United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, SECOND SESSION

SENATE—*Thursday, May 6, 1976*

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

PRAYER

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

Almighty God, Maker and Preserver of all things visible and invisible, in this forum of freemen we pause to offer our praise and thanksgiving for the good gift of this land, its people, and its institutions. As Thou hast made and preserved us a nation, so wilt Thou keep us under Thy providential protection through the uncertain and difficult days which are before us. May Thy spirit indwell the people and their leaders. Give us grace to understand, respect and help one another, in the spirit of Him who went about doing good.

Be with all who serve in this place, liberating them from all that obstructs Thy spirit or impedes the doing of Thy will. Grant unto them that wisdom and strength which comes to those who put their whole trust in Thee.

In the name of the Great Galilean. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, May 5, 1976, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

RESCISSION OF REFERRAL—SENATE RESOLUTION 434

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the action of the Senate referring Senate Resolution 434 to 5 committees jointly on April 14, 1976, be rescinded, and that Senate Resolution 434 be held at the desk pending further action on referral.

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

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 PRESIDENT pro tempore. The nominations will be stated.

THE JUDICIARY

The second assistant legislative clerk proceeded to read sundry nominations in the Judiciary.

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

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

DEPARTMENT OF JUSTICE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

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

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

U.S. ARMY

The second assistant legislative clerk read the nomination of Lt. Gen. William Allen Knowlton, to be general.

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

U.S. NAVY

The second assistant legislative clerk read the nomination of Vice Adm. Emmett H. Tidd to be vice admiral on the retired list.

The 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 Navy placed on the Secretary's desk.

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

The 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 these nominations.

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

(All nominations confirmed today are printed at the end of the Senate proceedings.)

LEGISLATIVE SESSION

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

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

S. 3312 PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 715, S. 3312, a bill to authorize the National Credit Union Administration, be taken off the calendar and that it be placed under the heading "Subjects on the Table."

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

VISIT TO THE SENATE BY TWO MEMBERS OF THE SENATE OF THE REPUBLIC OF MEXICO

Mr. MANSFIELD. Mr. President, the Senate is honored today to have as its guests two of the outstanding members of the Senate of the Republic of Mexico. They are friends of this country; they have participated actively down through the years in the Mexico-United States interparliamentary meetings, the 16th of which was concluded earlier this year in Atlanta, Ga.

May I say that the initiative for the Mexico-United States interparliamentary meetings came from the Mexican Congress and was concurred in by the U.S. Congress, and out of those meetings have come results which, I think, speak well for the effectiveness of the interparliamentary group.

It was this group, this joint Mexico-United States group, which was in large part responsible for the settlement of the Chamizol question, the Colorado River salinity problem, and for other matters which were differences, which embodied differences, as far as our relations were concerned.

It is a pleasure for me to call to the attention of my colleagues our distinguished visitors from Mexico, Senator Enrique Olivares Santana and Senator Victor Manzanilla Schaefer.

Mr. HUGH SCOTT. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I am delighted to yield.

Mr. HUGH SCOTT. Mis felicidades a los dos, muy distinguidos Senadores, delegados de la Republica de Mexico.

Mr. President, I also join in expressing my thanks and best wishes to the two distinguished Senators, from our friend and neighboring country, the Republic of Mexico.

[Applause, Senators rising.]

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Nos. 734, 735, and 736.

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

NATIONAL SMALL BUSINESS WEEK

The joint resolution (S.J. Res. 163) to authorize and request the President to issue a proclamation designating the week beginning May 9, 1976, as "National Small Business Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

Whereas small business has been a vital part of American life and the economy since the founding of our Nation two hundred years ago; and

Whereas small business is the traditional source of local and national economic growth; and

Whereas entrepreneurs and individual inventors, in the context of small business, have historically been the best sources of innovation; and

Whereas small business furnishes 52 per centum of all private employment, 43 per centum of the entire United States business output, and one-third of the gross national product; and

Whereas small business is essential to the survival of the competitive free enterprise system: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week beginning May 9, 1976, as "National Small Business Week", and calling upon the people of the United States and interested groups and organizations to observe such week with appropriate ceremonies and activities, in recognition of the achievements and contributions which small and independent family-farmers and business men and women have made to American society.

NATIONAL HORSE WEEK

The joint resolution (S.J. Res. 182) to authorize and request the President to issue a proclamation designating the period of May 9, 1976, through May 15, 1976, as "National Horse Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

Whereas the horse was instrumental in the development of this Nation, providing transportation for the American forces during the Revolutionary War, for the settlers who opened the West, and for the general population for the first one hundred and fifty years of our Nation's existence; and

Whereas the horse aided in the clearing and cultivation of land for our Nation's farms and in the initiation of commerce between the States; and

Whereas the horse in modern times has continued to be a friend, work companion, and source of pleasure for the citizens of our Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the period of May 9, 1976, through May 15, 1976, as "National Horse Week", and encouraging States, counties, and cities to commemorate this week by undertaking appropriate activities.

INDEPENDENCE DAY

The PRESIDENT pro tempore. The clerk will state the next joint resolution.

The legislative clerk read as follows:

A resolution (S.J. Res. 150) to authorize and request the President to issue a proclamation designating July 4 of each year as "Independence Day."

The Senate proceeded to consider the joint resolution.

Mr. HELMS. Mr. President, I am grateful to the distinguished Senator from Nebraska (Mr. HRUSKA) and the distinguished Senator from Arkansas (Mr. MCCLELLAN) for expediting consideration of Senate Joint Resolution 150 by the Committee on the Judiciary.

Frankly, as a general rule, I am not too interested in legislation calling for the proclamation of special days. But in this instance, something very significant in our Nation's history is involved, the day we recognize as the birthday of the United States.

