. Milian was felled, but not killed by the bomb. Now only one of the trio marked for death remains untouched, Mr. Jorge Mas. How long will the Federal Bureau of Investigation wait? Will Mr. Mas be struck down as well?

Shortly after the death of the late Mr. Masferrer, Mr. Milian and Mr. Mas came to my office in Washington. They vowed that they would not let up in leading the fight against what at that time seemed a growing acceptance of so-called "normalization" of relations with Castro. Both men had the courage of their convictions, and in the ensuing months they redoubled their efforts to arouse public opinion on the issue.

At that time I contacted the FBI, and strongly suggested that they look into the threats, and, if necessary, arrange protection. But the Washington Office of the FBI showed a massive disinterest in the matter, saying that it was up to the local authorities to handle the investigation.

Yet the fact of the matter is that we have a situation with international implications. If foreign agents are operating in the United States, then the FBI should be investigating the matter. If broadcasters are being threatened, physically assaulted, and maimed for life because of exercising their constitutional right to use the airwaves, then the FBI should be investigating the matter.

I am writing today to the Director of the FBI and once more asking that the Bureau take a strong role in this affair. The Bureau was warned once before, and nothing was done. It is time for action, and it is time to protect the lives of those who are being threatened by Castro's agents.

RECESS UNTIL 1 P.M.

Mr. ROBERT C. BYRD. Mr. President, if no Senator seeks recognition at this time, I move that the Senate stand in recess until the hour of 1 p.m. today.

The motion was agreed to, and at 12:45 p.m. the Senate took a recess until 1 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer, Mr. JOHNSTON.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL RANGELANDS POLICY ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m.

having arrived, the Senate will now proceed to the consideration of S. 2555, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2555) to establish a national rangelands rehabilitation and protection program.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "National Rangelands Policy Act of 1976".

SEC. 2. FINDINGS, PURPOSE, AND DEFINITIONS.—

(a) The Congress finds that—

(1) despite increased efforts and expenditures of the Bureau of Land Management and individual users of the western public rangelands, many areas of the rangelands are producing less than their potential, a condition which threatens the livelihood of such users and the economic stability of neighboring communities, present levels of meat production, the quality and availability of scarce western water supplies, United States obligations to Mexico concerning the salinity level of the Colorado River, the maintenance of wildlife habitat, and the viability of flood prevention programs;

(2) the rangelands will remain in an unsatisfactory condition and some areas may decline further under present management levels; and

(3) this condition can be corrected by a national commitment to a program of improved management of the rangelands, a program which would provide the additional benefits of increased soil and watershed stability; protection of water quality and maintenance of present water production levels; expansion of the forage resource and a consequent rise in livestock production; enhancement, protection, and maintenance of wildlife habitat; reduced flood danger; and economic stabilization of communities and individuals dependent on such lands.

(b) The Congress hereby finds a necessity for, and declares a national commitment to, the rehabilitation and protection of the rangelands. It is the purpose of this Act to establish a program to identify the current rangeland conditions and trends; to plan and effect actions to correct deficiencies in such lands; and to restore such lands to, and maintain them in, as full productive capacity as feasible.

(c) For the purpose of this Act—

(1) "Secretary" means the Secretary of the Interior; and

(2) "rangelands" means lands administered by the Secretary through the Bureau of Land Management on which there is domestic livestock grazing, or other lands so administered which the Secretary determines may be suitable for domestic livestock grazing.

SEC. 3. RANGELANDS INVENTORY.—The Secretary shall develop within five years of the date of enactment of this Act, and maintain on a continuing basis thereafter, a comprehensive and appropriately detailed inventory of all rangelands. This inventory shall identify the resources of and deficiencies in the rangelands and shall be kept current so as to reflect changes in conditions.

SEC. 4. RANGELANDS REHABILITATION AND PROTECTION PROGRAM.—The Secretary shall develop, maintain, revise as necessary, and implement a rangelands rehabilitation and protection program for the improved management of the rangelands, which shall have as its purpose the correction of the deficiencies in the rangelands as inventoried pursuant to section 3 and the rehabilitation of such lands within thirty years of enactment of this Act. Thereafter, such program shall provide for the maintenance of, or improvement in, the productive capacity of such lands achieved at the conclusion of such period in a manner consistent with the protection and enhancement of resource values identified by this Act and with the multiple use, sustained yield concept of land management. Such program shall include plans for the various areas of the rangelands, which plans specify the actions, and the schedule thereof, to be undertaken on such areas within said thirty-year period. Such plans may identify areas of the rangelands which, because of their small relative size, minor resource value, scattered land ownership, or other reasons, are unsuitable for the improved management required by this Act and provide for appropriate management of such lands to arrest further decline in, and protect the multiple use values of, such lands.

SEC. 5. RANGELANDS MANAGEMENT.—The Secretary shall manage the rangelands in accordance with the rangelands rehabilitation and protection program.

SEC. 6. PARTICIPATION OF STATE AND LOCAL GOVERNMENTS, USERS, AND THE PUBLIC.—The Secretary, by regulation, shall establish procedures, including public hearings or meetings where appropriate, to give State and local governments, users of the rangelands, and the public adequate notice and an opportunity to comment upon the rangelands rehabilitation and protection program during its preparation and implementation.

SEC. 7. RANGELANDS REPORT.—The Secretary shall prepare a rangelands report no later than two years after the enactment of this Act and at five year intervals thereafter. Such report shall be made available to the public and submitted to the Congress no later than one hundred and twenty days after the close of the appropriate fiscal year. The report shall include, in appropriate detail, an analysis of the condition of the rangelands, the implementation of the rangelands rehabilitation and protection program, and the advances made in meeting the purpose of this Act.

SEC. 8 AUTHORIZATIONS.—There are hereby authorized to be appropriated for the purpose of this Act additional funds over and above amounts already appropriated to the Bureau of Land Management in fiscal year 1976 for livestock management, soil and water, and wildlife, as follows: an increase of $10,000,000 in fiscal year 1977; additional increases of $5,000,000 per year each and every year in fiscal year 1978, 1979, and 1980; and increases of $500,000 per year each and every year from fiscal year 1981 through and including fiscal year 2006. Any increased amounts as authorized herein not appropriated in one or more years shall be authorized for appropriation in any subsequent year.

SEC. 9. CONSTRUCTION OF LAW.—Nothing in this Act shall be construed to diminish the authority of the Secretary under any existing provision of law.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HASKELL. 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. HASKELL. Mr. President, I shall make a very brief statement on S. 2555.

This is a bill that emerged from the Committee on Interior and Insular Affairs without a dissenting vote. What it seeks to do is to be responsive to a report of the Bureau of Land Management to the Senate Appropriations Committee which showed that the public lands were deteriorating at a very alarming rate throughout the West. The purpose of the bill is to be responsive to this report and to establish a program to rehabilitate the rangelands.

I am very pleased, as author of the measure, to say that the bill has the support of the American Cattlemen's Association, the support of environmentalists, and the support of the Department of the Interior.

Mr. President, I ask unanimous consent to have printed in the RECORD the purpose section of the report on S. 2555.

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

PURPOSE

S. 2555, as ordered reported—the National Rangelands Policy Act of 1976—would direct the Secretary of the Interior to esablish an $895.5 million, 30-year program to improve the quality of the rangelands on lands administered by the Bureau of Land Management (BLM). The legislation would also require that this rangeland be administered to insure full productive capacity consistent with the multiple use, sustained yield concept of land management.

The bill reflects several of the recommendations outlined in the January, 1975, Range Condition Report of the Bureau of Land Management to the Senate Committee on Appropriations. This document disclosed a number of disturbing facts about the condition of BLM rangeland. Among other things, the Report noted that 28 percent of the range is in poor condition and 5 percent is in bad condition. Although excellent efforts by both the BLM and grazing permittees have resulted in real improvement in the condition of various portions of the range, the Report projects that in 25 years the productive capability of the range could further decrease by as much as 25 percent if present management levels continue unchanged. To fully reverse this trend and rehabilitate the range, the Report contained an outline of a program which is similar to that proposed in S. 2555.

The BLM estimated that such a program could increase potential forage for livestock by 39 percent and for big game animals by 32 percent. The additional indirect benefits such as reduced erosion, improved flood control, enhanced water quality, reduced salinity in the Colorado River, and better watershed conditions add up to an estimated $125 million in annual benefits. A comparison of these benefits with an initial cost of $10 million and an annual average cost of $29.85 million discloses a very favorable cost-benefit ratio.

Mr. HASKELL. If it were not for the fact that the distinguished Senator from Nevada (Mr. CANNON) has an amendment, I would move for passage of the bill, because I do not think there is any controversy. I understand, however, that the Senator from Nevada has an amendment, so I will now 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. FANNIN. 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. FANNIN. Mr. President, I strongly endorse S. 2555, a bill to rehabilitate and protect our national rangelands. In January of 1975 the Bureau of Land Man-

agement published a range condition report. This document disclosed some disturbing information regarding the condition of BLM rangeland. Twenty-eight percent of our range is in poor condition and 5 percent is in bad condition. If these poor and bad conditions are not remedied, it is projected that the productive capacity of the range could be decreased by as much as 25 percent in the next 25-year period.

This bill, passed unanimously by the Interior Committee, calls for a management plan to be adopted by the BLM which will insure that the lands are in fact rehabilitated. This plan covers a 30-year period and in my estimation is one of the most critical pieces of legislation in this Congress. I hope that my colleagues would support this effort to bring greater productivity from our rangelands by this important step forward.

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

Mr. McCLURE. Mr. President, I support the proposed legislation, and I wish to underscore the statements that have been made by the distinguished Senator from Colorado and the distinguished Senator from Arizona in support of this measure.

I think no one can ignore the fact that we have invested too little in natural resources management over the last many years. It has not had the kind of budgetary priority that it should have had. I and others, both in the budget process and in the appropriations process, have sought to increase the amount of money channeled into natural resource management, with the rangelands being one of several aspects of that problem. However, like many other things that for a long time have been involved, it is too easy to put off this year what might be left until next year or the year after.

I think that is exactly what we are dealing with in the National Rangelands Policy Act, as we try to establish a direction for the management of these portions of the public domain which will increase the investment that we are willing to put in, as the landowner and the land manager, with respect to long-term improvement of these rangelands.

The fact that we may have found some bad range management practices in some of the areas of our country is too well-known, I believe, to require any further explanation now. But I believe it does also underscore the necessity for having some better plan for the management of these areas, rather than simply pointing to current bad conditions and, in effect, only attempting to assess the blame upon some individual or individuals or agency of Government; because the Federal Government is a composite made up of many, one part of which is Congress, and Congress has not done its part in discharging Federal responsibility in the management of rangelands.

I have not yet determined in my mind whether this is the appropriate place to offer an amendment to lead to the solution of a particular problem which is now confronting a great many people in the Western United States who are, in the lexicon of the days, the users of these public lands. I refer to the dilemma with which the livestock men are confronted today, as they see grazing fees increase in the face of a deteriorating condition of the range, or in the face of the way in which we try to meet that problem by reducing the numbers of animals that may graze on a particular unit of land.

One of the directions in which I think we can and should go is to move to get the user, himself, to make some of the investment which needs to be made in terms of the improvements upon Federal lands.

A great many of the livestock people who use Federal lands, both on the Forest Service and Bureau of Land Management lands, are quite willing and they are very much able and ready to make an investment of their own capital in the improvement of the rangelands. It would not require the Federal Government to make the total investment.

There are a couple of reasons why that has not been done in the past. The major reason is that the permit for the use of lands is a permit which is of limited time. It is justifiably limited in the sense that the permittee has no legal right to the continuation of the permit except within the term of years set forth in the permit.

Mr. President, I ask unanimous consent that Winfred Craft, of the Interior Committee, have floor privileges during the consideration of this measure.

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

Mr. HASKELL. Mr. President, may I add to that a request that Mr. Steven Quarles, of the Interior Committee staff, be granted the privilege of the floor during the consideration of this measure.

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

Mr. McCLURE. Mr. President, the kinds of range improvement that might be called upon under this act include such things as better fencing in order to provide the grazing units so that we can install rest rotation which has now had a very wide acceptance among land managers as an appropriate tool not only for the benefit of the forage that is produced for domestic livestock but also for the benefit of the wildlife that inhabit the same ranges, and ultimately for the benefit of the land itself. But rest rotation requires better fencing than we have on many of our western lands today.

Who is to make the investment in the fencing that is thus required if, indeed, the livestock owner, who grazes on those lands, has no right to the land, no right to the grazing on those lands?

We need better and more watering areas, sometimes in the development of a spring, sometimes it may require the installation of small catch basins; oftentimes it will require the installation of piping for some distance.

Sometimes it will require the installation of piping in order to spread the animal use over a larger area and thus both improve the lands and improve the grazing possibilities for the livestock user; but it also, and quite obviously, has a great deal of enhancement for wildlife purposes as well as domestic livestock.

Who is to make that investment in the watering improvements that are made on the public lands? Who will do the brush control and the reseeding of the public lands? Nearly all of that has now been done under Federal contract. The livestock owner, the permitholder, is oftentimes very, very interested in doing that himself, and he would be prepared to make that kind of management investment if there were any guarantee to him that he would get the benefit of it or that he would receive some reimbursement for it.

We are now engaged in hearings, which are of very great importance to people in the Western United States as well as the rest of the people of the United States who own these public lands, to determine the question or attempting to determine the question of what the appropriate fee should be for the grazing on the public lands.

I have proposed that the Federal land managers, both in the Forest Service and in the Bureau of Land Management, be permitted to develop regulations under which at least a portion of the grazing fee could be offset against the improvements which the permitholder might install upon the lands which he is permitted to use.

The results of such an action, I think, would be very beneficial to the land itself, to the wildlife that occupies the land and to the permitholder. The permitholder is faced with rising costs in a whole variety of areas, from the labor that is hired to the fencing materials that are purchased. Everyone knows how iron and steel products have gone up in price. They are caught in the cost-price squeeze, as everything that they invest costs more and, right now, the cattle market is in another period of decline. It had not really recovered from the earlier decline caused primarily by Federal wage and price controls that stayed on too long.

So the present planned increase in grazing fees comes at a time when the permitholder is most uniquely unable to cope with that increased cost.

There are efficiencies that can be brought to bear in the management which a private landholder or landuser can do more easily than can a Federal land manager. I refer particularly to items like that of fencing.

I sat in the hearings last week, and will repeat here today, and I told a story that came to me recently at a meeting I had in Salmon, Idaho, in which livestock growers were very, very insistent that something be done to respond to their problems.

They gave as an example the tremendous cost to the Federal Government and to the taxpayers of simple matters such as fencing where, because of the consolidations of ranger districts on the forest in that particular area, the people who were on the public lands are now situated some miles away from the land which they manage. Where the land management units for administrative efficiency have been consolidated into larger and larger units, it is obvious that

some portion of the units is physically located farther away from the point of management. I have an example of the Leadore ranger district in Idaho in which the distances traveled to the fencing site are now such that they travel about 2½ hours to get to work, they take an hour off for lunch, and they travel another 2½ hours to get back to the point from which they started. They actually work on the ground about 3 hours. We pay for 8 hours a day. The result is that the fencing costs in that particular area have gone up to about $18 a rod.

There is absolutely no sense in that kind of management except that which is supposed to be improved management efficiency because of consolidation of management units.

No livestock operator in that area could survive if he managed his own livestock spread in the same way. He would have been out of business a long time ago.

If we were to permit the livestock operators on those units to install that fencing at their own expense, and give them credit for it against their grazing fee, they would be able to install the fencing at much less cost to the taxpayers of this country, and at a lower cost to the rancher who must ultimately bear his share of the costs of those improvements.

That is just one example of the kind of thing that I think could be brought to bear if we were to adopt the amendment which, I believe, would be helpful in allowing the permitholder to, in essence, work out a portion of the grazing fee which is being charged to him.

Unfortunately, I suppose, there will be some who believe that is some kind of a ripoff for the taxpayer, that somehow we will have given an advantage to the livestock operator by allowing him to work out a portion of the cost of his presence upon the public lands of the West.

But, as I have already tried to point out, I think it enhances the management of the public lands rather than decreases their management, and it enhances the kind of range rehabilitation work which we are talking about doing in this legislation. It reduces the cost to the Federal taxpayer and it reduces the cost to the livestock owner in direct costs.

It seems to me that there is great merit to this kind of an approach which would permit better management at lower costs to all of the taxpayers.

Having said that, I do not want anyone to understand that I am not in support of the basic legislation. I am. I support it because I think it is badly needed. I think it is overdue, and I am not at all certain it will be matched with the kind of appropriations that will be authorized in terms of long-term management. But I am very serious about the necessity of getting more money put into the management of the public lands, and passing this bill today will assist at least in pointing toward that necessity, but it does not guarantee success in the budgetary process.

I have been in the other body and this one for over 9 years, and I have watched this progress over all of this period of time as we try year after year to get increased funding.

The tendency to postpone until next year those items that do not have to be taken care of this year are the precise reason we are in the difficulty we are in.

The directions that this act takes are commendable, but they will be commendable only if they induce greater funding of management of these resources. They are commendable and will actually result in an improvement of the range only if the words embedded in this statute are matched by the actions in the appropriations process that add the flesh to the bare skeleton of management which is set forth in this legislation.

Perhaps I am not as certain of it as I should be. Perhaps my doubts that we will be able to get the full funding of this bill are unwarranted. But I think the experience would indicate that my doubts are warranted. If that is true, we have to find some other way of getting the job done that we seek to get done or to supplement the efforts that will be made under this legislation, because this legislation does not accomplish the goal, it only sets the goal and sets the direction.

I believe it will be necessary, if we are going to achieve the goal, to add some strength, some muscle, some fiber and sinew on that skeleton that we are erecting in this bill, and that comes by way of money, in many respects, and the appropriations process is one. I think my amendment could be a very useful addition in the direction which we seek to go.

I would welcome the support of the floor manager, the distinguished Senator from Colorado. I think he recognizes, as I do, the need for better management. I would welcome his support for this legislation. I know he is aware, as I am aware, that the livestock operators do stand ready to make some capital investments to supplement the efforts of the Federal Government, if we can find a way in which to do it.

I would welcome his comments on the direction which I seek to take under an amendment which would allow, at least, not to exceed 50 percent of the amount due the Federal Government from the grazing permitee in the form of range improvement work.

It would be not only his own labor, but the materials he furnished, the reasonable value, and the cost of doing that range improvement work in private hands.

Mr. HASKELL. Mr. President, I say to the distinguished Senator from Idaho that, as he points out it is an authorization bill, and I would be pleased to go with him to the Appropriations Committee to be sure it is implemented and that we actually get the money. With the objective of range improvement and assistance to the cattle industry, and also for the good benefit of all the people who use the range for any purpose, the bill is certainly meritorious.

On the other hand, as far as the distinguished Senator's concerning in-kind contributions by users of the range to count against fees, I would be constrained to oppose that.

I suppose, basically, I do so for two reasons. I think it would provide great difficulties of proof, great difficulties of administration.

Along those lines, I have a copy of a letter addressed to the distinguished Senator from Idaho from Mr. Berklund, who I believe is the Director of the Bureau of Land Management, opposing such an amendment.

Mr. President, I ask unanimous consent the letter be printed in the RECORD.

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

APRIL 29, 1976.

Hon. JAMES A. MCCLURE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCCLURE: This is in further response to your letter of April 2 suggesting that part of the grazing fees be tendered in work improvement. We are assuming the suggestion relates to the stockman working out a portion of his grazing fee charge by performing some type of work on Federal lands, rather than paying in currency as now required. This is a rather unique proposal and, without more detail, rather difficult to evaluate.

The Taylor Grazing Act is the authority by which the Secretary collects a grazing fee for grazing use of the public lands. Section 3 of the Taylor Grazing Act states, "The Secretary of the Interior is authorized to issue or cause to be issued permits to graze livestock on such grazing districts to such bona fide settlers, residents, and other stock owners as under his rules and regulations are entitled to participate in the use of the range, upon the payment annually of reasonable fees in each case to be fixed or determined from time to time. . . ." In our view, additional congressional action would have to be enacted to provide authority for the substitution of work for United States currency as payment for grazing fees.

Provided such workout authority did exist, there would be insurmountable pitfalls that would stand in the way of the success of any such procedure. The present grazing fee structure recognizes and takes into consideration range improvement depreciation and maintenance cost, and any change would necessitate that these items be deleted, and the grazing fee would be correspondingly increased. Other problems would include:

(a) With 20,000 operators and 8,000 allotments, a special record system would have to be established to insure proper accounting of work credits and cash amounts due.

(b) The question of employee/employer relationship, ranging from accident responsibility and scheduled work assignments to Social Security coverage, would have to be resolved.

(c) Would the rancher himself have to perform the work or could he send his hired help to perform the work?

(d) Ranchers working out grazing fee charges would displace private contractors presently engaged in range improvement work with no assurance of work quality or quantity.

(e) Most stockmen are themselves fully occupied during the short work season generally available for the workout proposal.

(f) There is not a uniform distribution of operators in relationship to where the work needs are identified each year. As an example, Nevada, with 49 million acres, has about 860 operations; whereas Montana, with 8.3 million acres, has over 3,700 operators.

(g) If workout arrangements are authorized for payment of grazing fees, then this

procedure or right would logically have to be extended to others who use or purchase public land resources.

(h) A workout procedure would serve to increase the opportunities for additional disagreements between the BLM and ranchers over authorized projects, wage rates, work and project quality, project specifications, project supervision, and work priorities.

(i) Present regulations require payment of grazing fees before grazing use is made, and any change would only complicate the present simple billing/collection procedure at a time when people are complaining about complex Government procedures.

(j) The Taylor Grazing Act (Section 10) presently requires that 12½ percent of the grazing use fee be paid at the end of each fiscal year to the State from which the moneys were collected to be expended as each State legislature may prescribe for the benefit of the county or counties in which the grazing districts producing such moneys are situated.

We have adopted a procedure that facilitates installment billing and payment in advance of grazing use in lieu of advance billing on an annual basis. Our 1976 grazing fee billing statistics show that out of over 9,000 billings already issued, only 24 users have requested installment payments. We do not have any alternative suggestion to the present grazing fee billing and collection system which can accommodate seasonal or installment payments and reduce the economic impact on the user while maintaining the integrity of the law and regulations.