And yet, Mr. President, there is the irony that despite all of the proclamations through the years, Independence Day has never been proclaimed on a continuing and permanent basis.

This was called to my attention some time ago by a fine citizen of Raleigh, N.C., Mr. William M. Wall, who is quite a student of history. After researching the situation, I found that Mr. Wall was absolutely correct.

For this reason, I introduced Senate Joint Resolution 150, now before us, which authorizes and requests the President of the United States to issue a proclamation designating July 4 of each year as Independence Day, and calls upon the American people to hold appropriate ceremonies observing this day.

It is true, of course, that such proclamations have, from time to time, been issued by various Presidents in the past. In 1950 and again in 1952, President Truman issued proclamations similar to that which I have proposed, and President Eisenhower issued an Independence Day proclamation in 1953. Each of these proclamations, however, was limited to the particular year in question. The joint resolution now before the Senate calls upon the President to issue a proclamation on a continuing basis.

Obviously, Mr. President, Senate Joint Resolution 150 is most appropriate at this time, in light of the fact that 1976 is our Bicentennial Year. I am proposing that the President proclaim July 4th as a day of national observance not only in 1976, but in all future years. The Fourth of July has, of course, already been made a Federal holiday, and it is generally observed by the American people as a national holiday. But in my judgment, Independence Day should be more than a day of rest. It should be a day of national observance and national consciousness. The first step in achieving this goal can, and should be, made by continuing presidential proclamation pursuant to a joint resolution duly adopted by Congress.

This resolution is strongly supported by the North Carolina Exchange Clubs, and I am pleased and honored to be associated with its introduction. The National Exchange Club, led by the Exchange Clubs of North Carolina, has performed an invaluable service in preserving our national heritage, and I applaud the members of this organization for their patriotism and their dedication to the principles which have bestowed greatness upon this Nation.

Mr. William M. Wall, to whom I referred earlier, Mr. President, is chairman of the American Revolution Committee of the North Carolina Districts of Exchange Clubs. I am especially grateful to him for first calling this matter to my attention.

Mr. President, I urge approval of Senate Joint Resolution 150.

I thank the Chair.

Mr. HUGH SCOTT. Mr. President, I think there is some irony in proclaiming Independence Day so belatedly, and particularly just after we have proclaimed a week in May as National Horse Week.

I have no objection to National Horse Week. I only serve notice now that I will oppose designating the first week in November as National Donkey Week. [Laughter.]

I yield back my time.

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

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating July 4 of each year as "Independence Day" and calling upon Government officials to display the United States flag on all Government buildings and the people of the United States to hold appropriate ceremonies on that day.

ORDER OF BUSINESS

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

Mr. HELMS. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. PROXMIRE. I am delighted to yield without taking time out of my time on the floor.

THE ALTERNATIVES TO THE B–1

A. THE RE-ENGINED B–52

Mr. PROXMIRE. Mr. President, today, in my third speech on the B–1 bomber, I will discuss three alternatives to the B–1 that would save the taxpayers tens of billions of dollars and still provide the most formidable bomber force in the history of the world.

The first alternative is the reengined B–52.

The B–52, modified with only four modern turbofan jet engines and the necessary simple wing structures, is a very attractive bomber alternative that merits the serious attention of the Congress.

At a small fraction of the cost of the B–1, it will provide a substantial improvement in bomber performance and overall bomber capability. In fact, this B–52I is superior to the B–1 in several important respects. Furthermore, a Defense Department study has shown that most or all of the costs of this alternative will be compensated for by fuel savings. If one further adds the substantial reduction in the B–52I's tanker requirements, the savings increase even more dramatically.

It must be emphasized here that the B–52I is not a longrun alternative to a new bomber. Rather, it provides substantial strategic bomber capability for an additional 15 years at a very low cost. Furthermore, it gives added time for a follow-on bomber or a cruise missile platform to be developed. This postponement will furnish our defense planners a decade of reliable information about the nature of future Soviet air defenses. Thus the follow-on bomber or platform will be better designed to meet the challenge of the changing strategic environment, including Soviet air defenses, well into the 21st century.

Valid concern over the ability of the B–52 to physically survive into the 1990's has been expressed in several quarters. These concerns have been put to rest by the Air Force, which has stated in several places that the B–52's will be structurally sound into the 1990's—Lt. Gen. W. J. Evans, USAF, "Hearings Before the Committee on Armed Services, U.S. Senate, March 4, 1975, page 2007. Indeed, recent reports indicate that the Defense Department plans to keep the B–52 G and H models "in service through the 1980's and 1990's, according to Secretary Rumsfeld."

Furthermore, according to one report:

> The Air Force is studying the possibility of refitting Strategic Air Command's fleet of 271 Boeing B–52 G/H bombers with an entirely new offensive avionics complement that could extend the effective life of the strategic bombers by 15 years.

Thus the B–52 is in no danger of falling apart, as some of the B–1's more ardent supporters have unfairly alleged.

A B–52 in which the eight existing engines are replaced by four modern turbofan jet engines would at low cost provide a substantial increase in U.S. strategic bomber capability. Performance improvements include:

1. INCREASED RANGE

The Air Force concedes that a re-engined B–52 would have a "significant increase in range"—Senate Armed Services Committee hearings, fiscal year 1976, page 5616.

A re-engined B–52 would, in fact, have a 20- to 30-percent increase in range over the B–52H and would far exceed the range of the B–1.* This would give the B–52: Greater target flexibility; higher penetration speed; ability to undertake more evasive maneuvers over hostile territory; ability to carry a heavier load of weapons, avionics, and so forth; a significant increase in ability to loiter at fail-safe points before the decision must be made to commit the planes or recall them. In the context of a threatened nuclear war, this capability is greatly desired; and reduction in fleet maintenance costs.