Sincerely yours,

CURT BERKLUND,
Director.

Mr. HASKELL. Mr. President, additionally, the counties, as the Senator is aware, receive a percentage of the grazing fees.

If we allowed in-kind contributions as opposed to cash, I am not quite sure how we would satisfy the obligation to the county. So as far as that aspect of the Senator's amendment, I would be constrained to oppose it.

In the last week in the joint markups of Agriculture and Interior Committees on the timber range bills, we have been attempting to reform provisions permitting timber purchasers on national forest lands to construct roads and deduct them from the revenue they pay the Federal Government. Such grants have resulted in the tail wagging the dog. By that I mean, the private users of the public lands will be able to dictate policy to the public land management agencies. Over the last several years appropriations to the Forest Service for construction of roads have dropped drastically and instead the Forest Service is almost totally dependent on the private timber purchasers for road construction.

In addition a percentage of the receipts from timber sales on national forest lands are turned over to counties. The counties have been in absolute opposition to the reduction of these receipts through granting timber purchasers road credits.

What has happened in timber purchaser credits could happen in grazing permittee credits. We would find a continuing decline in Federal funds for improvements on and rehabilitation of the range. Instead, the BLM and the Forest Service could become overly dependent on grazing permits for range work. In addition the counties would surely suffer reduction in payments because of reduced payments in grazing permit fees.

In addition this provision could result in an administrative quagmire. A special records system would have to be established by the BLM and the Forest Service to insure proper accounting of work grants in cash amounts from some 20,000 operators. As such grants are earned income to the permittee, the BLM and the Forest Service would have to report to the IRS on each individual permittee who makes use of these provisions. Present regulations require payment of grazing fees before grazing use is made and any change would only complicate the present simple billing and collecting procedures at a time when people are complaining about complex Government procedures.

Finally such a provision would serve to increase the opportunity for additional disagreements between the BLM and permittees over authorized projects, wage rates, work and project quality, project specifications, project supervision, and work priorities.

I would point out to my colleagues that this amendment is opposed by the administration for many of the reasons I have suggested.

Mr. President, I strongly urge the rejection of this amendment.

Mr. CANNON. Will the Senator yield?

Mr. HASKELL. I am delighted to yield to the Senator.

Mr. CANNON. Is not the purpose of the grazing fee program to permit the fees to go back into range improvements and help upgrade the range?

If the answer to that is "yes," then what is the objection to the proposal of the Senator from Idaho? That would simply give a credit for constructive range improvement that might have been put in on behalf of the individual rancher himself, just alleviating the Government from that responsibility, if they ever see fit to exercise it.

Mr. HASKELL. I said earlier, I say to the distinguished Senator from Nevada, there is, of course, several purposes served by the charging of grazing fees, one of which would be to give revenues to counties in which the public lands are situated.

If my memory serves me correctly, 12½ percent of cash payments go to local governments, go to counties, and I think this is one of the purposes. If there was a contribution in kind, I am not quite sure how the county would get its 12½ percent.

Additionally, I say to the distinguished Senator from Nevada that the accounting for the so-called in-kind contributions would impose a tremendous burden on the Bureau of Land Management, would make it very difficult—what is the value of the fence, what did he pay for the fence posts, what did he pay for the wire, was it second hand, was it new?—this type of thing would introduce complications that I am afraid would bog down the system.

Mr. CANNON. If the Senator would permit, I say that I do not know anything that could take place that would bog the system down more than it is at the present time. So I am not very much impressed by his letter from the Director of the Bureau of Land Management opposing this amendment because the Director of the Bureau of Land Management, it seems to me, is opposed to anything—just opposed to anything, period. He wants to manage the lands without getting them in shape, without doing something of benefit about them.

Let me point out, in my own State of Nevada where the Bureau of Land Management has the responsibility of carrying out environmental impact statements, I am told it is going to take them 13 years to complete the environmental impact statements in my State, in all the districts in my State, and when we have a district that the EIS has not been completed, they cannot make the improvements on the range.

Mr. HASKELL. Will the Senator yield?

Mr. CANNON. Yes, I will yield.

Mr. HASKELL. I am aware of that problem the Senator mentioned of these EIS's, but I think that is an entirely separate and different problem from what is argued. It is separate from allowing in-kind contributions in lieu of a cash contribution for grazing fees.

It is a problem, but I do not see how we can take care of it within the context of this particular legislation, nor is the Senator from Idaho's amendment addressed to that.

Mr. CANNON. I realize that I was going a little beyond that. But let me ask the Senator this question, then. If this bill goes through would this provide the Bureau of Land Management additional funds so that they could speed up the process of completing their environmental impact statements?

This is for a range improvement, and if they cannot make the range improvements until they complete the statements, and it is going to take them 13 years to complete the statements, it seems to me this money given them would help them rush those statements through a lot faster so that we could start some of these range improvement programs.

Will the Senator agree?

Mr. HASKELL. I understand the Senator's question. Just let me consult with counsel.

Mr. McCLURE. Will the Senator yield?

Mr. HASKELL. Just 1 second.

Mr. CANNON. I do not have the floor.

Mr. HASKELL. I would like to answer the Senator from Nevada, but I would like to consult with counsel before I do.

I think the answer would appear to be this. The moneys authorized in this bill would go directly into land improvements.

This, in turn, would allow the moneys otherwise going through the grazing fees to be used to try to speed up the preparation the EIS's about which the Senator is talking.

I think the Senator has raised a genuine problem. I am not sure this bill solves it. I think it helps. I do not think the Senator from Idaho's amendment addresses itself to the problem. But I am very sympathetic with the problem and it is a real one.

Mr. CANNON. The thing that gives me some concern here, the Senator says

this permits the funds to be used for range improvements, yet in my own State, for example, there has not been one environmental impact statement concluded in any of the districts in my State.

On the schedule that we have, there will be one district concluded in the fiscal year 1977. There will be one concluded in 1978, and so on. For the first 5 years there will only be one district a year.

Until they get the first statement completed, they cannot even go ahead with any range improvements. It seems to me we are getting the cart before the horse here.

Mr. HASKELL. I hope the Senator and I, the Senator from Idaho, the Senator from Montana, can get together and address ourselves to that problem, because that is a horrendous problem. But I respectfully suggest that falls without the scope of this bill.

Mr. HANSEN. Mr. President, I share the views of the distinguished Senator from Nevada and the Senator from Idaho.

Senator McGEE and I met with a group of stockmen some time ago and this specific subject that is addressed by the McClure amendment was the main thrust of our meeting.

The fact is that Congress has been rather niggardly in appropriating sufficient funds to the Forest Service and to the Bureau of Land Management in order that they could undertake and initiate and complete those improvements needed to make these lands even more productive than they are now.

We had testimony from a number of people that recalled that the Forest Service in issuing 10-year permits this year has called upon stockmen to assume the responsibility for maintaining fences and other kinds of range improvements.

As the Senator from Idaho pointed out, many of these tasks can be done by permittees for just a fraction of what it would cost if they were to be accomplished by Forest Service personnel. I note my good friend from Montana, the distinguished junior Senator, is in the Chamber, and I expect he has had similar experiences in his State of Montana, where people who are out on the range, on the job, can easily put in twice as much time rebuilding a fence or fixing up a water trough, a well, or whatever it may be, than could be accomplished by an employee of the Forest Service or the BLM who had to go from a headquarters town by pickup out on the range trying to get there to do a job. Oftentimes, half or more of his time will be consumed en route.

It seems to me we make these points:

No. 1, there can be no doubt at all but what much more will be accomplished through the McClure amendment than could be accomplished with the same expenditure of funds otherwise.

Now to go to the second point. How are we going to determine what the contribution has been in dollars?

I do not think that is going to be any real problem. The Forest Service constructs a lot of fence by contract, and the ranchers do. I do not think that will be any problem at all. I am certain that it will result in a savings of money for the Federal Government.

Point No. 3: The distinguished Senator from Colorado asks, what about the funds that are to be returned to the counties? I venture to say that there will be adequate funds paid to the BLM under this bill so as to make that no problem at all. I do not think there will be any problem at all in saying categorically there will be more than sufficient money to come in to insure that the Federal Government will have cash on hand to make the payments back to the counties and subdivisions of government which are called for in the basic law.

I would hope very much that this amendment will be agreed to and attached to the bill. I hope the distinguished manager of the bill is willing to accept it. All of the testimony I heard leaves no doubt that we will get more work done, it will be done more cheaply by far than could be done if it were not to be performed by the permittee, we will have adequate funds to repay the counties, and there will not be any accounting problems as a result of it.

I hope very much the amendment will be agreed to.

Mr. CANNON. Will the Senator from Idaho yield?

Mr. McCLURE. I will be happy to yield.

Mr. CANNON. Will the Senator permit me to be a cosponsor of this amendment?

Mr. McCLURE. I would be happy to. I thank the Senator for his support.

Mr. HASKELL. Does the Senator intend to press this to a vote?

Mr. McCLURE. I would hope that we could have a vote, yes. I understand there is another amendment.

Mr. HASKELL. There is another amendment. Furthermore, there is an agreement, as I understand it, that there will not be any rollcall votes until 3:30. I was merely asking the Senator if he was intending to press this to a vote. I would want to ask for the yeas and nays when we have enough Senators in the Chamber.

Mr. McCLURE. Unless the Senator proposes to avoid the vote by agreeing to the amendment, for which I would be very happy.

Mr. HANSEN. It would be an act of statesmanship, Mr. President. [Laughter.]

Mr. CANNON. If the discussion has all been terminated on that amendment and the Senator wants to withdraw it, I will offer mine and we can talk to it and then we can vote on both of them.

Mr. HASKELL. If the Senator from Nevada will yield, I have but one more comment on the amendment.

The Senator from Wyoming indicated that there would be no accounting problems on figuring out what the inkind contribution was. I would like to say to my friend from Wyoming that it seems to me not only do we have an accounting problem, but we have an income tax problem because, by providing property to satisfy an obligation, which in this case would be the grazing fee, there is going to be a realization of income in the event that the property contributed has a lesser cost basis in the hands of the rancher than the fair market value which was assigned to it as a satisfaction of this obligation.

For all these reasons, I feel that the amendment of the distinguished Senator from Idaho will cause great difficulties to the Department, to the rancher and to the counties. I just say that in response to the Senator from Wyoming.

Mr. McCLURE. It would be my purpose, because of the agreement which we have already reached this afternoon that there be no record votes prior to 3:30, that we can set this amendment aside and go to the amendment of the Senator from Nevada and discuss it as well.

Before doing that, let me make just these comments: I had not intended to put the letter of the Director of the Bureau of Land Management into the discussion or ask that it be printed in the RECORD today simply because I think upon reflection he might find that letter to be a source of acute embarrassment. If I ever saw a letter that tried very hard to grasp at the most minute of possible reasons to object to an amendment, this is it. Many of those reasons assigned are so specious as to be almost laughable. I say that with very great respect and regard for the Director of the Bureau of Land Management, who is a personal friend of mine as well as a resident of the State of Idaho.

I have a very high regard for him, for his talent and his ability. But it is obvious that his full talents and abilities were not directed toward analyzing this proposal and coming up with constructive comments concerning the proposal.

Let me read the paragraphs numbered A through J as his reasons and discuss them.

First of all, he says there are so many of these operators and allotments that a special recordkeeping system would have to be instituted.

There are 20,000 operators and 8,000 allotments, as he says, and every one of them has records kept on them now. It does not require a new recordkeeping system. The recordkeeping system is already in existence. As a matter of fact, if the BLM does anything well it is keep records. At times, they do a much better job of that than they do of managing the land.

I have no doubt that the army of employees they have can find time to keep the records. They keep them now.

The second paragraph is a question of employer-employee relationship.

That is completely specious. This letter was obviously drafted by somebody who was not an attorney, raising an issue which is a legal issue and which has absolutely no substance. Any attorney could set it aside after 3 minutes of consideration.

The third one is, would the rancher himself have to perform the work or could he send his hired help to perform the work.

If someone can tell me what that has to do with the amendment, I would perhaps suggest there is substance to it. But that is completely specious. It has nothing to do with the issues.

The third is the ranchers working out

grazing fee charges would displace private contractors presently engaged in range improvement work with no assurance of work quality or quantity.

That, again, is the kind of argument that is raised when you do not have any good ones. There are, of course, a few private contractors involved but we *might, in this light,* require that a rancher does no improvement work, that he has to contract all of it. That would make just as much sense. This, again, is no reason to oppose the amendment.

The next one is most stockmen are themselves fully occupied during the short work season generally available for the workout proposal.

I submit if they are too busy to keep up the fences and do the work on the range they are not going to be on the range anyhow. This is only permissive; it is not mandatory. If he feels he does not want to do the work, he does not have to. That is a matter of negotiation under the regulations which would be promulgated under my amendment.

The next one is that there is not a uniform distribution of operators in relation to the need.

I never said there was.

It points out that there may be greater need in Nevada than there is in Montana, for instance. But that has absolutely nothing to do with the merit of it. It is simply a means to supplement, where that supplement is available, the meager means of the Federal Government in range improvement work.

The next objection has to do with others who use or purchase public land resources, and if we do it for grazers we have to do it for everybody else.

Again, most other people are not being asked to make an investment in public land resources, or the improvement of the public land resources. I would say also that so far as those who are now harvesting timber on public lands they do now get credit. If, as a matter of fact, there is to be the question of treating people alike, then the grazers ought to be getting credit just as the timber operators get credit for the amount of money they invest. As a matter of fact, we are just now having a joint markup between the Agriculture and Forestry Committee and the Interior Committee on a Forest Practices Act. That is one of the issues involved, how do we get the credit back and what effect does it have upon the revenues?

So it is being worked out for timber operators and I am sure it can be worked out as far as livestock operators are concerned.

The next one has to do with the work out procedure would serve to increase the opportunities for additional disagreements between the BLM and ranchers over authorized projects, wage rates, work and project quality, project specification, project supervision, and work priorities.

Of course it does.

Any time that we have people working together in more complex arrangements, of course, there are more opportunities for disagreement. But I submit there are also more opportunities for agreement. It might even enhance the relationship between the manager and the managed in this instance.

The next one is that the regulations now require that fees be paid in advance. That is true. They are in the instance of the livestock operator.

But again, let us take a look at the timber operation in which the fee is not paid in advance. They are permitted to work out a portion of the fee in the instance of the timber operator, and that does not pose any insuperable obstacle.

The last one was the one that the Senator from Colorado raised with respect to apportionment of money to counties, and that again is something that can be taken care of very easily, remembering that grazing fees are also set upon the public lands with due consideration of the cost of operating on public lands as compared to a similar cost of operating on private lands.

So this is not an unmixed blessing for the livestock industry for an unmitigated disaster for the Federal land manager. I think it is a reasonable attempt to do a better job of management on the public lands with justice for the landowner, the Federal Government, and the citizens of the country, as well as the person who is using the forage on that to produce the red meat that is in some great abundance in our markets today. I think it is a justifiable and usable amendment.

Let me conclude only, Mr. President, by saying that any comment that I made about the need for rangeland improvement should not be allowed to completely obscure the fact that much of our Federal range is in good shape. It needs good management. I can beneficially use the investment that will be made in better management practices. But we should not lose sight of the fact that much of the range is not in the disastrous condition that is often pictured by people who are remote from the range.

In saying that I do not want to completely obscure the other side of that question that there are places and there are instances where land management has not been sufficiently good; it does need enhancement because the lands in those areas have suffered from the lack of management practices that we seek to have implemented under this bill and under my amendment. That is further reason, I believe, for the passage of my amendment.

Mr. HANSEN and Mr. METCALF addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. METCALF. Mr. President, will the Senator from Wyoming yield?

Mr. HANSEN. I yield to the Senator from Montana.

Mr. METCALF. I am here as a surrogate for the manager of the bill. I would like to ask a question, however.

What would happen in revenue sharing operations where we give revenue sharing to the county? Would not this amendment and the amendment of the distinguished Senator from Nevada permit double payment? I am asking the author of the amendment.

Mr. McCLURE. Does the Senator mean because we have revenue sharing in addition to this?

Mr. METCALF. Yes.

Mr. McCLURE. That would be true of anything. That would be true of the timber management bill, too.

Mr. METCALF. The Senator and I have been marking up and working on the timber management bill, and the Senator from Idaho has contributed significantly to that bill. I think we adopted a good many of the amendments that he proposed.

Mr. McCLURE. That is true of the Senator from Montana, I might add.

Mr. METCALF. The Senator from Montana submitted amendments to the bill under his name, but many of the amendments that were submitted are amendments that were turned in to the committee by the Senator from Idaho.

But this seems to be inconsistent with the same sort of management operations that the Senator from Idaho has participated in in the timber management bill.

Fifty percent of the amount due the Federal Government goes for range improvement work. We did not provide that 50 percent of the money due the Federal Government for timber would go to roads or reforestation work. It would seem to me that this would be a very difficult sort of a problem to carry out, in addition to the problems raised by the Senator from Colorado.

Mr. McCLURE. I shall respond to my good friend in this way. We do under the present forest management practices require that timber purchaser do a great deal of work that would be done otherwise by the Federal land manager. That work has been progressively shifted from the shoulders of the Federal Government, as land owner, to the shoulders of the timber purchaser, as the operator on the land, simply because we did not provide enough money in a direct appropriation for the appropriate management of the public lands.

But this is not as broad as that. This gets down to the question of who is going to build the fence and who is going to pay for it. How do we get enough money in there so that we can build a fence so that we can go to forest rotation management or appropriate grazing units? We have not appropriated enough money to do that and do it well. Where are we going to get enough money to put in the stock watering devices that are necessary and helpful also in not just land management but in the utilization of the range by game animals and I would say, as the Senator knows, greatly enhance the upland game birds?

There is the question of how do we get a brush control project put in and paid for. A lot of this could be done by the livestock operator if he can take that investment and offset it against the fees that otherwise would be charged to him during the period of his use of that range.

And, as the Senator knows, he has a permit not for the removal of a certain number for forage. We do not do that in the same way on grazing as we do on timber. But he has for a designated number of animal units over a designated

period of time. So I do not think it is inconsistent.

Mr. METCALF. Mr. President, will the Senator from Wyoming continue to yield for just a moment.

Mr. HANSEN. I am happy to continue to yield.

Mr. METCALF. As the Senator from Idaho and the Senator from Wyoming know I have long insisted that the management of our BLM lands, our rangelands, which are the most fragile lands in America, is a disgrace for those of us in America. The Congress shares fully in the blame as we have failed to appropriate adequate money to manage it. If I were a trustee of an estate and failed to manage that way I would be fearful of a lawsuit suggesting that I had failed to meet my fiduciary duty.

Nevertheless, it would seem to me that under the Taylor Grazing Act, with the continuity that we have had, because of some reduction of forest fees as against fees for other grazing permits, we have called upon people who participate in grazing on the public lands, whether it is Forest Service or BLM lands, to help us take care of our Federal responsibility on the management of Federal lands.

One of the things that we have tried to prevent always, from the enactment of the Taylor Grazing Act in 1934 on, is to say that "You will have, because you have participated and helped us manage, a title, a right in the Federal lands." It would seem to me that this is one of the first steps, not the steps that would have been taken before, but one of the first steps to say that, "When you make a contribution to management of the Federal lands, you are getting a right that has to be compensated by the Federal Government if a higher use of the Federal lands is taken care of."

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

Mr. HANSEN. I yield.

Mr. METCALF. Fine.

Mr. HANSEN. I would like also to respond in due time. I yield first to the Senator from Idaho.

Mr. McCLURE. I thank the Senator from Wyoming for yielding.

First, let me say there is that old argument about whether the user of any portion of the public lands has a legal right or a vested right. I do not attempt to raise that by my amendment because it would be contemplated under my amendment that the regulations established would clearly set forth that the recovery of capital investment that might be made would have to be within the term of the permit itself, and we do give grazing permits for a period of time. I think from a legal standpoint it is clear that there is no vested legal right that so far as the Federal Government is concerned gives that permit holder a property right as against the Federal Government.

But I would think that if there is a grazing permit for a period of years, as they are, that the permittee will be encouraged to make a larger investment in the appropriate management of that land than he is now encouraged to do and that the recovery of the capital, limited by this amendment, would be also limited by the term of years for which that permit still was in existence.

Mr. METCALF. I thank the Senator from Wyoming for yielding to me. I am also delighted to have his comments.

Mr. HANSEN. I think in light of what has been said by the distinguished Senator from Idaho, there really is not too much point in my taking a lot of time except to say that I agree completely with my colleague from Idaho. I think if there is any doubt on this point we can spell it out specifically in the bill.

I have talked with a number of stockmen. We have held hearings on my amendment to include some new criteria in establishing what the AUM grazing fee is going to be. On this point, specifically, last week when hearings were held under the chairmanship of Senator HASKELL's subcommittee, we made this exact point, and I asked the various witnesses there testifying if they would not agree that there would be no implied granting of a right, by virtue of whatever language we need in that amendment, to them as grazers and each of them, responding individually, assured us that they would be perfectly willing to do that.

So I think we have a clear legislative record on that.

I appreciate the concern of my good friend the Senator from Montana in raising the issue, and I am happy to respond to him that I think we have laid that old bugaboo to rest. There is no doubt about that.

With respect to the overall point, thinking of the points that were made by the distinguished Senator from Idaho in calling attention to a letter from the Director of the BLM, Mr. Berklund, I share the high regard that Senator McCLURE has for the Director of the BLM; but, somehow, these points seemed not to measure up to his normal perception, to say the very least.

I think we should have in mind that this exact way of doing things has been suggested by the Forest Service in many other areas. The Senator from Montana has spoken about the roadbuilding that has been given as part of the responsibility for a timber operator, for one very good reason: He could get the job done more cheaply than the Forest Service could get it done any other way. I am certain that the same end result will flow in this instance.

There is every reason to go forward with this amendment, because it will do this: It will insure that we will get a great deal more done in the way of building range improvements by cooperating with the permittees than we possibly could get otherwise.

Second, I underscore one other point that Senator McCLURE made, and it is that when this bill was first drafted, I think essentially the language was that we note and deplore the fact that the public lands of the West are deteriorating. There is plenty of technical and professional evidence to the contrary, that they have not been deteriorating. As a matter of fact, I think that those people who know what the situation was prior to the passage of the Taylor Grazing Act would agree that the biggest single thing wrong with the lack of a national policy in those days was that there was no responsibility, there was no assignment of a specific area to be grazed to any individual stockman. It was a first-come, first-served operation.

My father, who was raised in Idaho, told me that he recalled as a young man, sheep were shipped into the State of Idaho—I say to my good friend from Idaho—by Nevada sheepmen. As the snow receded in the higher mountain country in Idaho, they grazed a lot of that area.

I am not trying to point the finger of blame at any one section of the country. I say that simply because there was no national policy, it was "get there first and get it quickly." That is exactly what then obtained. At that time there was no doubt that the ranges were deteriorating.

We have not had as much money as many of us would like to have to invest in this very important resource, which can contribute significantly to the economic welfare and benefit of small communities, as can the public lands of the West. Nevertheless, with the passage of the Taylor Grazing Act, with the assignment of a specific grazing area to a stockman—while there was no guarantee that he was going to be able to graze that in perpetuity—he knew that, absent changes in the law or changes in the administration, he would be able to continue to graze it year after year.

What happened? Exactly what happens when you give an individual the right to use something rather exclusively, even though it may be only for grazing. He takes an interest in it. He starts developing water. He generally fences it. He is going to see that he does not overgraze it. It is true that in the West most of these things have occurred.

I recall that an agricultural economics professor of mine at the University of Wyoming used to say that when public land passed into private ownership, its value increased from 3 to 5 times; because when a person owns something, he takes an interest in it. If it can be irrigated, he will put water in it. He is going to plow it. He is going to fence it in and protect it. Similarly, this same interest manifests itself in the interest and protection a permittee exhibits toward the public lands of the West since the Taylor Grazing Act was passed.

I think we can do a better job, and that is what this bill addresses. That is why I am so enthusiastic in support of the amendment by the Senator from Nevada. I am a cosponsor of it. It makes good sense. By assuring a stockman a right to use an area, he is going to take better care of it.

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

Mr. HANSEN. I am happy to yield.

Mr. CANNON. I agree with the Senator in his assessment.

I ask him a further question: Is it not a fact that the condition of the grazing lands in the West is very water-dependent? Therefore, if you have a dry year, less than average moisture in the hills, then the range will look bad the following year. On the other hand, if you have a good, heavy moisture year, then the range will look great. So it is really dependent as much as the climate and the moisture as it is on any other one factor. Is that not a fact?

Mr. HANSEN. My friend from Nevada is correct. He is very perceptive, as we all know, and he is a very educated student of public lands of the West, as he has demonstrated to my great pleasure many, many times.

In the East, in this lush country, rainfall is measured in feet on an annual basis. In some parts of Wyoming, where we get 7 inches on the average, it is measured in inches. If a person from the East were to travel across Wyoming, on Interstate 80, follow the Union Pacific, or go into Nevada, he would probably find much credence in the statement that these lands have been overgrazed and they appear to be deteriorating.

The fact is that that is a very poor way of judging those lands. The only meaningful way to judge in order to see what the trend is—deterioration or improvement—and whether they can be made even better, is for qualified scientists to go on those lands and to make some comparisons over a period of time. I say to the Senator from Nevada that when that has been done, so as to even out these fluctuations in rainfall in one year as compared with another, the trend generally has been up. They have become more productive. They are better.

I recall that a very distinguished botanist at the University of Wyoming who came to Wyoming as a young man, surveyed the Red Desert. The Senator from Nevada has crossed the Red Desert in Wyoming, I suspect, a number of times. Sometimes, the distance from one plant to another is not inches; it may be feet. There is bare ground between the plants. The average person who goes out there certainly would find much substance and perceptiveness in one who says, "These lands have been practically destroyed." The fact is that Dr. Aven Nelson, who was head of the Botany Department at the University of Wyoming for a number of years, made a very exhaustive and scientific survey of the vegetative cover in the Red Desert. He retraced his steps 50 years later and used the same techniques. He counted plants in a square rod of the Red Desert at a number of locations. To the great surprise of most people who would cross southern Wyoming, he found that there was more forage on the ground when he did the second examination of that area than he found the first time.

Mr. CANNON. There are many areas in my State where very good management has been carried out in fencing and giving land a chance to rest and in reseeding. In some of the valleys in my State, the range is in better condition than I ever have seen it in the last 25 years because of the good management practices which have been put into effect. Unfortunately, we cannot put those kinds of improvements into effect now until the environmental impact statements have been completed. So, on much of the range that needs improvements, we are going to be held up from doing something.

On the other hand, in many areas where work has been done, fencing has been put in, water holes developed, this land is in far better condition than ever before.

Another unfortunate thing is that we get caught up in the desire to fix sort of artificial guidelines or artificial rules and regulations. There are areas in my State in which, if we follow the rule that BLM indicates, cattle will not be able to live, because they will have to travel too far to forage and too far to water.

Unfortunately, they have not been dealing with those ranchers who have been ranching there, through their families, for a hundred years and have made a living, because cattle can live there. You cannot provide a rule or regulation that is going to govern every part of this country.

Mr. HANSEN. I say to the Senator from Nevada that the statement he has just made reminds me of the fact that, aerodynamically, the bumble bee cannot fly, but it does become airborne some way or other. I think the Senator's point is well made.

I would be glad to yield to the Senator from Montana.

Mr. METCALF. I want to be recognized on my own time.

Mr. McCLURE. Mr. President, I want to offer this amendment, and I send the amendment to the desk.

The PRESIDING OFFICER (Mr. FANNIN). The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 10, after line 6, insert the following: Sec. 10.

The Secretaries of Agriculture and Interior are authorized and directed to develop regulations permitting the payment of up to 50 percent of the amount due the Federal Government from grazing permittees in the form of range improvement work.

Mr. McCLURE. Mr. President, does the Senator from Montana wish to discuss this amendment?

Mr. METCALF. Yes.

Mr. President, I have very little to say about this amendment. The distinguished Senator from Wyoming was reminiscing about the early days in Wyoming and how the range was supportive of a good many cattle, wildlife, and water fowl; and the Senator from Nevada suggested that the range is better now than it was 25 years ago.

My mother, who lives across the street from me in Washington, moved out to Montana, in an area that is administered by the Bureau of Land Management. She told me that when she was a little girl, her father came up through the grass in central Montana, and the grass was higher than a man on horseback.

That was the kind of grass where the buffalo roamed, and where the deer and the antelope played, and she said that there were just trails through that grass, that you could just see a man on horseback moving.

Well, you go into that area now. It is better than it was 25 years ago, I will say that to the Senator from Nevada, as a result of the Taylor Grazing Act, but it is not as good as it was when the Indians were out there and when we had the kind of normal historic regeneration.

The whole point is that the Taylor Grazing Act has helped us restore the land, but the Taylor Grazing Act specifically said that we will not give the lessee, the permittee, a fee right, a title on the public lands if it is going to go into some other additional use, nor would we give him compensation for the improvements he makes on the permittee land.

I have long thought we have neglected our BLM lands. We have appropriated money for a National Park System, we have appropriated money for a National Forest System. The orphan, the neglected area of public lands, is the most fragile land in American and that is the BLM land. Nevertheless, it would seem to me that this series of amendments, started by the Senator from Idaho, will start to move away from the provisions of the Taylor Grazing Act that said:

Well, we encourage the permittee, the lessee, the man who owns the base property, to use public land as far as his ranch is concerned, we encourage him to increase his investment in that land and build it up. And he gets a grandfather clause so that he can meet any bid on the land, and so forth, but we do not give him a property right in it.

And this is beginning to give him a property right.

Mr. McCLURE. Mr. President, I understand the concern expressed by the Senator from Montana, and if I shared that concern I would suggest we write into the amendment some specific language that says it shall not do that. I would be perfectly willing to do that because it is not my intention to move in the direction of a vested property right as a matter of law between the permittee and the Federal Government.

I think there are some rights between the permittee and his landowner and it does affect the value of private property, it ought to be included in some way in some of the other laws, but certainly not in the sense of a property right as in opposition to the Federal Government's property rights.

I think we make a mistake if all we do is look back to the Taylor Grazing Act of 1935 and say that what we did then must control what we do now, because we certainly have learned a great deal about range management in the intervening 40 years.

We do know that we can do a better job of management than simply regulating the numbers of domestic livestock that may be out there at a given piece of range during a given period of time.

We have learned that we can manage by rest rotation, which requires fencing, that we can manage by the location of watering holes, that we can manage by the removal of brush in appropriate places, that we can manage by the seeding of better varieties that will yield more forage.

I think that very essential change makes it so important now that we recognize the need for those practices which, rather than requiring nothing, require the investment of capital; if we are go-

ing to get the kind of job done that we want to get done we have to encourage that investment of capital, and that is what this series of amendments is intended to do, of which mine is just one.

If there be no further debate at this time on my amendment, Mr. President, I ask unanimous consent that further consideration of this amendment be temporarily laid aside so that we might get to another amendment to be offered by another Member of this body.

Mr. HANSEN. Mr. President, if the Senator would withhold that for just a moment, let me make one further observation that I suspect may be of interest to a wider constituency than is the amendment as presently drafted. The experience of the Game and Fish Commission in the State of Wyoming has been that by virtue of the presence of domestic livestock on the Wyoming ranges, both cattle and sheep, and the improvements that have been put in place by stockmen, including such things as stock water ponds and wells, removal of brush where it has been excessive, a sharp escalation of practically all kinds of game has occurred.

There was a time, perhaps about 40 years ago, when an antelope was a rare sight in Wyoming. Now we have areas of the State where multiple permits can be issued. We find that there are more antelope and, particularly, more female antelope, than there are hunters to take them.

This has come about—so I am told by people in the Game and Fish Department—because so much more of our State is available to them by the presence of water in areas and by the range improvements installed by stockmen. They have prospered and the antelope have prospered.

The same thing can be said of deer. We have transplanted elk in different parts of Wyoming, and they, too, are prospering.

There has also been a sharp increase in the upland bird populations of Wyoming. All of these things, the game and fish people tell me, have resulted in no small degree because of the presence of man. Fence lines with the extra feed they provide contribute cover for upland birds after harvest. These are important factors in the survival in times of adversity for those bird populations.

It ought not to go unnoticed that here is a case of the stockman doing things which harmonize exceedingly well with the wildlife and bird populations of Western States.

Mr. McCLURE. Mr. President, I renew my earlier request.

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

Mr. CANNON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 9, between lines 15 and 16, insert the following:

SEC. 8. Duration of Grazing Leases.—(a) Except as provided in subsection (b) of this section, permits and leases for domestic livestock grazing on (1) lands within the purview of the Taylor Grazing Act (43 U.S.C. 315) and the Act of August 28, 1937 (43 U.S.C. 1181a–1181j) or (2) lands within the national forest or administered in connection therewith, shall be issued for a term of ten years. Such permits or leases shall be issued subject to such terms and conditions as the Secretary of the Interior, in the case of such permits or leases under his jurisdiction, or the Secretary of Agriculture, in the case of such permits or leases under his jurisdiction, deems appropriate and consistent with applicable Federal law, including the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease: *Provided*, That such terms and conditions shall provide that, except in cases of emergency, no permit or lease shall be canceled under this subsection without two years' prior notification.

(b) Permits or leases may be issued by the Secretary concerned for a period shorter than ten years where the Secretary concerned determines that—

(1) the land is pending disposal; or

(2) the land will be devoted to a public purpose prior to the end of ten years.

(c) So long as (1) the permittee or lessee is in compliance with the rules and regulations issued and the terms and conditions in the lease specified by the Secretary concerned, and (2) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.

(d) Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value, to be determined by the Secretary concerned, of his interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein.

On page 9, line 16, strike out "Sec. 8." and insert in lieu thereof "Sec. 9.".

On page 10, line 4, strike out "Sec. 9." and insert in lieu thereof "Sec. 10.".

Mr. CANNON. Mr. President, I will say this amendment is submitted on behalf of Senator HANSEN and myself, and I ask unanimous consent that Senator McCLURE be included as a cosponsor of the amendment.

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

Mr. CANNON. Mr. President, permittees grazing on Federal lands have for many years advocated using their own funds to provide needed improvements in the ranges they use. These improvements include such things as fencing, water development, and reseeding. The users of such permits are the first to recognize when improvements are needed and the form they should be. They are vitally interested in the condition and capacity of the ranges they use. Overgrazing is not in their interests nor in the interests of the Nation.

Mr. President, I would point out that this is an arrangement which should be a partnership arrangement between the Federal Government and the users of the range because they are all desirous of having the range produce to the best of its capacity for the benefit of everyone.

Unfortunately, present BLM policies discourage the investment of private capital in range improvements. The bill before us today provides almost $900 million for range improvement programs over a 30-year period. I believe this money is needed and I support the bill. However, I feel also that many of the range lands for which this assistance is directed would be well on the way to improvement if ranchers had had adequate incentive in the past to invest their own resources. For this reason, Mr. President, I have submitted for consideration of the Senate an amendment which provides that range permits shall be for 10-year periods and that a permit shall not be canceled without a 2-year prior notice.

While permits are not normally canceled, they presently are extended for 1 year at a time. I believe the tenure provided by this amendment will encourage ranchers to invest in range improvements. Additionally, the amendment provides that when grazing of livestock is canceled in order to devote the lands to other purposes, reasonable compensation shall be granted the permittee for any authorized permanent improvements placed on the land.

Mr. President, that envisions the fact that if a man was given a permit for a 10-year period and he put in permanent improvements on the lands, and his permits were canceled at the end of 8 years, then he would have to be compensated based on the 10-year-life timespan of those improvements which he had made.

The grazing of livestock on public lands is one of its most efficient and desirable uses, consistent, of course, with the multiple-use concept. The Bureau of Land Management and the livestock industry are in partnership in the stewardship of this national resource. I believe the proposed amendment gives greater substance and meaning to that partnership.

Mr. President, I hope the Senate will adopt this amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. METCALF. I yield to the Senator from Alabama.

VISIT TO THE SENATE BY MEMBERS OF THE PARLIAMENT OF NEW ZEALAND

Mr. SPARKMAN. Mr. President, we are honored to have some distinguished visitors with us today. I call attention to the Honorable Sir Roy Emile Jack, the Honorable James Brendan Bolger, the Honorable William Francis Birch; and the Honorable Brian Peter MacDonell. and the Honorable Norman John Kirk, all from the New Zealand Parliament.

Mr. President, I ask unanimous consent to have printed in the RECORD a

biographical sketch of each one of these distinguished visitors from New Zealand.

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

HON. SIR ROY EMILE JACK, SPEAKER-DESIGNATE OF THE HOUSE OF REPRESENTATIVES, GOVERNMENT MEMBER OF PARLIAMENT FOR RANGITIKEI

Born at New Plymouth in 1914, Sir Roy's home has been at Wanganui for virtually the whole of his life. He was educated at Wanganui Collegiate School and Victoria University of Wellington, graduating LL.B.

He was a judge's associate from 1935–38 and served in the RNZAF from 1939–45. In 1945 he joined his late father's legal firm, of which he continues to be a member. He was elected to the Wanganui City Council in 1946 becoming deputy mayor in 1947, an office he held until 1955, when he withdrew from the council.

He was elected to Parliament in 1954 for the Patea electorate. From then until the present he has represented an electorate which has seen major changes of boundaries and name (to Waimarino and then to Rangitikei); but a substantial area of the land he represents now he has represented during the whole of his Parliamentary career.

Sir Roy was Deputy Speaker of the House of Representatives 1961–66, Speaker 1967–72, and in 1972 was Minister of Justice and Attorney-General. During the 1972–75 Parliament he was a member of the Statutes Revision, Library, and Arts Council Bill select committees.

He is married and has one daughter. His hobbies include music, reading, gardening, skiing, and flying.

MR. JAMES BRENDAN BOLGER, PARLIAMENTARY UNDER-SECRETARY TO THE MINISTER OF AGRICULTURE AND FISHERIES, MAORI AFFAIRS, AND TO THE MINISTER IN CHARGE OF THE RURAL BANKING AND FINANCE CORPORATION, GOVERNMENT MEMBER OF PARLIAMENT FOR KING COUNTRY

Born and educated in Taranaki, Mr. Bolger is aged 40. Before entering Parliament he held office at many levels in farming organisations. He is experienced in dairy, sheep and beef farming, and farms sheep and beef cattle as well as running a Hereford cattle stud.

Mr. Bolger became an M.P. for King Country in 1972, and was an Opposition spokesman on meat and wool affairs until last year. In December 1975 he was appointed Parliamentary Under-Secretary to the Minister of Agriculture and Fisheries, a post he still holds.

He is married with six children.

MR. WILLIAM FRANCIS BIRCH, SENIOR GOVERNMENT WHIP, GOVERNMENT M.P. FOR FRANKLIN

Born in Pukekohe and aged 41, Mr. Birch was educated at Hamilton Technical College. Upon qualifying in 1957 he began practice as a surveying and engineering consultant, working on flood protection, roading and development projects.

He became a member of the Pukekohe Borough Council in 1956 and has served as Deputy Mayor and Finance Committee Chairman.

Mr. Birch was elected a Member of Parliament for Franklin in 1972, and from 1974–75 he was Junior Opposition Whip. In December 1975 he became Senior Government Whip.

Mr. Birch is married with four children.

MR. BRIAN PETER MACDONELL, OPPOSITION M.P. FOR DUNEDIN CENTRAL

Born in Dunedin in 1935 and educated there at Christian Brothers' High School. He entered banking in 1953 and was with the Australian and New Zealand Banking Group in Dunedin until 1963, serving for a time as a national councillor of the Bank Officers' Union.

He entered Parliament in 1963 when he won the Dunedin Central seat which he still holds. Between 1972 and 1975 he was Parliamentary Under-Secretary to the Minister of Trade and Industry and also to the Minister of Energy Resources.

During his Parliamentary career he has shown a particular interest on environmental issues, and has introduced five Private Member's Bills on the subject.

Mr. MacDonell is keen on sea fishing. He is married with four sons.

MR. NORMAN JOHN KIRK, OPPOSITION M.P. FOR SYDENHAM

Born in 1947, Mr. Kirk was a Printing Trades Scholarship winner in 1969, and prior to entering Parliament was the Hawke's Bay Organiser of the Wellington Branch of the Hotel and Hospital Workers' Union.

He was elected as Member of Parliament for Sydenham in 1974 at the by-election caused by the death of his father, the Right Hon. N. E. Kirk, Prime Minister from 1972 to 1974. Mr. Kirk is currently a member of the House and Petitions select committees.

He is married with one son.

RECESS

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes so that Members might meet our friends from New Zealand.

There being no objection, the Senate, at 2:26 p.m., recessed until 2:31 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. FANNIN).

NATIONAL RANGELANDS POLICY ACT OF 1976

The Senate continued with the consideration of the bill (S. 2555) to establish a national rangelands rehabilitation and protection program.

Mr. McCLURE. Mr. President, I think perhaps there are one or two questions that can be at least discussed, and I hope laid to rest in the discussion.

The Taylor Grazing Act provides that no permittee shall be permitted to go into permission and use of an allotment on the public lands until and unless he compensates the prior permittee for the value of the improvements placed upon that allotment by the prior permittee.

It is suggested that in my amendment the provision that a portion of the value be offset against grazing fees might permit a double payment.

It is also suggested that the section of the amendment offered by the Senator from Nevada calling for the repayment to the permittee by the Federal Government of the value of the improvements would add a second payment or perhaps a third payment because they come from different sources.

It has been my thought that the regulations developed pursuant to my amendment as well as those pursuant to the existing Taylor Grazing Act would not permit that double payment.

They would require an offset, and it would be my thought that that would also be done under the amendment offered by the Senator from Nevada, that there would be no double payment. There would be no payment made by the Government to the permittee if it had been offset against his grazing fee. There would be no payment from the second permittee to the first if there had been an offset or a payment by the Federal Government.

Would that be the understanding of the Senator from Nevada

Mr. CANNON. Mr. President, I say to the Senator from Idaho, that certainly would be my understanding. I think it is quite clear, for example, in my amendment here it says the permittee or the lessee shall receive from the United States a reasonable compensation for the adjusted value to be determined by the Secretary concerned of his interest, and so on.

Now, the contemplation in my amendment is that if another permittee is going to be given part of that term, he should come up with the reimbursement of that part of the fee. But the man who had the permit should not be reimbursed twice either because he has put his improvement in and gotten credit against the grazing fee or because he has put them in and has not depreciated all those improvements.

But the Secretary clearly has the authority to establish the rules and regulations and it would be clearly the intent that a permittee would not be compensated twice.

We probably would have the situation where the balance of payment would be taken for some other reason other than the grazing by another permittee.

For example, the way the wild horse population is expanding now, and beyond what was ever contemplated under the purpose of the act, and where they are destroying range—they are four times as hard on the range as a cow—they may have to eventually try to take land for this specific purpose unless we can get that act changed, because it is quite clear BLM is not able to keep the horse population down to the 1971 level, as they were charged with doing.

So if they would ask the balance of the permit for some other purpose other than issuing to another permittee, I can see then the Federal Government should be required to compensate for the balance of that undepreciated value.

Mr. McCLURE. But the Senator's contention under his amendment, the Federal Government would make no compensation for those if another permittee were allowed on?

Mr. CANNON. Absolutely, and this would be a matter for the Secretary under his rules and regulation making authority to make clear that that would not happen.

Mr. McCLURE. It would be my intent neither the second permittee nor the Federal Government under the provisions of the Taylor Grazing Act or under the amendment would be entitled to any compensation which had already been offset against grazing fees.

Mr. CANNON. That is correct. There is no intent here to provide a windfall for anyone, but simply to reimburse them for improvements they have made in good faith and are not able to use during the

life of the permit, which in my amendment here would be a life of 10 years.

The Secretary presently could do that. They do not, as a matter of practice, but they could do it, I believe, under present law.

This would say they can issue a 10-year permit and then these rules would apply.

I thank the Senator.