2. SHORTER TAKE-OFF DISTANCE

A B–52I with its higher thrust engines will have 50 percent greater thrust at takeoff than the current B–52H and almost double the thrust at takeoff of the B–52G. As a result, the B–52I will have a shorter takeoff distance which will give it greater dispersability to shorter runways, thereby enhancing its prelaunch survivability. It is also worth noting that the B–52I will have a greater thrust-to-weight ratio at takoff than the B–1.

3. REDUCED INFRARED SIGNATURE

The B–52's IR signature would be greatly decreased by virtue of the cooler exhaust of these engines. In fact, the IR signature may well be lower than that of the B–1.

4. QUICKER FLYAWAY TIMES

The higher thrust engines will accelerate the B–52I more quickly away from its air base than the current B–52's, thus further enhancing its survivability.

5. HIGHER ON-THE-DECK PENETRATION SPEEDS

The higher thrust engines would enable the B–52I to penetrate at faster speeds than the B–52's current Mach 0.55. This would reduce the B–52's time spent over hostile territory and hence enhance its survivability. In fact, a well-placed industry source said that the B–52I could penetrate at mach 0.60 on the deck. Further structural modifications would permit the B–52I to penetrate at mach 0.85, the same as the B–1.

Re-engining the B–52 is not a pie-in-the-sky proposition: Boeing proposed this option to the Air Force as long ago as 1969. The Air Force estimates the cost of reengining the B–52, including R.D.T. & E. plus the cost of associated modifications, to be only $7.66 million per plane—Senate Armed Services Committee Hearings for fiscal year 1976, page 5616. In fact, all the engines in use on today's wide-body transports—747, DC–10, L–1011 and Europe's A–300—were originally tested on an Air Force B–52. The fact that the Air Force examined the reengined B–52, redesignated the B–521, in the joint strategic bomber study underscores the validity of the concept. Finally, a recent Rand study for the Air Force not only substantiates the feasibility of reengining, but it shows that about one-third of the cost of reengining the B–52G's will be paid for in fuel savings alone about 3 years after completion of the retrofit program—"Air Force Energy Problems: Potential Role of Technology and Alternative Fuels," Rand Corp., February 1975, pages 29–33.

Indeed, the Defense Department is even now planning to reengine the KC–135 fleet with "new turbofan engines having better fuel consumption as well as better takeoff thrust and can pay for itself over time in reduced tanker sortie requirements"—statement by Malcom R. Currie before the Senate Armed Services Committee, April 1975, page V–15.

The Defense Department should be applauded for undertaking this measure to save money and precious fuel. But the Defense Department should be urged to use this same logic and undertake immediate planning to reengine the B–52 as well. Rand found that the fuel consumption of the B–52G would be reduced by one-third if the aircraft is reengined—Op. Cit., Rand report, page 29. It should be noted that the Rand report indicated that reengining the B–52G is most cost-effective than reengining the KC–135—Op. Cit. Rand study, page 31.

The remaining costs of the engine retrofit program could be more than covered by the even larger savings in sharply reduced fuel, operations, and maintenance costs of the KC–135 tanker fleet devoted to the B–52. Assuming a 20 to 30 percent decrease in B–52I tanker requirements—a conservative assumption based on the range increase—and assuming that tanker direct and indirect costs are half those of the B–52, re-engining the B–52 will produce additional cost savings over 10 years of $2.2 billion. This also assumes that KC–135's support B–52's at a ratio of 3 to 2. Thus the direct and indirect cost savings will more than pay for the cost of re-engining, and the United States will be provided with tremendously important strategic benefits at little or no net cost.

Finally, the re-engined B–52 will enable us to postpone for perhaps 15 years the need to purchase a follow-on bomber. The SALT environment will probably be much clearer at that time and not present such an uncertain element in our current deliberation on bombers. In the meantime, the $20 to $40 billion that the B–1 program would have required can be applied to the other pressing defense needs which this country faces.

B. EQUIP THE B–52 WITH LONG-RANGE CRUISE MISSILES

The second alternative course of action in place of building the B–1 bomber

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* This arises because the new turbofans have a lower specific fuel consumption (higher "miles per gallon") than the engines currently on the B–52 G's and H's.

is to equip the re-engined B–52's with cruise missiles having the maximum range that SALT permits. These nuclear-tipped missiles combine three extremely attractive features:

First. Their tiny radar image and ground-hugging capability make them nearly invulnerable to detection, let alone destruction by the enemy;

Second. They are so inexpensive that they can be launched by the thousands to saturate enemy defenses and to assure the destruction of any array of bomber targets; and

Third. They possess sufficient range to permit the bomber carrying it to minimize or avoid penetrating enemy airspace altogether. Consequently, the bomber need have little or no penetration capabilities, which of course reduces the cost and complexity of the requisite strategic bomber force.

The ideal strategic bomber would be one that the enemy could not detect with either radar or infrared techniques as it sped toward the target. Neither the B–52 nor the B–1 are so fortunate, although both fly close to the ground in an attempt to fly under the enemy radar net.

Given that the enemy is likely to detect their presence, both of these bombers are designed to carry extensive electronic countermeasure equipment—ECM—that attempts to hide the exact location of the bomber, even though its general presence is known.

However, the Air Force is not confident that the penetrating bomber, even the B–1, can penetrate through the most advanced defenses that ring major Soviet targets. Consequently, the B–52 and the B–1, if built, will carry short-range attack missiles—SRAM—to deliver nuclear warheads on the enemy defenses or the target ahead of the bomber—"Study of Alternative Courses of Action for the Strategic Manned Bomber," GAO report, April 17, 1974, page 3. The B–1 will carry 24 such missiles in rotary launchers inside the aircraft's fuselage. Thus by its actions the Air Force acknowledges the validity of the stand-off concept.