Mr. HASKELL. Mr. President, I am strongly opposed to this amendment. I believe it is unnecessary from the standpoint of the grazing permittees and would be unfortunate from the standpoint of the public interest. As I understand the reason for this amendment it is to provide greater security to grazing permittees. However, I am at a loss to understand why such permittees presently do not have such security. The Taylor Grazing Act has perhaps the strongest preference rights language of any statute dealing with permits for use of public lands. Owners of base ranches have almost an assured right to permits and thereafter have preference rights for each renewal. I have not found in my tenure as chairman of the Environment and Land Resources Subcommittee any significant number of incidents demonstrating of a lack of security in grazing permits.

In addition, I would point out to my colleagues that the Taylor Grazing Act permits, although it does not require, 10-year permits. The language of the Cannon amendment requires 10-year permits but also would allow cancellation or termination of those permits during their life for a number of reasons. I cannot see any significant differences between the Cannon amendment and existing law in so far as providing additional security to permittees.

However, until the Department of the Interior completes the task of preparing allotment management plans for its grazing lands, I believe any permit statute provision requiring lengthier terms for permits should not be enacted. Upon the completion of the allotment management plans, when the range has been adequately planned and allotments have been established on the true capability of the range, I believe we can properly consider lengthier permit terms.

Subsection (d) of the permit would require the payment to a permittee for the authorized improvements on permit land whenever a permit is canceled in whole or in part. To a large extent this would be nothing more than double accounting. In effect the formula for computing grazing fees already takes into account improvements on the land and is adjusted therefor. In addition, the permittee depreciates those improvements in the payment of taxes. Both the administration and environmentalists are opposed to this provision in that it is regarded as the first step towards making the permits a right rather than a privilege requiring compensation whenever a permit is terminated or canceled.

Mr. President, this entire provision is found in the House version of the BLM Organic Act. It is in that form opposed by both the administration and environmental communities. Yet the amendment before us today does not even include several safeguard provisions found in the House version. For example, it would not permit the establishment of shorter permit terms when "it will be in the best interest of sound land management." In addition it would not tie permits to either the land use planning of the BLM or the requirements of allotment management plans.

Mr. President, I would hope we would not adopt the amendment of the Senator from Nevada. I cannot imagine greater security than is now given permittees under the Taylor Grazing Act. I know that when ranches change hands they have fee land and permit and, the purchaser takes into consideration and raises the purchase price because of the permit land, even though the permits are on a year-to-year basis.

Frankly, I believe the present scheme offers the flexibility and offers the security required. I would hope that we do not change the system at the present time.

I am also very fearful that if the amendment of the Senator from Nevada is adopted, the administration will veto the bill, as the administration opposes his position. I am very anxious to get on with improving the rangelands. For the reasons stated, I hope we will not adopt the amendment of the distinguished Senator from Nevada.

I yield the floor.

Mr. METCALF. Will the Senator yield for a unanimous consent request on a different matter?

Mr. HASKELL. I yield.

ORDER FOR EXTENSION OF TIME FOR FILING COMMITTEE REPORTS ON S. 713

Mr. METCALF. Mr. President, on April 14, 1976, on behalf of the Senate Committee on Interior and Insular Affairs, I filed a favorable report on S. 713, the Deep Seabed Hard Minerals Act. Pursuant to a unanimous consent agreement made upon introduction of S. 713, the bill was then jointly referred to the Committees on Armed Services, Commerce, and Foreign Relations for 30 days.

Under that agreement, the bill would have to be returned to the Senate Calendar on May 14, 1976. However, I have been informed that the chairman of the respective committees are agreed that this time agreement would not allow their committees adequate time for fair and adequate consideration of this important piece of legislation. Consequently, it has been requested that the original unanimous consent agreement, concerning referral of S. 713 to the three committees, be changed to allow them until June 2, 1976, to consider S. 713. Mr. President, the Senate Interior Committee has no objection to this extension of time.

Therefore, I ask unanimous consent that the period for rereferral of S. 713 to the Committees on Armed Services, Commerce, and Foreign Relations be extended until June 2, 1976.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

NATIONAL RANGELANDS POLICY ACT OF 1976

The Senate continued with the consideration of the bill (S. 2555) to establish a national rangelands rehabilitation and protection program.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the Cannon amendment, the McClure amendment, and on final passage with a single show of hands.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. I call for the yeas and nays on all three, Mr. President.

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

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that while there would be a 15-minute limitation on the first rollcall vote, the next two votes, and incidentally, they will be in rapid succession, be limited to 10 minutes.

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

Mr. MANSFIELD. For the further information of the Senate, it is anticipated that without question following the disposal of this bill, if not before, we will take up the conference report on the Federal Election Commission.

Mr. President, I ask unanimous consent that at the conclusion of the vote on the Cannon and McClure amendments the Senate then go to the committee amendment as amended and then to the third reading of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. That third reading will be immediately followed by a rollcall vote on final passage and that rule XII be waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

VITIATION OF ORDER FOR ROLLCALL VOTE ON FINAL PASSAGE—S. 2555

Mr. MANSFIELD. Mr. President, after talking with the interested Members, I ask unanimous consent that the order entered for a rollcall vote on final passage be vitiated.

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the chair. I make that request because if, before 3:30, the Federal Election Commission conference report comes over from the House of Representatives, it would be the leaders' intention at that time, with Senator CANNON in attendance and Senator HATFIELD in attendance, to call up that conference report.

There being no objection, the Senate, at 2:41 p.m., recessed, subject to the call of the Chair; whereupon, at 2:49 p.m. the Senate reassembled when called to

order by the Presiding Officer (Mr. HELMS).

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the conference report on the Federal Election Commission be called up at this time.

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

Mr. CANNON. Mr. President, I submit a report of the committee of conference on S. 3065 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HELMS). The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of April 28, 1976, beginning at page 11661.)

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

Mr. CANNON. I yield.

ORDER FOR VOTE TO OCCUR ON CANNON AMENDMENT AT 3:30 P.M. FOLLOWED BY THE VOTE ON McCLURE AMENDMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the Cannon amendment occur at the hour of 3:30 p.m., followed by a vote on the McClure amendment.

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

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

Mr. CANNON. Mr. President, in order that Senators may be notified that the conference report on the Federal Election Commission bill is pending, 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. WEICKER. 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. WEICKER. Mr. President, I ask unanimous consent that Claudia Ingram of my staff be accorded the privilege of the floor during the course of debate on the conference report on the Federal Election Campaign Act Amendments of 1976.

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

Mr. CANNON. Mr. President, I ask unanimous consent that Ed Hall of the committee staff be accorded the privilege of the floor during consideration of the conference report.

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

Mr. HATFIELD. Mr. President, I ask unanimous consent that during the consideration of this bill, Andrew Gleason, Larry Smith, Barbara Conroy, Karleen Millnick, and James Schoener have the privilege of the floor.

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

Mr. PACKWOOD. Mr. President, I ask unanimous consent that during the consideration of this bill, Bob Perkins, of Senator BROCK's staff, and Debbie Roberts, of my staff, have the privilege of the floor.

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

Mr. CANNON. Mr. President, I ask unanimous consent that Peggy Parish and Bill Cochrane have the privilege of the floor during the consideration of this measure.

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

Mr. CANNON. Mr. President, on March 24, 1976, the Senate passed S. 3065 by a vote of 55 to 28 amending the Federal Election Campaign Act of 1971. On April 1, 1976, the House of Representatives adopted amendments to S. 3065 which the Senate subsequently disagreed to on April 5, asking for a conference on the disagreeing votes of the two Houses. Senators HOWARD CANNON, CLAIBORNE PELL, ROBERT C. BYRD, MARK HATFIELD, and HUGH SCOTT represented the Senate at the ensuing conference.

The conferees, after meeting on April 7, 8, 12, 13, 27, and 28, 1976, recommend that the Senate recede from its disagreement to the amendments of the House and agree to the amended text of S. 3065, as approved by the conferees and set forth in the report of the conference. The report of the conferees was approved by the House of Representatives today.

The details of the amendments agreed to by the conferees are set forth in the conference report and I will not attempt to review all of them at this time. Many of the matters which were debated and voted upon on the Senate floor are retained in the conference substitute. Some, however, met with strong disagreement from the House conferees and a compromise satisfactory to the conferees on both sides was reached.

S. 3065 as amended in conference represents a fair compromise of the differences of both Houses of Congress. It is also legislation which reaffirms the commitment of the Congress to the improvement of our electoral process, the very foundation of our democratic system of government.

This legislation remedies the constitutional defects which the Supreme Court found to exist in the Federal Election Campaign Act Amendments of 1974, and thus creates an independent six-member commission appointed by the President, with the advice and consent of the Senate, to administer, interpret, and enforce the Federal election campaign laws of our country.

This legislation also addressed other matters necessitated by the Supreme Court's decision by codifying a number of the Court's interpretations of the campaign finance laws, and filling gaps and vacuum areas resulting from the Court's having voided virtually all limitations on the expenditure of funds in election campaigns.

The conference substitute requires, as did both the Senate bill and House amendments, political committees and persons to report independent expenditures in excess of $100 in a calendar year expressly advocating the election or defeat of a clearly identified candidate. Such a reporting requirement was upheld by the Supreme Court and is present in a less definitive form in existing law. In addition, the Federal Election Commission will be required to prepare and issue current indices which will enable the public and other candidates to know how much money is being spent on behalf of particular candidates.

With regard to reporting requirements, S. 3065 as it passed the Senate required corporations, labor organizations, and other membership organizations to report expenditures directly attributable to communications to stockholders and members, explicitly advocating the election or defeat of clearly identified candidates in excess of $1,000 per candidate per election.

The House amendment did not contain a similar provision. The conference substitute retains the principal of such reports, not required under existing law, and provides that the cost of such communications devoted to express advocacy of the election or defeat of a clearly identified candidate shall be reported if such costs exceed $2,000 per election.

However, the cost of a communication will not be reportable if the communication is primarily devoted to subjects other than the advocacy of the election or defeat of a candidate. In adopting this substitute, the conferees agreed unon certain guidelines which are set forth in the conference report.

The conferees accepted the provisions of the Senate bill setting a $5,000 threshold for waiving quarterly reports of contributions and expenditures of candidates in nonelection years. The House amendment had a $10,000 figure. The conferees also adopted the Senate proposal that committee treasurers and candidates who demonstrate that best efforts have been used to obtain and submit information will be deemed in compliance with the reporting requirements of the act. The conference bill further

provides that records need only be kept as to the identity of contributors in excess of $50.

The conference substitute combines many of the enforcement provisions contained in both the Senate bill and the House amendment, giving the Federal Election Commission expanded and more varied civil enforcement powers. As these are described in detail in the conference report I will not discuss them at this time. However, I would welcome any questions my colleagues might have with respect to these enforcement provisions.

The conferees agreed to a modification of the advisory opinion procedures of the Commission. An advisory opinion may be requested by any Federal officeholder, any candidate for Federal office, any political committee, or the national committee of any political party, concerning the application of a general rule of law stated in the act, or the application of a general rule of law prescribed by the Commission as a rule or regulation, to a specific factual situation. Section 108(a) of the conference bill prohibits the Commission from proposing general rule of law in any form other than as a rule or regulation pursuant to the congressional review procedures of the act. General rulemaking was never intended to be the function of the advisory opinion process. This section clarifies the intent of the Congress in this respect, and requires the Commission to conform their prior advisory opinions to these provisions within 90 days of enactment.

The conference bill prohibits opinions of an advisory nature other than pursuant to the advisory opinion procedure. The bill also expands those who would be able to rely upon an advisory opinion to include any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which the advisory opinion is issued.

The conference substitute amends the procedure for congressional review of Commission rules and regulations by clarifying that Congress may disapprove any provision or series of interrelated provisions which state a single separable rule of law. The proposal in the Senate bill shortening the review time was deleted by the conferees, thus retaining the 30-legislative-day period of existing law.

With respect to limitations on contributions, the conference substitute is a fair compromise between the Senate bill and the House amendment. A person, as defined in the act, will be subject to the existing limitation of $1,000 per election per Federal candidate. As under present law, earmarked contributions and contributions made to a candidate's authorized political committees are considered to be contributions to that candidate. A person may also not make contributions to any political committee established and maintained by a national political party which in the aggregate exceed $20,000 in a calendar year. A person is further prohibited from making contributions to any other political committee which in the aggregate exceed $5,000 in a calendar year. Individuals would still be subject to the $25,000 aggregate limitation on all contributions in a calendar year in existing law.

A multicandidate political committee, as defined in the act, may contribute a total of $5,000 to a Federal candidate and his authorized political committee in any election campaign. A multicandidate political committee would be limited to an aggregate of $15,000 in a calendar year which it could give to any political committee of a national political party and to an aggregate of $5,000 in a calendar year it could give to any other political committee. These latter limitations, however, would not apply to transfers between political committees of the same political party.

The provisions permitting the Republican or Democratic Senatorial Campaign Committees and the national committee of a political party to make a contribution of $20,000 to a candidate to the Senate in a calendar year was amended to reduce this amount to $17,500.

The other provisions of the Senate bill and the House amendment relating to limitations on contributions and certain expenditures were similar and are reflected in the conference substitute.

The conference substitute also contains a fair compromise between the Senate bill and the House amendment pertaining to the solicitation by corporations and labor organizations of voluntary contributions to separate segregated funds. It follows the structure of the Senate bill, permitting corporations to solicit voluntary contributions from stockholders and executive or administrative personnel, and labor organizations to solicit their members. The conference bill would clarify the definition of executive or administrative personnel to include individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities. In addition to the above, corporations and labor organizations would be able to solicit all employees and stockholders twice a year in writing by mail to their residences with the proviso that the solicitation be designed so that the party making the solicitation cannot determine who makes a contribution of $50 or less as a result of such solicitation and who does not make such a contribution.

The conference bill adopted the House provisions giving trade associations rights to solicit stockholders and executive or administrative personnel of member corporations.

The conference report, at page 63, states as follows:

> The conference substitute follows the House amendment with regard to the solicitation by a trade association of stockholders and executive or administrative personnel (and their families) of a member corporation of such trade association. The conference substitute contains the provision of the Senate bill permitting a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by such organizations, to solicit contributions to such a fund from members of such organization, cooperative, or corporation without capital stock. In light of the fact subsection (b)(4)(D) governs solicitations by a trade association of the stockholders and executive or administrative personnel of a member organization, then the term "membership organization" in subsection (b)(4)(C) is not intended to include a trade association which is made up of corporations.

A question has come up as to the purpose of the phrase "the term 'membership organization' in subsection (b)(4)(C) is not intended to include a trade association which is made up of corporations."

First of all, this language was included to preclude a trade association, which is also a membership organization, and which desires to solicit the stockholders and employees of a member corporation, from avoiding the limitations of 321(b)(4)(D), which limit such solicitation to stockholders and executive or administrative personnel of the member corporation, and further provides that the member corporation must consent to such solicitation and only give its consent to one trade association in a calendar year.

Second, it applies only to trade associations with corporate members and is intended to regulate the solicitation of the stockholders and executive or administrative personnel of such corporate members. A trade association which is a membership organization may, of course, solicit its other members, such as individuals, partnerships, et cetera, under 321(b)(4)(C).

In most other respects the provisions of the Senate bill related to corporate and labor union political action committees were ratained, except the definition of stockholder, which was omitted, leaving the interpretation of this term to general corporate law.

The conference bill contains limitations on honorariums, increasing the existing limit per speech from $1,000 to $2,000 and the yearly aggregate from $15,000 to $25,000. In addition, actual travel and subsistence expenses for the recipient of the honorariums and spouse or aide as well as amounts paid or incurred for any agent's fees or commissions are explicitly excluded from the honorarium limitations.

Finally, the conference bill includes the provisions of both the Senate bill and the House amendment pertaining to the termination of matching funds for inactive Presidential primary campaigns and the return of excess public funds not used to defray qualified campaign expenses.

In conclusion, this legislation corrects many of the defects, inequities, and inconsistencies in the campaign finance laws which the Congress and others have observed since passage of the 1974 amendments. It clearly reflects the original intent of the Congress in 1971 and 1974, and at the same time, restructures the campaign finance laws, both to give the Federal Election Commission more extensive and flexible civil enforcement and regulatory powers, as well as to provide for a more balanced and equitable operation of these laws.

Mr. President, as this legislation has been extensively debated in both Houses of the Congress, it is now of critical importance that the Senate act expedi-

tiously to approve the report of the conferees.

I would be happy to yield to any questions or comments on any part of the conference report after first yielding to the Senator from Oregon (Mr. HATFIELD).

I ask unanimous consent, Mr. President that a brief summary that I have had prepared here citing the key provisions of the proposed Federal Election Campaign Act amendments as reported by the Senate and House conference, be reprinted at this point in the RECORD.

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

KEY PROVISIONS OF PROPOSED FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976, S. 3065, AS REPORTED BY SENATE-HOUSE CONFERENCE, APRIL 28, 1976

1. Reconstitution of Federal Election Commission:

Composed of 6 members, no more than 3 of whom may be affiliated with the same political party, plus the Secretary of the Senate and the Clerk of the House, ex officio, without the power to vote.

4 members to take major action.

Members may not engage in any other business, vocation or employment. One year to terminate such activity.

All outstanding proposed rules and regulations must be submitted to Congress for review after effective date of Act.

2. Definitional Changes:

Contract or promise to pay must be in writing to be a contribution.

Legal and accounting services rendered to national committee and to candidate to assure compliance with Act, are not contributions or expenditures.

Contribution does not include gifts, etc., to national or state committees of political party designated for construction or purchase of office facilities not used for campaign purposes. Must be reported, however.

3. Recordkeeping and Reporting:

Detailed records required only for contributions in excess of $50 rather than in excess of $10.

Demonstration of best efforts by political committee treasurer or candidate will be deemed compliance with reporting requirements.

In non-election years, candidates need file quarterly reports only if contributions or expenditures or both were in excess of $5,000 in any quarter.

Reporting required for independent expenditures in excess of $100 in support of, or in opposition to, a candidate.

Reporting of cost of communications to stockholders and members by corporations, labor unions, and other membership organizations advocating election or defeat of candidate in excess of $2,000 per election.

4. Powers of Commission:

Commission given primary exclusive jurisdiction for civil enforcement of the Act, and the public financing provisions of the Internal Revenue Code.

5. Advisory Opinions:

Advisory opinions shall relate to the application of a general rule of law stated in the Act or prescribed by rule or regulation, to a specific factual situation.

General rule of law may be initially proposed only as rules and regulations subject to Congressional review and disapproval. General rules of law may not be stated through advisory opinion procedures.

Advisory opinions may be relied upon by person involved in transaction or activity of advisory opinion and person involved in transaction or activity, indistinguishable in all its material aspects from transaction or activity of advisory opinion.

6. Congressional Review of Regulations:

In reviewing regulations proposed by the Commission, the Congress may disapprove any provision or series of interrelated provisions which states a single separable rule of law.

7. Enforcement:

New detailed enforcement procedures involve: notarizing complaints; notifying persons involved of alleged violations; conducting expeditious investigations; providing an opportunity for a person under investigation to rebut; requiring the Commission to correct violations by informal methods of conciliation; giving the Commission power to bring civil action when conciliation fails; imposing of civil fines by a court or by the Commission as a condition to a conciliation agreement; giving the Commission power to refer a criminal violation which is knowing and willful directly to Attorney General without conciliation.

8. Contributions and Expenditures Limitations:

Persons may contribute to a candidate and his authorized political committee up to $1,000 in the aggregate per election; up to $20,000 in a calendar year to a political committee of a national political party; up to $5,000 to any other political committee in a calendar year.

Multicandidate political committees may contribute to a candidate and his authorized political committees, up to $5,000 in the aggregate per election; up to $15,000 in a calendar year to a political committee of a national political party; up to $5,000 in a calendar year to any other political committee.

Limitations regarding committee contributions do not apply to transfers between national, state, district, or local committees of the same political party.

Provisions to curtail vertical proliferation of contributions by political committees.

Republican or Democratic Senatorial Campaign Committees or the national committee of a political party, or any combination of such committees, may contribute up to $17,500 to a candidate for the Senate in an election year.

Expenditure limits retained; for Presidential candidates who accept public funds; and for national and state committees of political parties.

9. Transfer of a Number of Title 18 Criminal Provisions Related to Federal Elections to the Federal Election Campaign Act of 1971.

10. Contributions by Corporations and Labor Organizations:

General solicitation of contributions by corporations is limited to stockholders, and executive or administrative personnel and their families.

The term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than on an hourly basis, and who have policymaking, managerial, professional or supervisory responsibilities.

General solicitation by labor unions is limited to union members and their families.

Both corporations and unions may twice during a year solicit by mail all employees, officers, stockholders, union members, and their families.

Trade associations may solicit stockholders and executive or administrative personnel of member corporations with limitation of one trade association per corporation.

11. Honorarium Limitations:

$2,000 limitation for any appearance, speech, or article, and $25,000 total calendar year limitation.

Actual travel and subsistence expenses for recipient and spouse or aide, as well as amounts paid or incurred for any agent's fees or commissions are excluded from the limitations.

12. Criminal Penalties:

Criminal penalty for a knowing and willful violation of the Act which involves the making, receiving, or reporting of any contributions or expenditures having a value in the aggregate of $1,000 or more during a calendar year. For certain sections, the amount involved is less.

Fine up to $25,000 or 300% of contribution or expenditure involved, imprisonment for up to 1 year, or both.

A conciliation agreement may be used as evidence of the defendant's lack of intent or knowledge to commit the offense in a criminal action brought with respect to the specific act, or failure to act, which is the subject of the conciliation agreement.

13. Termination of Payments for Lack of Demonstrable Support and Return of Funds:

A Presidential candidate loses eligibility to receive public matching funds if he receives less than 10% of his party's votes cast for all Presidential candidates in two successive primaries in which he authorized his name to be placed on the ballot, or in which he failed to certify that he was not an active candidate.

Candidates who cease to actively seek nomination or election in one or more states must return public funds not used for qualified campaign expenses.

Mr. CANNON. Mr. President, I yield to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, the Federal Election Commission has been without operating authority for almost 6 weeks. Presidential candidates who entered the 1976 Presidential primaries with the understanding that Federal matching funds would be available to them if certain criteria were met soon found themselves without matching funds in the middle of some important races. One can only speculate whether the absence of Federal funds truly served as a setback to their respective campaigns. One need not speculate, however, which Presidential candidates were hampered by the lack of funds, since the results in Saturday's Texas primary showed that the Republican Presidential race is still very much alive.

The Supreme Court and the President of the United States urged the Democratic-controlled Congress to enact a simple bill providing for the reconstitution of the Federal Election Commission. The enactment of such a bill would have taken only a few hours instead of weeks. Such a bill would have permitted the steady flow of matching funds to Presidential candidates of both parties. However, the majority part of the Congress seized upon the Supreme Court decision in Buckley against Valeo as an opportunity to remake the election laws in a manner more to their party's liking.

Mr. President, I originally supported the concept of enacting a bill providing for the simple reconstitution of the Federal Election Commission. Upon seeing that a simple reconstitution was impossible, I worked toward getting the best possible bill through the Senate, and through the Senate-House conference. Considering the fact that the minority party does have rights, but not the votes, I believe the best possible bill from a Democratic-controlled Congress has been achieved. There are provisions in the conference bill which are not to my liking. But I am realistic enough to believe

the Republican Party had better take what it can get when it is the minority party. Mr. President, I urge my Republican colleagues to study this measure very carefully, and then consider whether there is any possibility of getting a better bill from this Congress. I believe that once they have taken such a prospect into consideration, they will decide to vote in favor of the adoption of this conference bill.

Mr. President, I would have liked to have signed my name to a conference report providing for the simple reconstitution of the commission. But it was the will of the majority party not to take this road. After weeks of debate and consideration, the Senate has the opportunity to vote on a measure to reestablish the Federal Election Commission. While this measure somewhat weakens the commission, I suggest to my colleagues that if we are to have any type of independent watchdog machinery in operation for the November elections then we had better support this measure. If we do not, if the Senate rejects the conference bill, there is no way of knowing how much more time will be required to formulate a new bill, if one is formulated at all.

Therefore, I urge the support of the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I wonder if the chairman or Senator HATFIELD would respond to a few questions? I ask them for clarification of my own mind.

Mr. President, we have changed this bill on union reporting for money spent specifically advocating the election or defeat of a specific candidate from $1,000 per individual election to $2,000 aggregate, as I understand it.

Mr. CANNON. The Senator is correct.

Mr. PACKWOOD. Then we said specifically in the law, and the report says on page 63:

> The conferees agreed that section 301(f)(4)(C), as amended by the conference substitute, makes reporting requirements applicable * * *

I assume there, because there is no other reference to reporting requirements, that we are talking about section 304(f) of the same reporting requirement that all other political campaigns have to report, under the same timetables and all of that, once the threshold is reached. I realize there is no reporting until we reach the threshold. Then they follow the same reporting requirements that everybody else follows?

Mr. CANNON. Yes, provided they come within that limitation.

Mr. PACKWOOD. Yes.

Mr. CANNON. The $2,000.

Mr. PACKWOOD. They must qualify both in terms of the substance of what they are doing and the $2,000 threshold.

Mr. CANNON. The Senator is correct.

Mr. PACKWOOD. Once they reach that, the FEC makes them report just like everybody else has to report.

Now, I am curious——

Mr. HATFIELD. Mr. President, will the Senator yield at that point? I think the chairman is correct, but I think that ought to be further clarified. That matter was not specifically discussed, so this assumption, I think, is a reasonable assumption, but if the chairman thinks I am wrong I would like to be corrected. It is my recollection that this question which the Senator has just addressed himself was never specifically debated in the committee.

Mr. PACKWOOD. That is the reason I asked it because I come to the same conclusion the Senator and the chairman come to because I do not know what other conclusion you reach because it makes reference to reporting, and there is only one reporting law we are talking about, and there are no other reporting regulations one is required to meet. So I assume there is no——

Mr. HATFIELD. There is no legislative history, to my knowledge, that would give this other interpretation.

Mr. CANNON. There was initially no reporting requirement for that provision at all.

Mr. PACKWOOD. Right.

Mr. CANNON. The Supreme Court said they had the right to communicate with their members, and the Senator offered the amendment, as I recall——

Mr. PACKWOOD. Right.

Mr. CANNON. Which the Senate adopted. We required reporting for amounts over $1,000. The conference changed that to the amount of $2,000, but a cumulative amount, so it would apply even though it might have been for several candidates, and you would not separate it out. For example, if you had three candidates and $3,000 total expenditure even though the expenditure for each candidate might be $1,000, it is the cumulative figure of $2,000 which would trigger the reporting requirement.

Mr. PACKWOOD. Then, on the trade association and the requirement that a business can only be solicited by one trade association, in what manner does the corporation give that assent? Can they file a letter once a year and say that X Trade Association can solicit it or how does it work?

Mr. CANNON. We do not prescribe here what the manner of consent ought to be. I would assume that perhaps the FEC would prescribe a rule that would apply generally to all trade associations.

The purpose there was that if you had a number of organizations that belonged to a number of different trade associations they would not be subjected to a barrage of solicitations. But the corporation can say, This trade association we belong to, is the one designated which can make the solicitation under the provisions of the act.

Mr. PACKWOOD. I understand the barrage and I agree with it.

Can a corporation that is a conglomerate, that has totally unrelated subsidiaries, can those subsidiaries be solicited by different trade associations so long as it is only one trade association soliciting each one?

Mr. CANNON. A similar provision was proposed and rejected in conference which would have allowed divisions, if there were divisions, to be solicited by a separate trade association. This would not be permitted under the conference bill.

Mr. PACKWOOD. So that the parent corporation then has to make an election as to which trade association, even though they may have substantially diverse interests in their subsidiaries——

Mr. CANNON. I am sorry, I did not get that last statement.

Mr. PACKWOOD. So the situation is you have got a parent corporation and it owns a bakery, it owns a real estate company, it owns an automobile distributorship. That automobile distributorship, if they made an option, the parent corporation, to solicit, say, the bakers trade association can solicit them; they could not say they want the bakers trade association to solicit the bakers organization and the automobile dealers association to solicit their automobile division, no crossover. I am not suggesting that one trade association representing the bakers could solicit the automobile dealers or vice versa, but the Senator is saying that the corporation has to make an election, and only one trade association can solicit, period.

Mr. CANNON. Well, if it is just simply a separate corporation which is a subsidiary of a parent organization, that might be a situation there where they could elect to be solicited by their own trade association, completely unrelated from a conglomerate head. It would appear that a separate corporate organization, could designate its own trade association. But if it is simply a branch of a parent organization, then the one-time solicitation would apply.

Mr. PACKWOOD. Did we stick pretty much to the same definition of managerial, executive personnel that we had in the Senate bill as it passed?

Mr. CANNON. If the Senator will turn to page 62 of the conference report, I think it is reasonably close. I think it is a little more specific. This is explained at subparagraph 2 at the bottom of the page:

> 2. The conference substitute follows the Senate bill in using the term "executive or administrative personnel" throughout section 321 rather than "executive officer". The conference substitute defines that term to mean an employee who is paid on a salary, rather than hourly, basis and who has policy-making, managerial, professional, or supervisory responsibilities. The term "executive or administrative personnel" is intended to include the individuals who run the corporation's business, such as officers, other executives, and plant, division, and section managers, as well as individuals following the recognized professions, such as lawyers and engineers, who have not chosen to separate themselves from management by choosing a bargaining representative; but is not intended to include professionals who are members of a labor organization, or foremen who have direct supervision over hourly employees, or other lower level supervisors such as "strawbosses".

Mr. PACKWOOD. That definition sounds—although there is no reference to it here—very much like the wage and hour-fair labor standards definition of executive-administrative professional. Does the chairman know if the confer-

ence had that in mind in coming toward this conclusion?

Mr. CANNON. It was discussed It was an attempt to follow it somewhat, but it was not necessarily intended to say that this is the provision in the Fair Labor Standards Act.

I think we were trying to use terms that had a general, commonly recognized meaning, so that it would eliminate any confusion, though not to specifically tie it into the Fair Labor Standards Act as such.

Mr. PACKWOOD. I might ask the chairman this, and I will read from the hearings of the conference. This is Congressman BRADEMAS asking the question:

So if Joe Smith, candidate, has a problem, he wants information, he can write or get in touch with the Commission and say would you please give me this information, and the Commission is able under this understanding to say here is the answer to your question, here is the information you want.

That is a distinct situation, however, from the issuance of an advisory opinion, the power to issue which is defined by numbers 1 through 3 here.

Of course, I am getting to the situation where a candidate can write or call the Commission and get that kind of opinion from them.

Mr. CANNON. If the Senator will turn to page 44 of the committee report:

4. While the rules just stated govern all opinions of an advisory nature, these provisions do not preclude the distribution by the Commission of other information consistent with the Act.

We very clearly prescribed how and under what terms and conditions the commission could issue an advisory opinion. It had to be the application of a general rule of law stated in the act, or set forth in a prescribed rule or regulation, to a specific factual situation.

But here, we wanted to make it clear that the Commission has other responsibilities under the act.

I would interpret from what the Senator read that the Commission could make known that kind of information under its general powers under the act, and it would not constitute an advisory opinion.

Mr. HATFIELD. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. HATFIELD. I would agree with the interpretation given by the chairman, but I think it ought to have one or two further comments made about it.

The chairman has said that an advisory opinion has set forth a criterion, and then he cited those other sections, but I think it has to be borne in mind that under no circumstances can the commission give an opinion based upon a hypothetical circumstance or situation. They may be able to cite a certain law or a certain regulation existing already in a known fact situation, which would be the closest to that they could come.

But as far as taking a hypothetical circumstance and rendering some kind of advice and counsel, I do not think the chairman implied that, but I would certainly want the record clear. My understanding is that the commission is precluded from doing that very thing, even beyond the advisory opinion rule it might be planning.

Mr. PACKWOOD. This is exactly the point.

Again, let me read something Chairman HAYS said:

I think 4 takes care of a good deal of your problem, while the rules just stated govern all opinions of an advisory nature—

The PRESIDING OFFICER. The chair would interrupt the Senator.

NATIONAL RANGELANDS POLICY ACT OF 1976

The Senate continued with the consideration of the bill (S. 2555) to establish a national rangelands rehabilitation and protection program.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2555, and the question is on agreeing to the amendment of the Senator from Nevada. 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 Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Michigan (Mr. PHILIP HART) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) and the Senator from New Hampshire (Mr. DURKIN) are absent on official business.

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

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "no."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from New York (Mr. JAVITS) and the Senator from Ohio (Mr. TAFT) are absent on official business.

The result was announced—yeas 40, nays 40, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—40

Allen	Goldwater	Packwood
Baker	Griffin	Pearson
Bartlett	Hansen	Roth
Beall	Hatfield	Scott, Hugh
Bellmon	Helms	Scott, William L.
Brock	Hollings	Sparkman
Burdick	Hruska	Stennis
Byrd, Robert C.	Inouye	Stevens
Cannon	Laxalt	Stone
Curtis	McClellan	Talmadge
Dole	McClure	Thurmond
Domenici	McGee	Young
Eastland	McGovern	
Fannin	Moss	

NAYS—40

Abourezk	Glenn	Morgan
Bentsen	Hart, Gary	Nelson
Biden	Haskell	Nunn
Brooke	Humphrey	Pastore
Bumpers	Jackson	Pell
Byrd, Harry F., Jr.	Johnston	Percy
Case	Kennedy	Proxmire
Chiles	Leahy	Randolph
Clark	Long	Schweiker
Culver	Magnuson	Stafford
Eagleton	Mansfield	Stevenson
Fong	McIntyre	Symington
Ford	Metcalf	Weicker
	Mondale	

NOT VOTING—20

Bayh	Hart, Philip A.	Muskie
Buckley	Hartke	Ribicoff
Church	Hathaway	Taft
Cranston	Huddleston	Tower
Durkin	Javits	Tunney
Garn	Mathias	Williams
Gravel	Montoya	

So Mr. CANNON's amendment was rejected.

Mr. McCLURE and Mr. MOSS addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. MOSS. Mr. President, I ask unanimous consent that I might proceed to present a message from the House and the appointment of conferees.

The PRESIDING OFFICER. Is there objection? Without objection, the unanimous-consent request is agreed to.

The Senater from Utah is recognized.

CONGRESSIONAL BUDGET, 1977

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 109.

The PRESIDING OFFICER (Mr. HANSEN) laid before the Senate the amendment of the House of Representatives to the concurrent resolution (S. Con. Res. 109) setting forth the congressional budget for the U.S. Government for the fiscal year 1977 and revising the congressional budget for the transition quarter beginning July 1, 1976, as follows:

Strike out all after the resolving clause, and insert:

That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $363,000,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $14,800,000,000;

(2) the appropriate level of total new budget authority is $454,071,000,000;

(3) the appropriate level of total budget outlays is $415,435,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $52,435,000,000; and

(5) the appropriate level of the public debt is $713,710,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased (over amounts specified in section 3(5) for the transition quarter) is $67,510,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301(a)(2) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on

October 1, 1976, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $112,000,000,000.
(B) Outlays, $100,600,000,000.
(2) International Affairs (150):
(A) New budget authority, $9,200,000,000.
(B) Outlays, $6,500,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $4,600,000,000.
(B) Outlays, $4,500,000,000.
(4) Natural Resources, Environment, and Energy (300):
(A) New budget authority, $14,800,000,000.
(B) Outlays, $15,703,000,000.
(B) Agriculture (350).
(5) Agriculture (350):
(A) New budget authority, $2,262,000,000.
(B) Outlays, $2,029,000,000.
(6) Commerce and Transportation (400):
(A) New budget authority, $19,910,000,000.
(B) Outlays, $17,740,000,000.
(7) Community and Regional Development (450):
(A) New budget authority, $6,500,000,000.
(B) Outlays, $6,200,000,000.
(8) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $24,617,000,000.
(B) Outlays, $23,004,000,000.
(9) Health (55H):
(A) New budget authority, $39,250,000,000.
(B) Outlays, $38,200,000,000.
(10) Income Security (600):
(A) New budget authority, $156,764,000,000.
(B) Outlays, $139,228,000,000.
(11) Veterans Benefits and Services (700):
(A) New budget authority, $20,459,000,000.
(B) Outlays, $19,975,000,000.
(12) Law Enforcement and Justice (750):
(A) New budget authority, $3,400,000,000.
(B) Outlays, $3,500,000,000.
(13) General Government (800):
(A) New budget authority, $3,497,000,000.
(B) Outlays, $3,470,000,000.
(14) Revenue Sharing and General Purpose Fiscal Assistance (850):
(A) New budget authority, $7,347,000,000.
(B) Outlays, $7,351,000,000.
(15) Interest (900):
(A) New budget authority, $41,400,000,000.
(B) Outlays, $41,400,000,000.
(16) Allowances:
(A) New budget authority, $4,990,000,000.
(B) Outlays, $2,960,000,000.
(17) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$16,925,000,000.
(B) Outlays, —$16,925,000,000.

SEC. 3. The Congress hereby determines and declares in the manner provided in section 310(a) of the Congressional Budget Act of 1974, that for the transition quarter beginning on July 1, 1976—

(1) the recommended level of Federal revenues is $86,000,000,000;

(2) the appropriate level of total new budget authority is $96,300,000,000;

(3) the appropriate level of total budget outlays is $101,200,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light economic conditions and all other relevant factors is $15,200,000,000; and

(5) the appropriate level of the public debt is $646,200,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $19,200,000,000.

Mr. MOSS. Mr. President, I move that the Senate disagree to the House amendment, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. MUSKIE, Mr. MAGNUSON, Mr. MOSS, Mr. MONDALE, Mr. HOLLINGS, Mr. CRANSTON, Mr. BELLMON, Mr. DOLE, Mr. BEALL, and Mr. DOMENICI conferees on the part of the Senate.

NATIONAL RANGELANDS POLICY ACT OF 1976

The Senate continued with the consideration of the bill (S. 2555) to establish a national rangelands rehabilitation and protection program.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the Cannon amendment was rejected.

Mr. HASKELL. Mr. President, a point of order.

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

Mr. HASKELL. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. Was the Senator on the prevailing side?

Mr. McCLURE. Mr. President, it was a tie vote. There was no prevailing side.

Mr. FORD. Mr. President, we cannot understand what is going on.

The PRESIDING OFFICER. Did the Senator vote in the negative?

Mr. McCLURE. The Senator voted in the affirmative.

The PRESIDING OFFICER. The Senator was not on the prevailing side, therefore, is not eligible.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, in a tie vote is it not in order for a Senator on either side to ask for reconsideration?

The PRESIDING OFFICER. The Senator must vote with the prevailing side or not vote in order to move to reconsider.

Mr. McCLURE. What is the prevailing side if there is a tie vote?

The PRESIDING OFFICER. A negative vote is the prevailing side.

Mr. McCLURE. Excuse me.

The PRESIDING OFFICER. The negative vote is the prevailing side on the tie vote.

Mr. McCLURE. Mr. President, is that the ruling of the Chair?

The PRESIDING OFFICER. That is the ruling of the Chair.

Mr. MANSFIELD. Let us vote on the McClure amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Idaho.

Mr. CANNON. Mr. President, I send an amendment to the desk to the amendment of the Senator from Idaho.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MANSFIELD. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Montana will state it.

Mr. MANSFIELD. I believe the agreement was fairly ironclad, that immediately following the vote on the Cannon amendment the vote would occur on the McClure amendment; the Senate would then go to third reading and a voice vote and final passage which would occur; is that correct?

The PRESIDING OFFICER. The Senator is correct but an amendment to the McClure amendment is in order at this point without debate.

Mr. MANSFIELD. Mr. President, there was no stipulation made to that effect because I thought it was crystal clear, to use an old expression, that the vote would occur on the amendment to be followed by a vote on another amendment to be followed by third reading, to be followed by final passage. There was no stipulation made for amendments to amendments, motions, appeals, or anything else.

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

Mr. MANSFIELD. I yield.

The PRESIDING OFFICER. For the agreement, to exclude amendments would require that intervening amendments be out of order.

Mr. CANNON. I have been advised by the Parliamentarian that an amendment is in order. This is precisely the same amendment we voted on.

The PRESIDING OFFICER. That is the ruling of the Chair.

Mr. McCLURE. That was from 10 to 5 years. It is otherwise identical. It is added as an amendment to follow the last part of the McClure amendment.

The PRESIDING OFFICER. Debate is not in order.

The amendment will be stated.

Mr. HASKELL. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. Is this amendment in order?

The PRESIDING OFFICER. The amendment is in order as an amendment to the McClure amendment.

Mr. MANSFIELD. Vote. Ten minutes.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) for himself and Mr. HANSEN proposes an amendment. At the end of the amendment of the Senator from Idaho (Mr. McCLURE) add a new section:

The amendment is as follows:

On page 5, between lines 14 and 15, insert the following:

SEC. 8. Duration of Grazing Leases.—(a) Except as provided in subsection (b) of this section, permits and leases for domestic livestock grazing on (1) lands within the purview of the Taylor Grazing Act (43 U.S.C. 315) and the Act of August 28, 1937 (43 U.S.C. 1181a–1181j) or (2) lands within the national forest or administered in connection therewith, shall be issued for a term of five years. Such permits or leases shall be issued subject to such terms and conditions as the Secretary of the Interior, in the

case of such permits or leases under his jurisdiction, or the Secretary of Agriculture, in the case of such permits or leases under his jurisdiction, deems appropriate and consistent with applicable Federal law, including the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease: *Provided*, That such terms and conditions shall provide that, except in cases of emergency, no permit or lease shall be canceled under this subsection without two years' prior notification.

(b) Permits or leases may be issued by the Secretary concerned for a period shorter than ten years where the Secretary concerned determines that—

(1) the land is pending disposal; or

(2) the land will be devoted to a public purpose prior to the end of ten years.

(c) So long as (1) the permittee or lessee is in compliance with the rules and regulations issued and terms and conditions in the lease specified by the Secretary concerned, and (2) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.

(d) Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value, to be determined by the Secretary concerned, of his interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein.

Mr. MANSFIELD. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment and a 10-minute rollcall has been agreed to.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays, because they were not ordered on this amendment.

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

The yeas and nays were ordered.

Mr. MANSFIELD. Vote.

The PRESIDING OFFICER. 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 Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Michigan (Mr. PHILIP A. HART), are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) and the Senator from New Hampshire (Mr. DURKIN) are absent on official business.

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

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

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from New York (Mr. JAVITS) and the Senator from Ohio (Mr. TAFT) are absent on official business.

The result was announced—yeas 45, nays 35, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—45

Abourezk	Griffin	Pearson
Allen	Hansen	Pell
Baker	Hatfield	Roth
Bartlett	Helms	Scott, Hugh
Beall	Hollings	Scott, William L.
Bellmon	Hruska	Sparkman
Brock	Inouye	Stafford
Burdick	Laxalt	Stennis
Byrd, Robert C.	Long	Stevens
Cannon	Magnuson	Stone
Curtis	McClellan	Talmadge
Dole	McClure	Thurmond
Domenici	McGee	Young
Eastland	McGovern	
Fannin	Moss	
Goldwater	Packwood	

NAYS—35

Bentsen	Ford	Mondale
Biden	Glenn	Morgan
Brooke	Hart, Gary	Nelson
Bumpers	Haskell	Nunn
Byrd, Harry F., Jr.	Humphrey	Pastore
Case	Jackson	Percy
Chiles	Johnston	Proxmire
Clark	Kennedy	Randolph
Culver	Leahy	Schweiker
Eagleton	Mansfield	Stevenson
Fong	McIntyre	Symington
	Metcalf	Weicker

NOT VOTING—20

Bayh	Hart, Philip A.	Muskie
Buckley	Hartke	Ribicoff
Church	Hathaway	Taft
Cranston	Huddleston	Tower
Durkin	Javits	Tunney
Garn	Mathias	Williams
Gravel	Montoya	

So Mr. CANNON's amendment to Mr. MCCLURE's amendment was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MCCLURE and Mr. MOSS moved to lay the motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Idaho, as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Michigan (Mr. PHILIP A. HART) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) and the Senator from New Hampshire (Mr. DURKIN) are absent on official business.

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

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

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from New York (Mr. JAVITS) and the Senator from Ohio (Mr. TAFT) are absent on official business.