When the first wing of B–52G's were equipped with SRAM's in 1972, Air Force General Keck was quoted at the ceremony as saying that it made the B–52 "almost a new airplane." His comments reflect the fact that bomber survivability is dramatically improved with the addition of stand-off missiles to the bomber's complement of penetration aids. They allow the bomber itself to stand off and to avoid the thickest defenses altogether while saturating them with dozens of nuclear warheads.

The invulnerability of the SRAM rests not only on saturating techniques but also on its infinitestimal radar cross-section, ground hugging capability, and its high speed. The one drawback to the SRAM is its short range: only about 120 miles. Thus, the B–52 and B–1 must penetrate all but the last 120 miles to the target.

Extension of the range of the stand-off missile, such as the SRAM, offers obvious advantages to the bomber. The cruise missile was developed for this very purpose. Instead of being rocket powered as is the SRAM, it has a jet engine and wings.

CRUISE MISSILE OPTIONS

Two versions of cruise missiles are now in the research stage—one for the Navy and the other for the Air Force. The Navy's can be launched from torpedo tubes on submarines—SLCM—submarine launched cruise missile—or can be air launched from aircraft before they enter Soviet airspace. The Air Force version—ALCM—air launched cruise missile—has a much shorter range, for reasons to be discussed later. And it is considerably slower than the Navy version, and has a higher altitude profile.

Use of the Navy cruise missile could allow a bomber to avoid Soviet air defenses altogether. The issue is whether the cruise missile approaches the invulnerability of the SRAM, the B–1's primary weapon.

Tests show that the Navy cruise missile is a match for the SRAM in terms of survivability:

The Navy cruise missile has about the same radar cross-section as the SRAM but is harder to detect and track because of the lower profile (altitude) flown over Russia. ("Strategic Programs Scrutinized," Clarence A. Robinson, Jr., *Aviation Week and Space Technology*, March 31, 1975, page 13.)

The radar tests reveal that the SLCM (Navy version of the cruise missile, submarine-launched cruise missile) has a cross-section about the size of a sea gull with the radar beam at ±45 degrees from dead ahead. The side view of the missile is 10 sq. meters, but at its low altitude the only time the broad side of the missile is in the beam is as it pauses directly by the radar, and then data processing response time is too short to respond. (Ibid.)

Defense officials have said that actual tests demonstrate that neither the Russians or even ourselves have the capability to detect and destroy the cruise missile—

In testing the full-scale SLCM against both the Soviet and U.S. radar capability, the Navy has determined that neither side has the capability to track and shoot down the SLCM. And downing the missile is *approaching defiance of the laws of physics*, a Defense official said. (Ibid.) (Emphasis Added.)

Other Defense officials call the cruise missile the "ultimate deterrent"—

The cruise missiles are designed to travel at subsonic speed, and have radar and infrared signatures so small as to blend in with the background. Everyone seems to agree that this will make them equally difficult to shoot down. Hence, some Pentagon officials have nicknamed the strategic cruise missile "the ultimate deterrent." ("Cruise Missiles: Air Force, Navy Weapon Poses New Arms Issues," *Science*, February 7, 1975, page 417.)

Another defense official has described the cruise missile's capabilities against Soviet air defenses:

The cruise missile's low altitude profile will drive them (the Soviets) crazy and that's what they fear most because this big air defense system of theirs can't handle the cruise missile threat. (*Aviation Week and Space Technology*, 16 February, 1976, page 14.)

All of these statements establish the invulnerability of the cruise missile in the current time frame. To some, technological advances in air defense might seem to threaten the cruise missile in the future. To the contrary, technology advances should be on the side of the cruise missile.

Throughout the 1970's even the highly concentrated defenses surrounding actual targets—terminal defenses—will not credibly threaten the cruise missile. Technological developments in the 1980's might give the Soviets the capability to counter the present-day cruise missile. However, this would require a tremendous proliferation of defense sites at an astronomical cost that would seriously bleed the Soviet defense budget.

Yet the Air Force is already studying a second-generation cruise missile that would render those costly additional Soviet air defense expenditures wasted. This new cruise missile would be two-staged with the upper stage permitting supersonic penetration of terminal defenses, overwhelming them just as the short-range SRAM does now.

This two-stage concept should be well within the state of the art by the 1980's. It seems likely that the Soviet air defense network could not expand sufficiently through the mid-1980's to even necessitate our deploying this two-stage cruise missile. In fact, the Soviets' knowledge that we would have a ready and effective response to their very costly efforts to defend against our first generation cruise missile may discourage them from attempting such a defense at all.

Furthermore, even the first generation cruise missile itself could be an effective weapon against advanced air defenses, much as the SRAM is now against current air defenses. A first wave of cruise missiles could blast holes in the Soviet air defense through which later waves of cruise missiles could pass.

This view appears to be at least partially confirmed by the following exchange in a recent Senate hearing where Dr. Currie indicates that the Soviets cannot counter the cruise missile now, and that to do so in the future would require an enormous investment:

Senator MCINTYRE. How soon do you believe the Soviets could help develop and deploy a comprehensive and effective force of advanced terminal SAM's which would constitute a defense against a large multidirectional cruise missile attack?

Dr. CURRIE. I think it is well within their capability to do it in (deleted) years, should they desire to invest the resources. That is precisely what we would like them to do. It would cost many, many billions of dollars to do that . . . (Senate Armed Services Committee Hearings, FY 76, Part 10, page 5151.)

CRUISE MISSILES AND THE JOINT BOMBER STUDY

The accolades for the Navy cruise missile are in stark contrast to the conclusion reached in the Department of Defense's Joint Strategic Bomber Study, which studied alternatives to the B–1 bomber. The study admitted that cruise missiles can overwhelm aircraft interceptor defenses by saturating them with sheer numbers of missiles. Statement of Malcolm R. Currie before the Senate Armed Services Committee, 1975.

To penetrate the surface-to-air missile defenses ringing key targets, the joint strategic bomber study implied that the cruise missile is inadequate—that we must have the B–1 and especially its complement of SRAM missiles.

And yet, Dr. Malcolm Currie, Director of Defense Research and Engineering for the Department of Defense, who summarized the results of the joint strategic bomber study in his testimony before a congressional committee recently said,

As a major alternative approach to penetration of formidable Soviet air defenses, including tens of surveillance radars, hundreds of ground radar and thousands of interceptors and SAM's, we are continuing development of the strategic cruise missile. . . . And air-launched cruise missiles may be required to complement the pure penetrating bomber in advanced threat environments, but the extent of the need depends on how the threat evolves. (House Armed Services Committee, 94–8, page 303, emphasis added.)

The extreme sensitivity of the performance of the penetrating bomber to the quality of its ECM was manifest . . . we believe viable alternatives to the penetrating bomber must be pursued. Our cruise missile programs which I will discuss later, constitute such an alternative, and we are searching for others. (House Armed Services Committee, 94–8, page 300.)

The joint bomber study seems to have only raised more questions about the penetration capability of the B–1 as compared to that of the cruise missile.

Another attraction of the cruise missile is the cost—about $500,000 apiece.

For the cost of a single B–1 carrying 24 SRAM warheads—about $100 million—we could buy 200 long-range cruise missiles. Thus, saturation of enemy defenses is economically feasible.

The cruise missile is still in its infancy, so many innovations can be expected to drive down the cost even further. For instance, the Air Force is investigating an advanced strategic air-launched missile which would be ramjet powered, although of somewhat shorter range than the cruise missile. One Air Force propulsion engineer has estimated a complete vehicle could be produced minus payload for as little as $5,000.

CRUISE MISSILE RANGE ISSUES

The question of the range of the Navy and Air Force versions of the cruise missile is a vital element in the debate over the B–1. In designing the B–1 the Air Force planned for it to carry the SRAM. A small rotary launcher which could carry eight SRAM's was developed so that three rotary launchers could fit inside the relatively small B–1 fuselage. The same launcher was placed in the B–52 to carry the SRAM. As the cruise missile program emerged, it soon became clear that the SRAM rotary launcher could not physically accommodate the longer body of longer range cruise missiles. So the Air Force forced its entire cruise missile program to work around the size constraints imposed by the SRAM launcher.

Consequently, the Navy version, which is not shackled by the rotary launcher, has a range of about 2,000 nautical miles, while the Air Force version has a range of about 650 miles.

The range difference is partially explained by the fact that the Navy missile is 4 feet longer than the Air Force's.

This disparity in range is of enormous consequence. A standoff bomber carrying the Navy missile could avoid penetrating Soviet airspace altogether and still knock out virtually all major targets. However, the Air Force ALCM, constrained to fit the SRAM launcher, forces the bomber to penetrate well inside the Soviet Union before releasing its missiles. Not surprisingly, some senior Pentagon officials have questioned the wisdom of the Air Force constraining its ALCM to fit the SRAM launcher.

In addition, the Air Force cruise missile is slower than the Navy's version—mach 0.55 vs. 0.7—for most of the missio

Furthermore, the Navy version can skim closer to the ground than the ALCM, making it more survivable.

The Air Force is fully aware of the range problems of its ALCM and currently is studying a longer range version. This longer range is attained by fitting a belly tank to the ALCM, enabling it to carry more fuel and thus to extend its range. However, this longer range version still can only go 1,000 miles and is no match for the Navy cruise missile. Also, his version cannot be carried internally by the B–1, though it can be carried by the B–52. Furthermore, the belly tank enlarges the radar cross-section of the ALCM.

Whatever the reasons behind the Air Force decision to design the ALCM around the SRAM rack, three consequences resulted:

1. Any new Air Force bomber carrying the Air Force cruise missile must be a penetrator and *not* a stand-off bomber;

2. The Air Force cruise missile will fit on the SRAM launcher inside the B–1. A cruise missile suitable for a fully stand-off bomber could *not* fit the rotary launcher inside the B–1; and

3. The superiority of the B–52 over the B–1 as a stand-off bomber is obscured by the diminished range of the resulting ALCM.

In short it would appear that the effectiveness of an entire strategic program of inestimable importance was sacrificed on the altar of the B–1.

SRAM-CRUISE MISSILE MIXES

There is evidence that the B–1 can carry 4 SRAM missiles externally on each of its variable geometry wings.

This would imply that the B–1 can carry cruise missiles on its wings. However, the additional aerodynamic drag would impose a severe penalty on the range of the B–1, whose range is already marginal.

Carrying a full external load would decrease the B–1 range by about 15 percent due to increased aerodynamic drag—Maj. Gen. H. M. Darmstandler, USAF, Briefing of Congressional Staff Members, May 15, 1975. In fact, the external pylons, which would support the racks for cruise missiles, have been deleted from the B–1 design—Senate Armed Services Committee hearings, fiscal year 1976, part 10, page 5542.

Already the B–1 has reached the point that it cannot carry a full internal load of weapons and a full fuel load at the same time because of its weight problems—Senate Armed Services Committee hearings, February and March 1975, part 4, pages 2013–2014. Thus, the B–1 cannot carry additional missiles on its wings without sacrificing an equivalent weight of fuel or further increasing its dependence on tanker support.

The Defense Department was seriously considering consolidating the Navy and Air Force programs to conserve funds.

If the programs are merged, the single cruise missile that will eventually come forth will almost certainly not be compatible with the SRAM rotary launcher. It would more resemble the longer range Navy version.

The upshot would be that the B–1 could not carry the cruise missile internally at all. And external carriage may prove to be too costly in terms of the B–1's limited range.