The result was announced—yeas 41, nays 39, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—41

Abourezk	Fannin	Packwood
Allen	Goldwater	Pearson
Baker	Griffin	Roth
Bartlett	Hansen	Scott, Hugh
Beall	Hatfield	Scott, William L.
Bellmon	Helms	Sparkman
Brock	Hruska	Stafford
Burdick	Laxalt	Stennis
Byrd, Robert C.	Long	Stevens
Cannon	McClellan	Stone
Curtis	McClure	Talmadge
Dole	McGee	Thurmond
Domenici	McGovern	Young
Eastland	Moss	

NAYS—39

Bentsen	Hart, Gary	Morgan
Biden	Haskell	Nelson
Brooke	Hollings	Nunn
Bumpers	Humphrey	Pastore
Byrd, Harry F., Jr.	Inouye	Pell
Case	Jackson	Percy
Chiles	Johnston	Proxmire
Clark	Kennedy	Randolph
Culver	Leahy	Schweiker
Eagleton	Magnuson	Stevenson
Fong	Mansfield	Symington
Ford	McIntyre	Weicker
Glenn	Metcalf	
	Mondale	

NOT VOTING—20

Bayh	Hart, Philip A.	Muskie
Buckley	Hartke	Ribicoff
Church	Hathaway	Taft
Cranston	Huddleston	Tower
Durkin	Javits	Tunney
Garn	Mathias	Williams
Gravel	Montoya	

So Mr. MCCLURE's amendment, as amended, was agreed to.

Mr. MCCLURE. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed

for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 2555), as amended, was passed as follows:

S. 2555

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 "National Rangelands Policy Act of 1976".

SEC. 2. FINDINGS, PURPOSE, AND DEFINITIONS.—

(a) The Congress finds that—

(1) despite increased efforts and expenditures of the Bureau of Land Management and individual users of the western public rangelands, many areas of the rangelands are producing less than their potential, a condition which threatens the livelihood of such users and the economic stability of neighboring communities, present levels of meat production, the quality and availability of scarce western water supplies, United States obligations to Mexico concerning the salinity level of the Colorado River, the maintenance of wildlife habitat, and the viability of flood prevention programs;

(2) the rangelands will remain in an unsatisfactory condition and some areas may decline further under present management levels; and

(3) this condition can be corrected by a national commitment to a program of improved management of the rangelands, a program which would provide the additional benefits of increased soil and watershed stability; protection of water quality and maintenance of present water production levels; expansion of the forage resource and a consequent rise in livestock production; enhancement, protection, and maintenance of wildlife habitat; reduced flood danger; and economic stabilization of communities and individuals dependent on such lands.

(b) The Congress hereby finds a necessity for, and declares a national commitment to, the rehabilitation and protection of the rangelands. It is the purpose of this Act to establish a program to identify the current rangeland conditions and trends; to plan and effect actions to correct deficiencies in such lands; and to restore such lands to, and maintain them in, as full productive capacity as feasible.

(c) For the purpose of this Act—

(1) "Secretary" means the Secretary of the Interior; and

(2) "rangelands" means lands administered by the Secretary through the Bureau of Land Management on which there is domestic livestock grazing, or other lands so administered which the Secretary determines may be suitable for domestic livestock grazing.

SEC. 3. RANGELANDS INVENTORY.—The Secretary shall develop within five years of the date of enactment of this Act, and maintain on a continuing basis thereafter, a comprehensive and appropriately detailed inventory of all rangelands. This inventory shall identify the resources of and deficiencies in the rangelands and shall be kept current so as to reflect changes in conditions.

SEC. 4. RANGELANDS REHABILITATION AND PROTECTION PROGRAM.—The Secretary shall develop, maintain, revise as necessary, and implement a rangelands rehabilitation and protection program for the improved management of the rangelands, which shall have as its purpose the correction of the deficiencies in the rangelands as inventoried pursuant to section 3 and the rehabilitation of such lands within thirty years of enactment of this Act. Thereafter, such program shall provide for the maintenance of, or improvement in, the productive capacity of such lands achieved at the conclusion of such period in a manner consistent with the protection and enhancement of resource values identified by this Act and with the multiple use, sustained yield concept of land management. Such program shall include plans for the various areas of the rangelands, which plans specify the actions, and the schedule thereof, to be undertaken on such areas within said thirty-year period. Such plans may identify areas of the rangelands which, because of their small relative size, minor resource value, scattered land ownership, or other reasons, are unsuitable for the improved management required by this Act and provide for appropriate management of such lands to arrest further decline in, and protect the multiple use values of, such lands.

SEC. 5. RANGELANDS MANAGEMENT.—The Secretary shall manage the rangelands in accordance with the rangelands rehabilitation and protection program.

SEC. 6. PARTICIPATION OF STATE AND LOCAL GOVERNMENTS, USERS, AND THE PUBLIC.—The Secretary, by regulation, shall establish procedures, including public hearings or meetings where appropriate, to give State and local governments, users of the rangelands, and the public adequate notice and an opportunity to comment upon the rangelands rehabilitation and protection program during its preparation and implementation.

SEC. 7. RANGELANDS REPORT.—The Secretary shall prepare a rangelands report no later than two years after the enactment of this Act and at five year intervals thereafter. Such report shall be made available to the public and submitted to the Congress no later than one hundred and twenty days after the close of the appropriate fiscal year. The report shall include, in appropriate detail, an analysis of the condition of the rangelands, the implementation of the rangelands rehabilitation and protection program, and the advances made in meeting the purpose of this Act.

SEC. 8. AUTHORIZATIONS.—There are hereby authorized to be appropriated for the purpose of this Act additional funds over and above amounts already appropriated to the Bureau of Land Management in fiscal year 1976 for livestock management, soil and water, and wildlife, as follows: an increase of $10,000,000 in fiscal year 1977; additional increases of $5,000,000 per year each and every year in fiscal years 1978, 1979, and 1980; and increases of $500,000 per year each and every year from fiscal year 1981 through and including fiscal year 2006. Any increased amounts as authorized herein not appropriated in one or more years shall be authorized for appropriation in any subsequent year.

SEC. 9. CONSTRUCTION OF LAW.—Nothing in this Act shall be construed to diminish the authority of the Secretary under any existing provision of law.

SEC. 10. RANGELAND IMPROVEMENT WORK.—The Secretaries of Agriculture and Interior are authorized and directed to develop regulations permitting the payment of up to 50 percent of the amount due the Federal Government from grazing permittees in the form of range improvement work.

SEC. 11. DURATION OF GRAZING LEASES.—(a) Except as provided in subsection (b) of this section, permits and leases for domestic livestock grazing on (1) lands within the purview of the Taylor Grazing Act (43 U.S.C. 315) and the Act of August 28, 1937 (43 U.S.C. 1181a–1181j) or (2) lands within the national forest or administered in connection therewith, shall be issued for a term of five years. Such permits or leases shall be issued subject to such terms and conditions as the Secretary of the Interior, in the case of such permits or leases under his jurisdiction, or the Secretary of Agriculture, in the case of such permits or leases under his jurisdiction, deems appropriate and consistent with applicable Federal law, including the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease: *Provided,* That such terms and conditions shall provide that, except in cases of emergency, no permit or lease shall be canceled under this subsection without two years' prior notification.

(b) Permits or leases may be issued by the Secretary concerned for a period shorter than ten years where the Secretary concerned determines that—

(1) the land is pending disposal; or

(2) the land will be devoted to a public purpose prior to the end of ten years.

(c) So long as (1) the permittee or lessee is in compliance with the rules and regulations issued and the terms and conditions in the lease specified by the Secretary concerned, and (2) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.

(d) Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value, to be determined by the Secretary concerned, of his interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

Mr. HASKELL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2555.

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

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this afternoon it stand in adjournment until the hour of 10 o'clock tomorrow morning.

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

ORDER FOR COMMITTEES TO MEET UNTIL 12 NOON TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may meet until 12 noon tomorrow.

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

ORDER FOR THE RECOGNITION OF SENATOR GOLDWATER TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow morning, after the usual courtesies, that the distinguished Senator from Arizona (Mr. GOLDWATER) be recognized for not to exceed 15 minutes.

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

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report on S. 3065. The clerk will report the conference report.

The legislative clerk read as follows:

Conference report on S. 3065, an act to amend the Federal Election Campaign Act of 1971.

Mr. PACKWOOD. Mr. President, I believe when the unanimous-consent order came into effect at 3:30 I was in the midst of a question to the Senator from Nevada (Mr. CANNON) and the Senator from Oregon (Mr. HATFIELD) concerning—I want to use the words carefully, I do not want to say advisory opinions, but concerning—advice that can be given by the Federal Election Commission to a candidate who writes in trying to seek some direction from the Federal Election Commission as to whether or not a candidate can or cannot do a certain thing.

I wonder if I might pose the question again and have the Senator from Nevada answer. Is it permissible under this conference report language for a candidate who has not yet undertaken a particular action—in this sense it is a hypothetical action, and a candidate is seeking advice—who has not yet taken an action, to contact the Commission and ask the Commission's opinion and get an answer from the Commission as to whether or not the contemplated action is permissible under the law?

Mr. CANNON. If the question relates to a specific factual situation, which it could well do even though it is prospective, and relates to the application of a general rule of law stated in the act, or in chapter 95 or 96 of the Internal Revenue Code, or if it has already been prescribed as a rule or regulation, he could be so advised.

Mr. PACKWOOD. That is perfect. What we have is the Commission cannot make new law on this information, advisory opinion, but to the extent of existing law, or they have already issued, which has gone through Congress and been approved, the Commission is free to offer its advice to that extent.

Mr. CANNON. The Senator is correct.

Mr. PACKWOOD. I thank the chairman very much.

Mr. CANNON. For the benefit of Senators, I would like to announce that there will be no further rollcall votes this evening.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER (Mr. HANSEN). The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise to comment on the matter before us and the matters that are not before us.

Specifically, we have a piece of legislation concerned with our Federal election process and, most specifically, concerned with the financing of Presidential campaigns.

Time and again, the comment has been made, this legislation is Watergate reform, which brings me to the purpose of my discussion this evening and for the days that follow.

The legislation that is Watergate reform legislation is not, in two instances, even out of committee, never mind on the floor of the U.S. Senate.

The third instance, even though it is out of committee, it has not been discussed on the floor of the U.S. Senate.

I would like to read, if I might, the recommendations of the Watergate Committee on this business of public financing on page 572, article numbered 7:

7. The committee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government.

The Select Committee opposes the various proposals which have been offered in the Congress to provide mandatory public financing of campaigns for Federal office. While recognizing the basis of support for the concept of public financing and the potential difficulty in adequately funding campaigns in the midst of strict limitations on the form and amount of contributions, the committee takes issue with the contention that public financing affords either an effective or appropriate solution. Thomas Jefferson believed "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

The committee's opposition is based like Jefferson's upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns.

The abuses experienced during the 1972 campaign and unearthed by the Select Committee were perpetrated in the absence of any effective regulation of the source, form, or amount of campaign contributions. In fact, despite the progress made by the Federal Elections Campaign Act of 1971, in requiring full public disclosure of contributions, the 1972 campaign still was funded through a system of essentially unrestricted, private financing.

What now seems appropriate is not the abandonment of private financing, but rather the reform of that system in an effort to vastly expand the voluntary participation of individual citizens while avoiding the abuses of earlier campaigns.

Now I cite this passage because I think it points out very clearly how soon we forgot the matters which came to our attention as a Senate and the American people not so many years ago.

To have this measure come on the floor and to have it argued as being worthy of passage, because it is Watergate reform is absolutely incorrect. It is not true. If we want Watergate reform, that is what we have not done.

I will state exactly what those measures are. They are the legislation presently bottled up by a combination of Rules and other Senate committees called oversight of CIA, FBI. I understand the Rules Committee has a bill coming forth on the floor of the Senate on May 10 which is nowhere near the legislation passed by the Senate Government Operations Committee. In fact, it is another study committee. But certainly the congressional oversight of the intelligence community needs correction and yet we have not acted on it in 3 years.

Privacy of individual tax returns. That is what is commonly known as the Weicker-Litton bill. It has had hearings both before Ways and Means and the Finance Committees. It is still bottled up in the Finance Committee. It has not come to the attention of the Senate. That is a Watergate reform.

Last, the Watergate reform bill itself, which encompasses full financial disclosure by elected officials, the establishment of a Department of Governmental Corruption in the Justice Department, the criteria by which a special prosecutor would be selected, and the creation of a Congressional Office of Legal Counsel. That is Watergate reform, and, as I say, that bill has not yet come to the Senate floor.

So let us understand then why it is that this Senator is more than a little upset as to the priorities of the Congress of the Untied States.

Apparently when it comes to political campaigns, apparently when it comes to getting a hand in the taxpayers' pockets, there is a great urgency about our actions. There is an intensity that associates with our actions as, indeed, there are self interests that need to be served, and we do so under the guise or within the Trojan horse of campaign reform, Watergate reform.

But when it comes to keeping our mind on the business of the United States, specifically its Constitution, specifically its political and governmental systems, then that legislation just moves at a very slow pace.

I suppose the question that came to my mind is, what do we do about it? Between a combination of the bureaucracies here, none of which want to relinquish any authority or power, the senatorial committees, none of which want to go ahead and relinquish any power, the executive branch of Government, which would just as soon see this whole thing fade away into the mist, the matter of reform is almost dead.

It seems to me, the last chance is to have the American people focus on our actions and to demand that we do pay attention to the priorities of the Nation rather than priorities of self.

It is my hope in the next several days there will be a demand from the American people that every Member of this body go on record as to whether or not he favors oversight of our law enforcement intelligence community, whether he favors strict regulations protecting taxpayer privacy, whether the systems be put into place to assure that many of the abuses of Watergate do not occur again.

That is the nature of this exercise. I

freely admit I think the basic legislation itself is wrong and I am against it, but I am not here to go ahead and filibuster that. I will vote against it.

At no time will we have such a contrast as between the priorities of the Congress and the priorities of the Nation as when we have before us the reform legislation, unattended, and the campaign legislation which has all the interest and procedures behind it.

As I said, I am not asking, Mr. President, that the Senate pass the matters that I have referred to. I just want an up-and-down vote. If we do not have the up-and-down vote before the Fourth of July, it is dead. It is not only dead for the year 1976, it is dead forever. It will not be voted on in any manner, shape, or form.

All I can say, we have already just taken a look at oversight legislation. I remember everybody felt that in order to have effective intelligence, law enforcement agencies accountability was necessary. Every Senator came before the committee, before his local media, and said, "Yes, we have to have some form of oversight."

The administration sent them up by the droves, even the Secretary of State and the Director of the CIA himself said that we have to have some sort of oversight.

That was months ago when the heat was on. Now, as I stand on this floor this evening, there is no push at all from the executive branch of Government and, indeed, it seems to be the political thing to do, to go back to the status quo.

At this time, Mr. President, if I may, I would like to read the address which I gave just this past Saturday at the University of Virginia Law School on the occasion of Law Day.

(Mr. HELMS assumed the Chair at this point.)

Mr. WEICKER. Mr. President, I read these comments made on Saturday because I think they best describe, after long thought, the principles that are involved in the discussion for the next several days:

Rights and liberties are a great challenge to every American generation.

But as we celebrate Law Day 1976 we seem to have forgotten that without excellence of procedures, rights and freedoms are going nowhere but out.

For every great right you enjoy as an American citizen, I can show how the key to that right is grounded in sound procedure.

Trial by jury.

The right to counsel.

Search warrant procedures before the invasion of one's home and private papers.

Innocent until proved guilty.

Rules of evidence that protect from hearsay and innuendo.

Due process.

I submit that procedure as much as substance upholds our government of laws. What is disheartening as we celebrate our bicentennial is that one of the most critical of all procedures—oversight of government by the elected—is being dropped from democracy's manual.

The media, the public, and most of our leaders are all too willing to say that sensational revelations and successful prosecutions are enough.

I know they are not.

The work of reform in the sense of procedures that protect our institutions and constitution has yet to advance one iota.

First and foremost is the need for genuine oversight procedures by the Congress. We need these to challenge and discipline the conduct of unelected officials, especially in the abuse-prone areas of secret government.

There should be a place for an American citizen to go when his own government turns against him—specifically, an Office of Official Corruption in the Justice Department. There should be full financial disclosure by all elected officials. Rigid procedures for protecting taxpayer privacy should be precisely legislated.

If some of these ideas sound vaguely familiar, they should. They are the important side of the crimes and abuses of the 1970's. They address the real issues of Watergate, of the Agnew case, of the misuse of the IRS, and of abuses of secret agencies such as the FBI and CIA.

Every one of these concepts is contained in legislation that is before the Congress this very minute—has been before the Congress for three years. And right now not one of them faces the prospect of becoming a reality.

As we revel in the prosperity of our first two hundred years, we are abandoning the protections that must be in place if there is to be value to a tricentennial.

Have we not learned the lesson of history, ancient and modern, that a system of government that depends on the good intentions and faith of men in power will, in the long run, be less reliable and more subject to abuse than a system of laws, which depends on independent standards secured by ongoing institutions?

Have we failed to learn the companion lesson of history, that no system of government and justice can, or should, survive if it comes to depend for its continued effectiveness on citizens' abdication of their basic rights in response to the blackmail of societal or personal selfishness—no matter whether that selfishness is apathy, bigotry, laziness or self-imposed ignorance?

No democratic system worth preserving should have to fear that its people will become aware of what their government is doing, and thereby exercise their right to control its conduct.

In the whirlwind of revelations, we seem to have missed the point, that there has been a common thread to the drama of recent years. That ever-recurring theme has been the failure of institutions and procedures.

Let us review the record.

My individual views in the Senate Watergate Report began with the observation that "Watergate was not a whodunit."

I went on to explain that Watergate was "a documented, proven attack on laws, institutions and principles."

The report then proceeded to enumerate 189 separate violations of the Constitution. As I stated at the time, "every major substantive part of the Constitution was violated, abused, and undermined during the Watergate period."

The important facts were not a break-in at Democratic Headquarters. Rather, they were such items as "an executive branch that approved a master intelligence plan (known as the Huston Plan) containing proposals that were specifically identified by that executive branch as illegal."

How did the executive get away with it?

Simple. Nobody was looking, particularly in the Congress.

Over and over again, the record established with facts governmental abuse of our laws, systems and ideals. I was frankly amazed by a recent New York Times editorial which, commenting on the Church Committee report, stated, "It contains few disclosures that were not in the public domain. Thus the Committee did little to enrich the foundation of fact and public understanding required to achieve the legislative remedies which it found necessary and desirable."

You've got to be kidding. Three years of fact upon fact upon fact, Watergate Committee, Church Committee, House Judiciary Committee, Woodward and Bernstein, Special Prosecutors, SEC reports, Grand Juries, trials, press investigations and revelations, kiss and tell books, the Schlesinger report, Rockefeller Commission. Ladies and gentlemen, story-telling time in the USA had best give way to law-making.

And that is why I stand on my feet this evening and will tomorrow, and for as many days as it is possible to do so, to get us to do the business that will put matters aright in this country. No one else has the power to do that except this body along with the House and the executive branch of Government—

The incredible is that nothing has changed legally.

Except some of my colleagues have the gall to come in here and propose, as the great reform of the national nightmare of the past 3 years, Federal financing of Presidential campaigns with the intonation that, after that is through with, will have Federal financing of senatorial campaigns and congressional campaigns.

How did they ever get our priorities so screwed up?

There is still no effective oversight mechanism. There is still no independent prosecutor. There is still no financial disclosure by government officials. There is still no procedure to protect your tax return information from being misused.

Before Watergate there was the explanation of ignorance for the state of our government affairs. But now we know.

So, no more excuses of ignorance. No more speculations as to what it is that everyone is doing.

Very frankly, that knowledge that we now possess holds us to a higher standard of responsibility. If we do not do anything the alternative, de facto, is a nation in the gutter.

There are two ways our laws are made in this country: De jure, through the legislative legal processes, and de facto, as a matter of doing.

Before these abuses were laid out on the table, it would have been impossible to establish them as custom or as law. However, with everyone's full knowledge, these matters go uncorrected, it is only a matter of time before they then become the policies, laws, and customs of this Nation.

Maybe they are already there after 3 years. Maybe they are already that.

I noticed that many of the things that were spoken of in the years past have been laughed off by inaction. They are starting to creep into acceptance by the American people as a part of our political processes and governmental processes.

The Church and Pike committees have clearly documented its use by the CIA and the FBI. What do the findings of these investigations tell us about oversight procedures?

Begin with money. The House investigations tell us that some $10 billion is spent each year on spy activities and related expenses. Senate committee estimates are reported closer to $9.7 billion.

That comes to about 16 percent of all controllable expenditures by the Federal Government each year—in other words, 16 percent of the money left over after automatic spending, such as social security.

How closely did oversight scrutinize this huge chunk of funds? The answer is almost unbelievable. The investigations reveal, as just one example, that a few years ago the CIA could find literally nobody in Congress—a Congressman, Senator, or staffer—who would even listen to a budget presentation.

For years, J. Edgar Hoover told absolutely nobody in Congress what he spent on intelligence. Until last year, the executive branch had never even totaled up what we spend on domestic intelligence.

Why is the Congress surprised, then, when they discover waste and duplication in secret agency spending. Duplications alone are estimated to have cost an average of $1 to $2 billion a year for the last 10 years.

The response to these findings is even more bizarre. In an effort to get some type of compromise on setting up a new oversight committee, it has been proposed that the budget authority be taken away from the new committee and left in the hands of those who have ignored their responsibility for years.

That is not oversight. That is "blindsight."

It is my understanding that in the proposal of the Rules Committee on oversight, the proposal does little more than to set up another study committee. No budgetary authority is given to the committee, and its duration is limited. It would be comprised of the members of the various Senate committees that have not been doing their job over the past year.

It woud have investigatory or subpena authority. It would have no legislative or budget authority. It would, in effect, be a study commission.

What a testament to the impotence of this Congress and more specifically the Senate and more specifically the Rules Committee.

The House investigation revealed that just last year the United States finally ended its participation in a secret war in the Mid-East.

In 1972, Dr. Kissinger and the President, against the advice of the CIA and State Department, authorized the CIA to give massive military aid to the Kurds, who were fighting for their independence in Iraq.