The incompatibility of the B–1 with the long-range cruise missile will not be a problem for a while because the B–52's, which can carry the long-range cruise missile, will be kept through the 1990's.

Thus, the B–52 will serve as the long-range cruise missile carrier. It is significant that the Defense Department is requiring the Navy to make its cruise missile capable of being air launched from the B–52; no mention is made of the B–1—"The Case for the Cruise Missile," Dr. Malcolm R. Currie, Aviation Week and Space Technology, April 21, 1975, page 9.

Note that the B–52's long range would allow it to carry cruise missiles externally. And the mammoth bomb bay of the B–52 can accommodate the cruise missile as well. There is one SRAM rotary launcher fitted in the huge B–52 bomb bay although this launcher was designed for the B–1.

However, once the B–52 is retired by the end of the 1990's, there will be no carrier for these missiles. The question arises, will the Air Force come to the Congress 10 years from now and ask for funds for a new standoff bomber? One does not have to judge whether the standoff bomber carrying long-range cruise missiles is a superior option to the pure penetrator, such as the B–1. The fact is the long-range cruise missile may be emerging from the SALT negotiations as an extremely important strategic weapon.

Moreover, in light of the conclusions of the joint strategic bomber study and the B–1's present dependence on a short-range standoff missile—SRAM—to get through Soviet defenses, the superiority of the penetrating bomber can hardly be said to be clear.

As the foregoing comments demonstrate, the long-range cruise missile concept is highly appealing. Prudence would seem to dictate that we should not commit ourselves now to any bomber, the B–1 or any other, which is basically incompatible with the long-range cruise missile. The B–52 would be a far better standoff bomber than the B–1 and it can double as a penetrator as well, at least for another decade or two.

A very recent development is ironic to say the least.

It has been reported that the Air Force does not plan to place the ALCM on the B–1 at all, even though it was the B–1 constraint that kept the range of the ALCM down.

OTHER ALTERNATIVES FOR THE NEAR FUTURE

Reengining the B–52 or equipping it with cruise missiles for another decade is by no means the only alternative to the B–1. There is considerable support

within the defense establishment for the concept of a standoff bomber which would not penetrate enemy airspace, but would stand off and launch long-range cruise missiles at targets inside enemy territory. If the Congress agrees that the cruise missile has obviated the need for a new penetrating bomber, then another alternative to the B–1 is available. We can build a fleet of wide-body transports and equip them with cruise missiles, assuming SALT does not eliminate the long-range cruise missile.

The Air Force is now in the process of selecting the advanced tanker cargo aircraft. The average unit procurement costs in 1975 dollars for the candidates are: Lockheed C–5B, $47 million; Boeing 747, $45 million; McDonnell-Douglas DC–10, $31 million; and the Lockheed L–1011, $31 million.

We could simply buy such aircraft to be used as standoff bombers. The average unit cost should be even lower than these figures if the same basic aircraft was used for all three roles—bomber, cargo and tanker. Any of these choices would be less expensive than the B–1. If we adhere to the Air Force philosophy of not including weapons costs in with the cost of a bomber, then the $84.3 million B–1 would be about twice as expensive as the very large standoff bomber—747, C–5B—almost three times as expensive as the other standoff bomber candidates—DC–10, L–1011.

For example, with weapons costs included, a 747 standoff bomber could carry at least 40 cruise missiles—up to 60 by Air Force testimony—at $500,000 per missile, for a total cost of $65 million (aircraft plus weapons) versus about $96 million for the B–1. The 747 would carry at least 67 percent more warheads than the B–1—40 vs. 24—and the cruise missiles on the 747 would have much longer range than those on the B–1. Furthermore, the range of the 747 itself would almost certainly be greater than that of the B–1, as would be the loiter time in air alerts. The McDonnell-Douglas DC–10 or Lockheed L–1011 could carry perhaps 24 long-range cruise missiles, which is equal to the same number of short-range missiles as the B–1 carries. However, these aircraft would cost about one-third the price of the B–1.

Among the many desirable features in the standoff delivery system is the fact that the entire system is easily updated to take advantage of new technology or new Soviet defenses. One need only replace the first-generation cruise missiles with a more advanced version of cruise missile. The ample internal volume of these wide-body aircraft makes such a retrofit quite feasible. The offensive capability of the system is almost independent of the airplane that carries the missile, because only the missiles would enter enemy airspace.

Also, the standoff bomber is a low-risk venture that would involve very well-known technologies. Even the cruise missile, currently undergoing flight testing, embodies technologies that "are well in hand"—"The Case for Cruise Missiles," Dr. Malcolm R. Currie, Aviation Week and Space Technology, April 21, 1975, page 9.

Because the 747 standoff bomber is so much less expensive than the B–1, we could afford to buy just as many standoff bombers as B–1's, carrying around 9700 warheads versus 5800 for the B–1, and still save $7.5 billion over the cost of the B–1 program.

As an alternative we could use the Lockheed L–1011 or the DC–10 which are about the same size as the B–1. If 243 of these aircraft are purchased, and assuming each could carry at least 24 long-range cruise missiles, then we would have an equal number of warheads as the B–1 but at about one-third the cost.

SOVIET MOBILE SAM CONTROVERSY

In response to a Brookings Institution study that recommended termination of the B–1 program and deployment of large cruise missile carrier standoff bombers, Dr. Malcolm R. Currie, Director of Defense Research and Engineering, criticized the study for failing to take into account Soviet mobile surface-to-air missiles.

While I do not conclude that the standoff bomber is absolutely the only way to meet U.S. bomber requirements, I cannot completely agree with Dr. Currie.