You may never have heard of the Kurds, but tens of thousands of people died with your weapons. You were not told, much less asked, about it. Even more important, Congress was not told, for almost a year after our intervention.

That is no oversight. It is hindsight. So, now that we have learned about the failure of oversight to keep us appraised of such rudimentary events as wars, what do we do? We investigate those people in the House that brought you the bad news. And we cite this as a good example of how Congress cannot be trusted with oversight.

The Senate committee revealed that we tried to assassinate foreign leaders who disagreed with us. What the Senate did not tell you was that the chairmen of the two oversight committees in Congress were fully briefed about these plans at least 3 years ago.

They launched no investigation.

Why? Probably because the entire contingent of full-time staff support for CIA oversight committees in both Houses of Congress consisted of one person—and he was retired intelligence official.

Note the urgency when it comes to financing of Presidential campaigns, the rush to grab for the money and the incredible staffing, both as to the members and those who assist them on the Federal Election Commission. But when it comes to the business of oversight of the Intelligence and the Law Enforcement Committee, there is one staff member in both Houses.

That is not oversight. It is "weaksight."

As a final example, we have the case of the Italian elections. For years, the Communists have been gaining power because they offer one simple thing—relief from the debilitating corruption of Italian politics.

So, what does the U.S. Ambassador and Secretary of State offer in response? An attempt to buy the 1972 election for $10 million.

Not so smart, you say. It does not make sense that our Congress—leaders of the world's greatest democracy—would approve of that, because sooner or later, it is bound to catch up with us.

Well, do not be surprised, because Italy is just a classic example of the "shortsight" that the old committees have applied to oversight.

The fact is that too often recently we have tried to buy, bribe, coerce, or connive our way to short-term successes throughout the world regardless of the means necessary to achieve this.

Congress did not worry about its shortsight because they knew that the true story would never be told.

You see the overseers—those who now insist that no change is needed—had arranged it so they could not tell you the truth even if they wanted to.

That is right. They had adopted a system of classification of secrets that was controlled entirely by the executive. As of January 1, 1976, for example, there were 15,466 persons in the executive branch who could classify information. There was nobody in Congress, nobody, who could declassify.

Keep in mind that not a single classifying official in the executive branch is elected. Those officials charged with oversight are elected. I would say that is democracy turnd upside-down.

Certainly it is not oversight. It is "foolsight."

Would not any wrongdoer have loved going before the oversight committees of the Congress, instead of the committees of Mr. Ervin and Mr. Rodino? How different history would have been.

One thing emerges clearly. We know for sure what we do not have. Call it what you will—blindsight, hindsight, weaksight, shortsight, or foolsight—we do not have oversight.

Oh, yes, but we do have time to go ahead and make sure that Federal money is made available for the campaigns of the various Presidential candidates. The creation of an effective system to oversee the intelligence community is essential to the well-being of the Nation. It does not make any difference in the election sense. The Nation has done rather well in 200 years. But the Nation is not doing very well in the areas to which I have referred. But they can wait—as they waited last year and the year before and the year before that; and, on the basis of what apparently is coming out of the Rules Committee, as we will wait for the future.

My last hope, then, is not in the Senate of the United States. It is not in the House of Representatives. It is not with the President of the United States. It is not with the agencies. It is with the people of this country. The ball is in their court.

Let me say it very simply: You are not going to get any greater ethics or any greater excellence or any better solutions devised in the Oval Office, on the floor of the Senate, or on the floor of the House than you will get in the voting booths of this country. One is a reflection of the other.

The American people have been spectators in this process for too long, and the time has come now for them to express themselves as to what is important in their minds. Is it somebody's political campaign, or is it the Constitution of this country, under which their children are going to have to live? Is it the governmental and political systems of this country which have done so well by all of us, or is it an additional bumper sticker or campaign button that is important? That is what this debate is about. Let the Senators go on record as to where their priorities lay.

On this business of people expressing themselves, I recall that as I was growing up in the Northeast, it was the thing to do to point the finger at southern Senators and blame them for a lack of civil rights laws. It was those southern Senators, using rule XXII, who were to blame for the lack of civil rights laws in this Nation. Oh, no. It was not that easy. The Nation, itself, did not want civil rights laws—North and South. When the Nation finally got hold of its conscience and demanded action, it got action, regardless of rule XXII. That is what the Nation is going to have to do right now, if they want to go ahead and put this aright.

The game is only half over, and most all have picked up and gone home. Maybe "out to lunch" would be more descriptive.

What irony.

Because when this Nation was founded, we made much of the idea that we were to be "a government of laws and not of men."

Yet, as we approach the 200-year mark, nobody is asking what we have learned from two centuries of American laws at work.

We sell trinkets. We organize parades.

But is anyone concerned with the emerging dominance of men over laws in this country?

Perhaps it is because it is so easy to nod approval when some Fourth of July orator pays homage to "our government laws," with nobody ever having to explain what it really means.

The explanation is basic. People who founded this Nation wanted protection from men in power. And they wanted accountability, secured through institutions and procedures.

That is why they wrote into the Constitution that "a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time." Would they not be surprised to learn that 16 percent of our controllable spending is never published?

Maybe a government of laws sounds too academic. But there are some very practical things happening because good systems of law are not in place to protect us from man-made abuses and neglect.

Ten billion dollars spent without scrutiny is not academic.

Being on an enemies list is not academic.

Participation in the killing of thousands of Kurds is not academic.

Tax audits as political retaliation is not academic.

Buying an Italian election is not academic.

Overthrowing a freely elected government in Chile is not academic.

The problems are neither academic nor over. You say, we remember what went wrong from Watergate to the CIA, and nobody would try it again. You say, the President has issued Executive orders to prevent a reoccurrence.

This gets to the heart of the matter.

We are a nation of laws, not memories.

We are a nation of laws, not executive orders.

To view the national nightmares of the 3 years past as thrills and entertainment fails our children who will pay the price in their liberties. Those nightmares were: First, real; and second, our mistakes.

It is we who should pay the price. In law. Today.

Those were the comments I made 2 days ago in this first of the areas I have been discussing—the matter of oversight. They clearly show the history of abuse.

As we stand on the floor of the Senate this evening, each Senator would have to tell his constituents that, despite that record of abuses and despite the principles that are expounded, no action has been forthcoming from the Senate, from the Congress of the United States.

I recall when Senator MANSFIELD appeared before the Committee on Government Operations and testified as to oversight. He said:

> When the oligarchs in the Senate got through with me, we only had 28 votes.

He has been having this battle for 20 years. Again I quote Senator MANSFIELD:

> They were able to win because they had the hierarchs in the Senate in their pockets, and they were just loathe to change, as the CIA was to face up to change.

For 20 years he has waged that battle. I suppose I have no right to complain. For me it has been only a 3-year battle.

However, what should be of great concern to every American, aside from the constitutional principle, which I have mentioned, is that which is being proposed here in the way of accountability. Accountability would provide more effective intelligence-gathering, more effective law enforcement. There is a direct relationship between effectivenes and accountability. Without accountability the trouble starts.

Mr. President, to review where we stand on these various matters, let me insert in the RECORD at this time, a rundown as to the various pieces of legislation: Senate Resolution 400, which is intelligence oversight; the Watergate Reform Act, S. 495; and the tax privacy bill.

First, as to intelligence oversight, this legislation was introduced more than 20 years ago by Senator MANSFIELD.

In September of 1974, together with Senator BAKER, I introduced a measure calling for a joint congressional oversight committee.

In January of 1975, the Senate Government Operations Committee, responding to current pressures, reported legislation to create a permanent standing committee on intelligence. The resolution was simultaneously referred to the Committee on the Judiciary and the Committee on Rules and Administration.

The Rules Committee will report Senate Resolution 400 today. As reported, the Rules Committee proposes a Senate select committee on intelligence. The committee will be composed of 11 members—8 from Appropriations, Armed Services, Foreign Relations, and Judiciary, and 3 members at large. The select committee would have only oversight, investigatory and subpena authority but not legislative or budget authority.

I should like to read at this time an explanation of the action of the Rules Committee on this legislation:

> The Committee on Rules and Administration has given careful and due consideration to the establishment in the Senate of a Standing Committee on Intelligence Activities, as proposed by Senate Resolution 400. In the Committee's judgment the creation of such a standing committee at this time would be precipitate.

Twenty years for Senator MANSFIELD, 3 years for Senator WEICKER, and everything in between on this very subject, and it is going to be precipitate—let me repeat:

> The Committee on Rules and Administration has given careful and due consideration to the establishment in the Senate of a Standing Committee on Intelligence Activities, as proposed by Senate Resolution 400. In the Committee's judgment the creation of such a standing committee at this time would be precipitate and unwise, and constitute an overreaction to the recently disclosed and certainly undesired illegal and unauthorized activities within certain agencies of the Federal intelligence community.

It is an overreaction because all we want to do is to have Congress—in this case the Senate of the United States—perform the duties imposed upon it by the Constitution of the United States.

Nowhere in that document is an exemption given to any agency of Government from the accountability procedures of oversight by the Congress, nowhere.

No one has asked that the secrets of the CIA, in the sense of names and addresses and locations of agents or sources be revealed; none of that is asked by Senate Resolution 400. Senate Resolution 400 is an expression that oversight, in this instance, is of such importance that it has to be a primary function, not a secondary function, of some other committee, but a primary function of a Senatorial committee.

I will grant the best motives to my colleagues as to why it is they did not do their job over the last 20 years. It was specifically because they were too busy doing other things. As everybody knows, the oversight function in the sense of the FBI and CIA was a secondary function of the Armed Services Committee, or a secondary function of the Foreign Relations Committee. So again, granting them the best of motives or the best of excuses, I will accept that they did not perform their duties because there were other duties that were their primary function.

But that is no help to the people of the country. They are the ones who have to go ahead and live with these agencies. They are the ones who have to live with the abuses of these agencies.

I think that every one of us would agree that certainly we want an effective intelligence-gathering agency, and certainly we all want effective law enforcement. But there is no reason why we have to choose between that and the Constitution of the United States. That is the scare tactic that has been bandied about this town for the last several months.

I believe we can have intelligence-gathering and law enforcement and it can be constitutional, but not if there is no oversight procedure. That, in effect, is what is imposed on us by the Constitution. But, de facto, we have managed to shunt it aside, and when I read a comment that it is an overreaction to merely ask that we perform these legislative duties, imposed on us by the Constitution, I find incredible.

It goes on in this report, which we will all be reading:

> The Committee on Rules and Administration feels that the creation of any new standing committee of the Senate is a very serious undertaking.

You bet your last $2 bill it is. Far more serious, however, I would say are the unattended-to abuses of the past several years:

> The Committee on Rules and Administration feels that the creation of any new standing committee of the Senate is a very serious undertaking and should not be engaged in, if at all, until all implications of the action are thoroughly explored over a considerable period of time. In this Committee's judgment the time frame for such an important determination has not been available, especially in view of the Senate's direction to this Committee to report Senate Resolution 400 by April 30, 1976.

I realize that sometimes we get out of touch with reality around this place, but to make a statement like that in a Senate report—let me enumerate once again what we are talking about.

We are talking about the Schlesinger report, we are talking about the Rockefeller Commission report, we are talking about the Church committee report, we are talking about the House Intelligence Committee report. I might add that the Hoover Commission report of 1955 on the same matters and also made very similar recommendations. These are the ones specifically that gear-in on this subject—never mind the Watergate or the House Judiciary reports, which are specific. And then somebody has the gall to make that kind of a statement. Maybe they are right, maybe they are right on that committee. Maybe the American people are going to go ahead and forget:

Two other factors have influenced the Committee's position in this respect. First, it would certainly appear unwise to rush into the creation of a new Standing Committee on Intelligence Activities before the Members of the Senate had an opportunity to study and digest the findings of the present Select Committee to Study Governmental Operations With Respect to Intelligence Activities, whose final report is in the process of being released. Secondly, since the Senate has just created a new Select Committee to Study the Senate Committee System, with a mandate to report to the Senate by February 28, 1977, it would certainly appear logical that any proposal to create a Standing Committee on Intelligence Activities should receive consideration by that Select Committee in conjunction with its overall study of committee jurisdictions.

I just hope the American people are listening to these reports and these words—delay after delay after delay; postponement after postponement after postponement, but not when it comes to people's political funding, not when it comes to political funding. Oh, that is urgent, that receives the highest priority. How ridiculous.

I know, Mr. President, that it is not going to be physically possible for me to forever delay the Federal Election Commission legislation. It is not my intention to do that, but I just do not think that ever before have the reverse priorities of Congress been in sharper focus than at this time, when the most serious legislative matters are put on the back burner and the ones that serve our own partisan interests have become a No. 1 priority.

Leaving the intelligence oversight for a minute and moving on to a status report of the other legislation, the Watergate Reform Act, that is S. 495, was introduced by Senator ERVIN and the members of the Select Committee on Presidential Campaign Activities in December of 1974. The bill was voted to be reported by the Government Operations Committee on April 9, 1976. A detailed report is being prepared and the committee expects to report the bill to the Senate on Monday, May 10. There undoubtedly will be a referral to at least one other committee, maybe two.

On the matter of tax privacy, in the 93d Congress over 18 months ago the Weicker-Litton bill was introduced to protect the confidentiality of tax returns. Since that time this legislation has received strong editorial support and has been sponsored by over half the House and over one-third of the Senate Members. Extensive Senate hearings have been held by the Finance Committee and the House Ways and Means Committee.

Congressman LITTON and I have testified on the following days: April 28, 1975, before the Senate Finance Committee on administration of the IRS Code; on July 10, 1975, before the House Ways and Means Subcommittee on the IRS; January 28, 1976, before the full Ways and Means Committee; on March 14, 1976, before the Privacy Commission.

Bills are still pending before the Senate Finance Committee and the House Ways and Means Committee. The Finance Committee has begun 5 weeks of markup sessions on tax reform legislation, and the Joint Committee on Internal Revenue Taxation staff has prepared a background paper on tax privacy.

There is a possibility that the Finance Committee may take it up before the end of May. However, there is a fear of the staff that the privacy issue will be laid aside because it is too controversial and there is not enough time to consider it.

So there you have the status report as to the real Watergate reform not the Federal Election Campaign Act amendments that is referred to in the Rules Committee by the chairman and others as being Watergate reform when, indeed the Watergate Committee specifically recommended against public financing. There is the status.

I ask unanimous consent at this time that there be printed in the RECORD at this point an editorial of the Washington Post of Sunday, May 2, 1976.

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

A FAILURE OF OVERSIGHT

A slender Senate Rules Committee majority threatens to make a farce out of the Senate intelligence inquiry by (1) launching a tame—and utterly redundant—inquiry of its own and (2) blocking establishment of an effective permanent intelligence oversight committee. Offhand, we can think of no greater triumph of pettiness over public interest in recent time. The Rules majority, led by Chairman Howard Cannon (D-Nev.), speaks for the standing committees (especially Armed Services and Appropriations). The first thing to remember about these committees is that they did a lackadaisical and inept job of oversight in the past. The next thing to know is that they remain pretty much the captives of the agencies they are supposed to oversee, and that they do not wish to yield any of their responsibilities and prerogatives to a new oversight panel. To recite these failings and frail ties is to demonstrate the magnitude of what has—or, more accurately, has not—been done.

The temporary Senate intelligence committee, which went out of business with its reports on foreign and domestic intelligence last week, is under some criticism for failing to time its biggest investigatory explosions for the period in which the oversight issue would be the first order of business in Congress. But come, now. Who can forget the earlier stark and stunning committee reports on official U.S. efforts to solve diplomatic problems with other nations by murdering their leaders or toppling their governments? Even the foreign-intelligence report issued last Tuesday, whose contents the committee negotiated out with the executive branch in order to avoid stalemate and gain consensus, had a full complement of abuses crying to be corrected by meaningful oversight. The CIA, for instance, was revealed to have bent to White House and Pentagon pressure and doctored a crucial intelligence report bearing on Soviet strategic intentions. The extent of loose and in some cases nonexistent policy control over covert actions was detailed as never before.

One could go on. The point is that the need for effective oversight has been proven beyond any serious question. To restore oversight to the very panels whose inadequacy has been so thoroughly demonstrated is an exercise in the unthinkable. Intelligence oversight is not the primary business of any of these committees, anyway. They all have plenty to do without keeping an exclusive lock on a responsibility they have discharged so poorly in the past. The whole effort to put intelligence under the rule of law is in the balance. This effort requires not just establishment of a new oversight committee but passage of comprehensive new legislation to define and delimit the tasks of intelligence. The committee issue, however, is rightly seen as a crucial test case.

Wittingly or not, the Senate barons balking committee change are handmaidens of executive abuse and patsies for executive power. Is this really the role that men like John Stennis and James Eastland, for instance, believe that a U.S. senator should play? The full Senate should reject the Rules Committee caprice when the matter comes to the floor in May, and construct oversight machinery that offers some hope of preventing recurrence of the abuses that the Church committee has so carefully and persuasively catalogued.

(At this point Mr. FORD assumed the chair.)

Mr. WEICKER. I would say that editorial states it rather well, Mr. President. It lays before the U.S. Senate the issue in very clear terms.

I do not want to take overly much time because I am sure we will have another go at it when we actually do get the legislation before us.

I feel that this is not the substance of what we are supposed to be discussing here. We are supposed to be discussing the FEC conference report, but they are inextricably wound.

All the time and attention that is paid to that agency and that principle could well be used in furthering the reform legislation denied this country for so long.

I think, Mr. President, what I will do at this time is read the individual views appearing in that Watergate report. As I stated earlier, many of the matters have gone uncorrected. It is the reason why I stand here before the Senate this evening.

I might add, this report was written before I had any knowledge of tapes or what was on those tapes. So it all had to be constructed or reconstructed. Here it is in May of 1976, this report was issued in June 1974, and nothing in that report has been refuted by either subsequent tapes or testimony, or whatever we have:

A STILLNESS

In the early 1970's, several independent events took place in the United States of America. On the surface they appeared to lack a common bond.

In June of 1969, a Louis Harris poll found that 25 percent of all Americans felt they had a moral right to disregard a victim's cry for help. Over the next several years, this

mood took the form of countless incidents of looking the other way when men and women were assaulted and murdered in full view of entire neighborhoods.

On May 1, 1970, at Kent State University in Ohio, a group of students who refused an order to disperse were fired upon by the National Guard, killing William Schroeder, Sandy Scheuer, Jeffrey Miller, and Allison Krause, and wounding nine others. Ten days later, at Jackson State University in Mississippi, police who had been called in to protect firemen from violence, opened a 28-second fusillade into and around a dormitory, killing Phillip Gibbs and James Earl Green, and wounding 12 others.

During 1971, a decision was reached by the administration to conduct the President's reelection campaign with a special committee totally separate and insulated from the political party which would renominate that President.

In early 1972, a young radio reporter in Miami stood outside a supermarket trying to get people to sign a copy of the Bill of Rights. Seventy-five percent refused, many saying it was Communist propaganda.

In February of 1972, it was revealed that International Telephone & Telegraph had allegedly offered a campaign contribution of $400,000 in return for the Justice Department dropping an antitrust suit against ITT. The suit was dropped on Presidential order, but when the Attorney General was questioned about the President's role by a Senate committee in March, he lied.

On June 17, 1972, burglars employed by the Committee to Re-Elect the President were arrested inside the headquarters of the Democratic National Committee with bugging equipment and large sums of cash.

In December of 1972, having failed to obtain congressional approval for a reorganization of the Cabinet, the administration moved autonomously to establish three or four "supersecretaries" and to place various executive office employees in key sub-Cabinet posts. The obvious goal was to create a White House-directed network of decision-making and reporting quite apart from the formal Cabinet structure which remained subject to congressional scrutiny.

In February of 1973, the White House held a peace-with-honor reception to celebrate the end of the Vietnam war. Only those Congressmen who had supported the President's Vietnam policies were invited, implying that those who had questioned our involvement in Vietnam were either against peace or were dishonorable.

Some of these incidents were matters of life and death and were well publicized. Others were matters of principle and were little noticed at the time.

In each instance a significant outrage had taken place.

What was common to all?

In each instance no one complained.

A constitutional stillness was over the land.

THE UPROAR

American decency, idealism, honesty and reverence for the Constitution that some had thought bought off has been stirring and reasserting itself for many months now.

Yes, a few still cry treason when questions are asked.

A few still espouse the end as justifying the means.

A few still goggle at an American title rather than the title of American.

But it was only yesterday, June 17, 1972 to be specific, that today's few were part of a large American majority.

Why the turnaround?

The truth!

Because Frank Wills discovered taped doors at the Watergate, America's doors didn't close in all our faces.

CONSTITUTIONAL DEMOCRACY IN THE ERA OF WATERGATE

For this Senator, Watergate is not a whodunit.

It is a documented, proven attack on laws, institutions, and principles.

The response to that attack was and is a Nation of laws at work, determining whether men shall prevail over the principles of a constitutional democracy. It has been and will be the testing of a great experiment in government begun some 200 years ago.

Laws, institutions, and principles were squarely before this committee, to be debated, probed and documented, in order to assert remedies and reassert time-honored concepts. Guilt or innocence was not an issue. This was a fact-finding body; it was a legislative body; and those duties go to the heart of what Watergate was all about.

In keeping with the committee's duties, this is a report of facts and evidence, leading to legislative recommendations. To document the abuse of laws, institutions, and principles, the facts and evidence are presented, first, as they bear on the basis of our laws, the Constitution; second, as they relate to the institutions of our Government; and third, as they affect the principles of our political system.

I. THE CONSTITUTION

One of the most disturbing facts about the testimony presented to this committee is that so much of it went relentlessly to the heart of our Constitution.

To appreciate what happened to the Constitution, it is useful to divide the seven articles and 26 amendments into substantive versus procedural provisions. The substantive sections lay out rights, powers, and duties. The procedural areas address somewhat more technical and administrative matters. The important point is that the essence and strength of the Constitution springs from its substantive areas, primarily the first three articles, the first 10 amendments and the 14th amendment.

Evidence presented to this committee can and will demonstrate that every major substantive part of the Constitution was violated, abused, and undermined during the Watergate period.

It is a record built entirely on the words of the participants themselves. Tragically, it focuses on the most prodigious article of the Constitution, article II, which sets out the powers and duties of the Executive. It includes the most significant individual rights guaranteed by the first 10 amendments, our Bill of Rights. And it encompasses the Fifth and 14th amendments' guarantees of due process of law, the foundation of our system of justice.

A. The Executive

Of all the issues confronting the Constitutional Convention at Philadelphia, the nature of the Presidency ranked as one of the most important. Indeed, the resolution of that issue is often cited as one of the most significant actions taken.

Most State constitutions prior to that time had weak executives and strong legislatures. The decision to create a President, as opposed to plural administrators, was a reluctant recognition of the advantages of a strong executive.

Nevertheless, the convention took steps to contain presidential power. Only after deciding the method of selecting a President, his term, mode of removal, and powers and duties did the convention agree to the concept of a strong President.

This bit of history, indicating that the delineation of the President's office and powers preceded the creation of his position in the constitional scheme, is quite important. It demonstrates that Executive power is to be exercised within the framework of the Constitution, and particularly, within the guidelines of article II, which lays out the powers and duties of that office.

This is much of what Watergate is all about, and it bears a close look at article II.

The issue at stake is the exercise of potentially awesome Presidential power. As to that issue, article II contains two points of significance. First, its opening words state: "The executive Power shall be vested in a President of the United States of America." This grant of Executive authority, with no words of limitation, has, from the time of Jefferson, been the basis for expanding the Presidential office and activities.

However, the initial broad authority is offset by a second significant factor, the enumeration of Executive powers later in article II. These declare in part that the President is to be Commander-in-Chief, make treaties, appoint ambassadors and other officers, grant pardons, and take care that the laws are faithfully executed.

It is worth noting that experience has eventually placed limits on the general powers. The President has been allowed, as a practical matter, to exercise those additional powers that fall naturally within his range of activities.

The important point, however, is that no President has been, or can be, allowed to conduct the executive branch in conflict with the Constitution taken as a whole, and certainly not in conflict with express sections of the Constitution, such as the Bill of Rights, or article I (the legislature) or article III (the judiciary). This then is the proper context for examining facts.

Article II of the Constitution, by which the Presidency was created, was violated from beginning to end by Watergate.

There is massive evidence of misuse of the awesome general powers that reside in the executive department.

There is equal evidence documenting abuses of the enumerated duties.

1. GENERAL POWERS AND DUTIES

The facts show an executive office that approved a master intelligence plan containing proposals that were specifically identified as illegal, that proposed setting up a private intelligence firm with a "black bag" or breaking and entering capability as secret investigative support for the White House, that set up its own secret police, that used its clandestine police force to violate the rights of American citizens, that hired a private eye to spy on its enemies, including their personal lives, domestic problems, drinking habits, social activities and sexual habits.

That circulated an enemies list, that developed plans to "use the available Federal machinery to screw our political enemies, that knew of an illegal break-in connected with the Ellsberg case and concealed that fact rather than report it to appropriate authorities, that used a Presidential increase in milk support prices to get $5,000 from the milk producers to pay for the Ellsberg break-in, that recruited persons for that break-in on the false pretense of national security, that offered the presiding judge in the Ellsberg trial the FBI Directorship at a clandestine meeting in the midst of the trial, that ordered a warrantless wiretap on a news columnist's telephone, that wiretapped 17 newsmen and government officials in an operation that was outside proper investigative channels.

That suggested firebombing the Brookings Institute, that set up an Intelligence Evaluation Committee outside the legitimate intelligence community to disseminate information that should have been restricted to individual agencies, that used the Secret Service to wiretap the President's brother, that kept $350,000 in left-over 1968 campaign funds in a safe in the Chief of Staff's office, that used most of those funds as hush money for the Watergate burglars, that approved a

large contribution from the milk producers association after being told it was meant to gain access to and favors from the White House.

That received and passed on information about an IRS audit of one of the President's friends, that arranged for a tax attorney for the friend, that contacted the IRS as well as the Justice Department in a number of other tax cases involving friends of the President, that planned and possibly carried out a break-in at the office of a Las Vegas publisher, that suggested a break-in at the apartment of the man who attempted to assassinate Governor Wallace, that contemplated a break-in at the Potomac Associates offices, that tried to rewrite history by making up bogus State Department cables to falsely connect the Kennedy administration with the assassination of President Diem, that attempted to get reporter William Lambert to use the phony cables in a story, that tried to plant false stories connecting the President's opponent with communist money and the crimes alleged in the Ellsberg case.

That installed an elaborate system of taping conversations between the President and his staff or visitors, that told Federal investigators to stay out of the Ellsberg matter, that undertook a clandestine operation to hide a key witness in the ITT case in a Denver hospital where she was interrogated by Howard Hunt in disguise, that authorized and funded from within the White House a dirty tricks operation including scurrilous literature, late night telephone campaigns and advertising designed to offend local interests, seemingly sponsored by Democratic candidates, and physical disruptions directed against Presidential opponents, that planted spies, hecklers, and pickets in the Muskie and Humphrey campaigns, that participated in discussions of a campaign against Democrats to include prostitutes, mugging, kidnapping, bugging, and burglary.

That pressed for adoption of Liddy's Watergate plan, that was told of the authorization and budget for Liddy's plan, that believed it had received transcripts of illegal wiretaps and never reported that crime, that was warned of the planned break-in at the Watergate and did nothing to stop it, that knew the full scope of Liddy's activities shortly after the Watergate arrests and kept those facts from proper authorities, that shredded Watergate evidence in the Chief of Staff's files, that tried to use one of its executive branch agencies as a "cover" for the Watergate operation.

That was the scene of meetings at which high officials plotted to use the power and influence of the Presidency to cover up crimes and obstruct justice, that saw advisers invoke the power of the Presidency to use an FBI Director in ways that would eventually cause him to resign, that used the President's fundraising powers to collect illegal corporate contributions, to raise funds to finance a crime, and to collect bribes for a criminal case.

That discussed using the President's clemency prerogatives as early as July 1972, to keep the lid on Watergate and other crimes, while misleading the American people by calling Watergate a third-rate burglary, that made offers of clemency for improper purposes, that announced, in a Presidential statement, a Dean investigation clearing the White House, when there had in fact been a coverup not an investigation and the President had never, ever talked to Dean about Watergate, that discussed, in the oval office, unethical out-of-court contacts with the presiding judge in one of the Watergate civil suits, that purposely lied to the FBI and a Federal grand jury, that encouraged campaign officials to commit perjury and plead the fifth amendment to obstruct justice.

That used the President's personal attorney and White House staff to pay criminal hush money, and to pay for a private eye operating out of the White House, that used its influence to get raw FBI files for improper purposes, that prevailed upon the FBI not to interview certain witnesses, that used patriotic concern for the Presidency to pressure defendants to plead guilty in a criminal case.

That used its influence to get special treatment for high officials before a Federal grand jury, that plotted to cover up the Segretti story and denounced in the harshest terms those who uncovered the story, that noted "it would assuredly be psychologically satisfying to cut the innards from Ellsberg and his clique," that obstructed congressional investigations of Watergate and related matters, that filed Watergate countersuits for the distorted purposes of using subpena powers to delve into the financial and sexual activities of political opponents, that made numerous misleading or false statements about Watergate to the American people.

That failed to promptly inform proper authorities about knowledge of crimes involving White House officials, that forced the resignation of a Special Prosecutor, Attorney General, and Deputy Attorney General when their Watergate prosecution took an independent position, that suggested using the Attorney General's powers to keep a Republican opponent off the primary ballot in Florida, that used the Executive's authority over the media's regulatory agencies to intimidate the media, that ordered a personal tax audit, surveillance by an FBI agent and Secret Service agents, an an antitrust action, all in response to a newspaper article about one of the President's friends.

That tried to punish foundations with views different than White House policy by pressuring the IRS to review their tax-exempt status, that set up a program to insure that Government contracts, grants, and loans would, as a matter of Government policy, be political rewards, that treated the Presidential pardon as a political tool, that used its power over the tax-collection agency to gather intelligence on and harass political opponents, that issued instructions to hire a shaggy person with a McGovern button, to sit in front of the White House, and counter demonstrators at the funeral of J. Edgar Hoover, that infiltrated as Quaker vigil in front of the White House, that used the agency that is supposed to guard the President to spy on the President's political opponent, that ordered 24-hour surveillance of a political opponent, that used the departments to dredge up potentially embarassing information on Presidential contenders, and then leaked it to the press, that used White House influence to obtain CIA equipment for the Ellsberg break-in, that used its entrustment with our national security to convince four Cubans to burglarize a political party.

That ordered an FBI investigation of an unfriendly newsman to harass him, that proposed leaking confidential FBI files to embarrass the producer of a satirical movie, that used its control of important Watergate evidence and the privilege known as executive privilege to aid those supporting the President and to deprive or delay those in opposition, that made plans to eliminate professionals in government service who placed their professional responsibilities above questionable White House political demands, that participated actively and formally in a campaign organization while drawing White House staff salaries, that ran secret letter-writing campaigns against Republican Senators, and that generally emasculated the Republican Party.

That . . . all of that . . . violated the concept of executive power in article II of the Constitution. Extensive as the record is, it represents only selected examples.

The important point is that it is certainly not what our Founding Fathers had in mind when they envisioned the Presidency.

2. ENUMERATED POWERS AND DUTIES

The enumerated powers and duties of the President's office are set forth beginning with section 2 of article II. That section grants the President direct power over Cabinet officers. Much testimony before this committee demonstrated how those officers were used on behalf of the President's office.

For example, an Attorney General, for a significant period of time, ran the President's reelection campaign while still in office at the Justice Department. His reason for this role was that, "it is very, very difficult to turn down a request by the President of the United States," even though the Attorney General himself later testified that he felt such a role in politics while still in office was wrong. As an illustration of the extent of that role, memos from CRP, such as one entitled "Grantsmanship," suggesting an effective method of "insuring that political considerations" be used in Federal programs, were sent to the Attorney General from May 1, 1971, onward. At one point, it was even suggested that the Attorney General wield the power of his office to keep a Republican contender off the primary ballot in Florida. That campaign role also included an extraordinary meeting in the Attorney General's very office, to review plans for bugging, mugging, burglary, prostitution, and kidnaping.

Another Attorney General was placed in the awkward position of being asked immediately after the Watergate break-in to help get Mr. McCord out of jail before he was identified. He was soon thereafter warned of White House concern with a too aggressive FBI investigation. He was then asked to provide raw FBI Watergate files, improperly, to the White House. That same Attorney General was later used as a secret contact with this committee's investigation of Watergate, and was then removed from office in an apparent connection with the Watergate affair. He eventually became the first Attorney General in history convicted of a crime, for his testimony about Presidential interference in an antitrust case involving a major contributor.

A third Attorney General was forced to resign his office when he backed the special prosecutor's procedure for obtaining Watergate evidence from the White House.

An Assistant Attorney General was also asked to provide raw FBI Watergate files, again improperly, to the White House, and was later told by the President not to investigate the Ellsberg break-in. A Deputy Attorney General was forced to resign when he backed the special prosecutor's decisions in the Watergate case. An Assistant Attorney General gave confidential Justice Department and FBI intelligence information to the President's reelection campaign, at the direction of the White House.

Three Attorneys General, a Deputy Attorney General, and two Assistant Attorneys General. And all this was done on behalf of the Presidency, which has a constitutional responsibility to "take Care that the Laws be faithfully executed."

With respect to other Cabinet officers, a Secretary of Commerce with all the authority as to corporate affairs that goes with that position, was placed in charge of raising funds for the President's reelection, including, as it turns out, a number of illegal corporate contributions. A Secretary of Treasury met with a milk producers association and supported their request for higher price supports. After the President granted higher support prices, the milk producers arranged for him to be offered at least $10,000 in cash for his personal use, a transaction for which he has been criminally indicted. . . .

And I think the RECORD should point out, of which he was absolved, declared not guilty.

. . . He later aided them in tax and antitrust matters at a time when a large contribution to the President from the milk producers was being arranged.

The Commissioner of the Internal Revenue Service was criticized because "practically every effort to proceed in sensitive areas is met with resistance, delay, and the threat of derogatory exposure." The Director of the CIA, according to his own testimony and that of his assistant, was called to the White House and asked to use the CIA to cover up Watergate. The Acting Director of the FBI was brought to the White House and given material from the safe of one of the Watergate burglars, to keep it hidden, an act which resulted in his eventual resignation. That same Acting Director turned over raw FBI files on Watergate to the White House, perhaps illegally, when assured it was at the President's request, which request the President has confirmed in public statements. He was rewarded by being left to "twist slowly, slowly in the wind" while his nomination to permanent Director was pending before the Senate, even though the President had reportedly already abandoned him.

This is how the officers in the departments and agencies were used by the White House, and it is clear that those activities did not pertain to "any subject relating to the Duties of their respective offices," as the Constitution requires in its grant of Presidential authority in this area.

Immediately following the section in article II granting authority over departments and agencies, is a section giving the President the "power to grant Reprieves and Pardons for Offenses against the United States."

There is undisputed testimony that defendants in the Watergate criminal case were offered clemency in exchange for their silence. Aside from the issue as to who authorized the officers, they were particularly firm in the case of one defendant who was apparently ignoring the game plan. It must be recalled that only the President can grant clemency, and that by his own admission he discussed clemency as early as July 1972, when Watergate was being described as only a "third-rate burglary."

There is the well-documented case of a request from a former Senator, and close friend of the President, for a pardon on behalf of a prominent Jewish figure in Florida, because of the political advantage that would follow. That pardon was granted. The beneficiary then gave the President's campaign $30,000.

Article II also gives the Executive the power to appoint ambassadors. Whereas this has often been a source of political reward, there is substantial evidence of an unusually well-organized and enforced program of ambassadorships for sale, in return for specific support in the 1972 Presidential campaign.

Along with appointive power for ambassadors, the Executive has appointive power over lesser "Officers of the United States." This power was used, for example, as a reward for at least one participant in Watergate, who received a prominent position in the Department of Commerce. Another CRP official in charge of certain spy activities pointedly reminded the White House of the work he had done when he applied for employment after the election. Plans were also drawn up to use this appointive power in the President's second term to get rid of officials, across the board, who rightfully placed their professional responsibilities in the way of White House political demands.

These enumerated powers and duties of the executive are followed with the duty to "take Care that the Laws be faithfully executed." Evidence was presented to this committee of a break-in by a White House unit, which break-in contributed to a mistrial in a major national security case, the Ellsberg case. Illegal use of wiretaps and agent provocateurs by the administration was the direct cause of mistrials or dismissals in most major conspiracy cases brought by the Federal Government during this same period.

This was an executive branch that conspired to present perjury, lie to the FBI, and pay for the silence of key witnesses in the Watergate case. This was the Executive that knew of a break-in related to the Ellsberg case and failed to take any action or report that fact. This was the Executive that told an Assistant Attorney General not to investigate the Ellsberg matter. This was the administration that learned of the Watergate planning sessions, budget approval, that received illegal wiretap transcripts, and covered up or failed to promptly report White House involvement in Watergate as those facts became known.

This is the White House that pressured the IRS, the Antitrust Division of Justice, the CIA, the FBI, the Secret Service, and the FCC to enforce laws not "faithfully," but "selectively."

This is the same White House in which the President said in a conversation with John Dean on September 15, 1972. "We have not used the power in this first 4 years as you know. We have never used it. We have not used the Bureau (FBI) and we have not used the Justice Department but things are going to change now." The following months may or may not have been a change from what had been going on in 1970, 1971, and 1972, but they certainly were a sad chapter for our system of laws.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATORS PASTORE AND PELL ON 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, Mr. PASTORE and Mr. PELL be recognized each for not to exceed 15 minutes and that they may determine between themselves as to whom will go first.

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

ORDER FOR THE RECOGNITION OF SENATORS GOLDWATER AND BARTLETT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the orders for the recognition of Mr. PASTORE and Mr. PELL have been completed, Mr. GOLDWATER and Mr. BARTLETT be recognized for not to exceed 15 minutes and in that order.

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

ORDER FOR THE RESUMPTION OF CONSIDERATION OF THE CONFERENCE REPORT ON THE FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators on tomorrow or at 11 a.m., whichever is later, the Senate resume consideration of the then unfinished business.

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

AUTHORIZATION FOR COMMITTEE ON THE JUDICIARY TO MEET ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet on Wednesday afternoon.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, Mr. PASTORE and Mr. PELL will be recognized, each for not to exceed 15 minutes; and it is to be determined between them as to which Senator will proceed first.

Upon the completion of those two orders, Mr. GOLDWATER and Mr. BARTLETT will be recognized, each for not to exceed 15 minutes and in the order stated.

At the conclusion of the orders for the recognition of Senators, or at 11 a.m., whichever comes later, the Senate will resume consideration of the conference report on the Federal Election Campaign Act. It is hoped that there will be a final vote thereon tomorrow. That remains to be seen. Other matters could come up during the day. That also remains undetermined.

ADJOURNMENT UNTIL 10. A.M. TOMORROW

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 10 a.m. tomorrow.

The motion was agreed to; and, at 6:01 p.m. the Senate adjourned until tomorrow, May 4, 1976, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 3, 1976:

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for promotion to the grade of rear admiral:

Wayne E. Caldwell, Charles E. Larkin, Jr., Anthony F. Fugaro, and Norman C. Venzke.

The following rear admiral of the U.S. Coast Guard to be Commander, Pacific Area, U.S. Coast Guard, with the grade of vice admiral while so serving:

Rear Adm. Austin C. Wagner, Commander, Pacific Area.

DEPARTMENT OF DEFENSE

Eugene V. McAuliffe, of Massachusetts, to be an Assistant Secretary of Defense.

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, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AIR FORCE AND MARINE CORPS

Coast Guard nominations beginning Leonard P. Brooks, to be commander, and ending Edwin J. Roland, Jr., to be commander, which nominations were received by the Senate and appeared in the Congressional Record on April 9, 1976.

National Oceanic and Atmospheric Administration nominations beginning William J. Lounsbery, to be lieutenant, and ending David C. McConaghy, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the Congressional Record on April 26, 1976.

Air Force nominations beginning Ronald R. Ackerman, to be lieutenant colonel, and ending Robert A. White, to be major, which nominations were received by the Senate and appeared in the Congressional Record on April 12, 1976.

Marine Corps nominations beginning Robert H. Starek, to be lieutenant colonel, and ending Alexander S. Wukman, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on April 9, 1976.

HOUSE OF REPRESENTATIVES—*Monday, May 3, 1976*

The House met at 12 o'clock noon.

The Chaplain, the Reverend Edward G. Latch, D.D., offered the following prayer:

By this all men will know that you are My disciples, if you have love for one another.—John 13: 35.

Almighty God, our Heavenly Father, who art ever seeking to lead Thy children in right paths, grant Thy light and Thy truth unto the Members of this House of Representatives that they may be given wisdom to know Thy ways, courage to walk in them, and strength to continue until their life's end.

Bless our land and the people who live on it. By Thy grace heal our national wounds, forgive our misdoings, renew our minds, and give us the spirit to trust Thee more fully and to love one another more sincerely. So shall we make our Nation good in her greatness and great in her goodness.

In the spirit of the Master we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

CHANGING THE MEMBERSHIP OF THE NATIONAL ARCHIVES TRUST FUND BOARD

The Clerk called the bill (H.R. 10374) to amend section 2301 of title 44, United States Code, to change the membership of the National Archives Trust Fund Board.

There being no objection, the Clerk read the bill as follows:

H.R. 10374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2301 of title 44, United States Code, is amended by deleting the first sentence and substituting in lieu thereof the following sentence:

"The National Archives Trust Fund Board shall consist of the Archivist of the United States, as Chairman, and the chairman of the House of Representatives Committee on Government Operations and the chairman of the Senate Committee on Post Office and Civil Service.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FEDERAL EMPLOYEE WITHHOLDING FOR TAXES IMPOSED BY CERTAIN NONINCORPORATED LOCAL GOVERNMENTS

The Clerk called the bill (H.R. 10572) to amend title 5 of the United States Code to provide that the provisions relating to the withholding of city income or employment taxes from Federal employees shall apply to taxes imposed by certain nonincorporated local governments.

There being no objection, the Clerk read the bill as follows:

H.R. 10572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 5520(c) of title 5, United States Code, is amended to read as follows:

"(1) 'city' means any unit of general local government—

"(A) which—

"(i) is classified as a municipality by the United States Bureau of the Census, or

"(ii) is a town or township which, in the determination of the Secretary of the Treasury, (I) possesses, powers and performs function comparable to those associated with municipalities, (II) is closely settled, and (III) contains within its boundaries no incorporated places as defined by the United States Bureau of Census; and

"(B) within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government; and".

(b) The amendment made by subsection (a) shall take effect on the date of the of enactment of this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That paragraph (1) of section 5520(c) of title 5, United States Code, is amended to read as follows:

"(1) 'city' means any unit of general local government which—

"(A) is classified as a municipality by the Bureau of the Census, or

"(B) is a town or township which, in the determination of the Secretary of the Treasury—

"(i) possesses powers and performs functions comparable to those associated with municipalities,

"(ii) is closely settled, and

"(iii) contains within its boundaries no incorporated places, as defined by the Bureau of the Census,

within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government; and".

SEC. 2. The amendment made by the first section of this Act shall take effect on the date of the enactment of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

UNITED STATES SHOULD PURCHASE SURPLUS GRAIN TO CREATE FOOD BANK

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, according to the Washington Post, the CIA is scheduled to release today a study of weather and food production in the world, which warns that there will be political and economic upheavals beyond comprehension because of critical food shortages caused by adverse weather which will reduce crop production and cause worldwide starvation.

Mr. Speaker, it is time for the United States to create a strategic U.S. grain reserve. The time is running out, as the CIA report so clearly indicates.

Mr. Speaker, I plan to introduce a bill requiring the Government to purchase massive amounts of surplus grain and oil seeds and deposit them in the food bank. The food bank would have the double purpose of propping grain prices in times of surplus and assuring future food supplies.

Today we are selling grain to the Soviets, at prices often below the cost of production. Instead, the Government should purchase this grain and hold it for our own security or for higher prices abroad or for humanitarian relief