While posing a threat to the first-generation cruise missile, the mobile SAM is also very much a threat to the B–1, or to any penetrating vehicle. In fact, because the B–1's radar cross-section is so much larger than the cruise missile's, the B–1 may be more vulnerable to the mobile SAM. Considering the likely reaction times of current Soviet SAM systems, neither the cruise missile nor the B–1 are currently threatened. As the Navy found, "neither side has the capability to track and shoot down the SLCM" since the SLCM has the frontal radar cross section of a seagull; when the side of the cruise missile is in the radar beam, the data processing response time of the SAM system is too short to respond.

The B–1 is threatened by mobile SAM's since it too will not know where they are. When a B–1 would pick up the radar signal of a mobile SAM, it would face a kind of "High Noon" situation: it would have to pinpoint the SAM site location, launch a SRAM and destroy the SAM radar before the SAM system could pinpoint the B–1's location, launch a SAM and destroy the B–1. An advanced SAM would presumably have a shorter reaction time, threatening both the B–1 and ALCM. Furthermore, and most important with respect to the B–1, an advanced SAM might very well have a terminal active homing capability, such that the missile would be independent of the SAM site radar within a certain range of the B–1. The B–1 would then be very vulnerable to such a SAM.

Furthermore, it is worth asking whether the joint strategic bomber study considered mobile SAM's, if they indeed pose such a serious threat. In short, if an advanced mobile SAM is a serious threat to the first-generation cruise missile, it is also a serious threat to the B–1 as well.

Another criticism that is sometimes heard against converting wide-body jets into cruise missile carriers is that these aircraft do not possess sufficient quick takeoff capability nor hardness against thermal, overpressure, and radiation effects. Thus, wide-body jets are alleged to be deficient in prelaunch survivability.

Now, the critical B–1 dependence on tanker support will insure that the advanced tanker cargo aircraft—ATCA—will have more than adequate prelaunch survivability. If this were not the case then the B–1's ability to perform its mission would be seriously jeopardized.

Mr. FINE. Regardless of tankers, the survivability of a tanker dictates the effectiveness of the utility for the B–1 or the B–52?

Secretary MCLUCAS. That is right.

(Senate Armed Services Committee hearings, fiscal year 1976, part 10, page 5595.)

A modified ATCA might therefore be suitable as a cruise missile carrier. Instead of carrying fuel for the B–1 to haul 24 short-range missiles to their launch points, the ATCA cruise missile carrier would itself deliver 40 long-range missiles to their launch points. Thus a cruise missile carrying version of existing airplanes also appears to be an attractive alternative to the B–1, and at lower cost.

SUMMARY OF ARGUMENTS

Mr. President, in view of the complexity of the materials discussed to date, I would now like to summarize the main points in this the third speech on the B–1 bomber.

There are three alternatives to the $21 billion B–1 bomber program that would save the taxpayers billions and still provide an awesome offensive punch.

The first alternative is to put new engines on the versatile B–52. Replacing the eight existing engines on the B–52 with four modern jet engines would increase the range of the B–52 significantly, give it greater target flexibility, higher penetration speed, larger payload, shorter takeoff distance and reduced infrared image.

The cost to reengine the B–52 would be about $2 billion and would represent a savings of $15.3 billion under the B–1 procurement costs of $17.3 billion.

New engines would save one-third of their initial cost in fuel savings alone in the first 3 years after retrofit. In fact, the Air Force is now planning to refit the KC–135 tanker fleet for the same reasons.

Reengining the B–52 fleet could extend their life and save at least $15 billion, less the operation and maintenance costs of a longer life B–52 fleet.

The second alternative is to equip the B–52 fleet with cruise missiles.

Cruise missiles have attractive features. They are nearly invulnerable to detection due to their small size. They are inexpensive and can be launched in sufficient numbers to saturate any target. And they have the range to allow the carrying bomber to stay out of hostile airspace.

The Air Force already is moving in this direction by deploying the short-range attack missile—SRAM—which one general has said makes the B–52 almost a new airplane. The cruise missile is a logical extension of the SRAM concept.

Cruise missiles can be purchased for about $500,000 each. Thus for the price of a single B–1 carrying 24 SRAM warheads, the United States could buy 200 long-range cruise missiles with greatly enhanced capability.

Equipping the B–52 fleet with cruise missiles would save billions and allow a double punch—a penetrating bomber and a standoff bomber.

The third alternative is a single purpose standoff bomber platform. At $84.3 million each, the B–1 bomber would be twice as expensive as a standoff bomber in the 747 or C–5A class and almost three times as expensive as other candidates such as the DC–10 and L–1011 class carriers.

A 747 type aircraft could carry at least 67 percent more warheads than the B–1—40 versus 24—at a price of about $65 million ocmpared to about $96 million for a B–1 with weapons. DC–10 or L–1011 type aircraft could carry about 24 cruise missiles, the same as the number of SRAM's on the B–1, but at one-third the price of the B–1.

The range of a 747 type platform would be greater than the B–1 and it would have a longer loiter capability. This system has the added advantage of being easily updated to reflect changes in Soviet defenses. Instead of replacing the whole bomber, only the cruise missile would need to be changed at far less cost.

The bomber platform concept is a low risk venture that involves known technologies. The cruise missile technology, for example, according to Malcolm Currie is well in hand.

We could buy an equal number of 747 standoff bombers as B–1 bombers with an almost doubling in the number of warheads carried and still save $7.5 billion over the B–1 program.

Or we could purchase fewer standoff platforms, since we might not need that many warheads, and save even more.

Any one of these three alternatives would save the taxpayers billions and still field an overpowering bomber force.

Mr. President, I note that the Senator from Arizona (Mr. GOLDWATER) is on the floor to reply to my speech, which as I have said before I welcome. I think this is a most constructive action he is taking. I want to say that even though we disagree on this issue, a very useful purpose is served in this exchange of information. I respect my colleague's opinion and I welcome his views.

I hope that among other items, he might address himself to the data I placed in the RECORD yesterday from the General Accounting Office. This data indicates that the B–1 has suffered performance slippages of 27 percent in supersonic penetration speed, 11 percent in gross weight, and 15 percent in takeoff distance. Three other items should be considered: Subsonic range, supersonic range, and maximum speed at sea level. The Air Force declines to make public these performance changes. If they too have declined, that would throw even more question on the B–1 program.

Perhaps the Senator from Arizona could speak to these points.

Mr. President, I ask unanimous consent that an article from the Washington Post of May 6, 1976, be printed in the RECORD and that the chart from the General Accounting Office showing the slippages in performance of the B–1 also be printed in the RECORD.

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

[From the Washington Post, May 6, 1976]

TEST MODEL OF B–1 HAS TAIL CRACK

The Air Force told Congress yesterday it has discovered a small crack in a test model of a tail section for the controversial B–1 bomber.

A spokesman said it is the first failure in a major part designed for the bomber, which is under heavy criticism from Sen. William Proxmire (D-Wis.) and others, partly because of its high cost.

The five-inch semicircular crack was found in a spare separate tail assembly undergoing "fatigue testing" at the Rockwell International Corp. Los Angeles plant, a spokesman said. "The section was built to be tested, not flown," he said.

Two B–1 bombers that have been test flown a total of 34 times are not being grounded as a result, the spokesman said. No test flights have been scheduled at least until next week, he added.

The spokesman indicated that the Air Force suspects that one of the sub-contractors involved in building the tail assembly was at fault, rather than any failure in the steel material. He said the Air Force is looking into this to determine responsibility.

CHANGES IN ESTIMATES FOR SELECTED B–1 PERFORMANCE OR TECHNICAL CHARACTERISTICS

	Nautical miles		Maximum speed, sea level (mach)	Supersonic penetration speed (mach)	Payload-internal SRAM'S (number)	Takeoff gross weight (pounds)	Takeoff distance (feet)
	Subsonic range	Supersonic range					
Planning estimate June 1969	Deleted			2.2	32	358,000	6,000
Development estimate June 1970				2.2	24	356,000	6,500
June 1971 estimate				2.2	24	360,000	6,500
June 1972 estimate				2.2	24	368,600	6,760
June 1973 estimate				2.1	24	389,772	6,950
June 1974 estimate				2.1	24	395,000	7,500
September 1975 estimate				1.6	24	395,000	7,500
Degradation—development estimate to September 1975 estimate				.6	0	39,000	1,000
				(27%)		(11%)	(15%)

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

ORDER OF BUSINESS

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

THE B–1 BOMBER PROGRAM

Mr. GOLDWATER. Mr. President, responding very briefly to the last question put by the Senator from Wisconsin, if he will read the material I have been putting in the RECORD, he will find all of the answers to the questions raised by the GAO.

I can personally attest to the inaccuracy of one of them, and that is supersonic speed plus acceleration speed. I can attest to another one, the length of runway.

All of the other questions that he has asked have been answered, and I intend to answer some more today.

In a press release from the Secretary of the Air Force, which I received just a short while ago, these same questions are addressed.

One by one, the various alternatives of putting new engines on the B–52, equipping the B–52 with approved missiles, and then having a single-purpose standoff bomber platform for cruise-launched missiles have been rejected. Let me read the press release.

More than a year ago (March 19, 1975) Air Force witnesses before the Senate Appropriations Committee discussed the "new" alternatives suggested by Senator Proxmire today. The Air Force testified that the Department of Defense's Joint Strategic Bomber Study considered six alternatives, including those offered by the Senator. The B–1 was substantially better in terms of performance and cost-effectiveness than any of the alternatives he proposes. The Air Force analysis has not changed, and I have so testified again, this year. Senator Proxmire has offered nothing that has not previously been thoroughly studied and discarded.

Mr. President, so that my colleagues may have the benefit of that study, I ask unanimous consent that a brief summary of the Joint Strategic Bomber Study referred to, which answers the questions raised by the Senator, be printed at this point in my remarks.

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

SUMMARY OF THE JOINT STRATEGIC BOMBER STUDY—JSBS

Study performed through a cooperative effort of technical and analytical experts in DOD and civilian corporations who worked under the direction of DDR&E.

Effort designed to answer a range of issues for the 1980s as they affect bomber force. Significant issues addressed include: Value of retaining B–52's and FB–111's; bomber rebasing options for crises; appropriate future weapons loading; cost effectiveness alternatives of candidate aircraft.

Alternative aircraft investigated were those discussed by Congress, examined by OSD or GAO, and appeared feasible for force modernization:

Candidates included B–1, "stretch" FB–111 (FB–111G), wide-bodied jet (747) with cruise missiles, and re-engined B–52 (B–521).

In addition to programmed FY 80 force, six different equal-cost forces were examined. Study subjected each to survivability and penetrativity analysis.

High levels of threat to launch and penetration were postulated and no strategic warning assumed for U.S. forces so as to present a conservative case.

Each alternative subjected to same threat, same posture assumptions, and common target list.

Target value destroyed was principal measure of merit. Force effectiveness analysis accomplished by computer simulations. (A significant effort expended to establish the reasonableness and analytic quality of the computer programs used.)

The following is a list of the force compositions.

Force 1—Aircraft in inventory in 1980: B-52D, G, H, FB-111A, and KC-135.

Force 2—Baseline force for costing from which alternative equal cost forces were developed. Contained planned B-1 force penetrating defenses and attacking targets with SRAM and gravity weapons, accompanied by B-52Hs employing standoff cruise missiles.

Force 3—Same as #2, but cruise missiles replaced by multi-mission missiles capable of air-to-air or air-to-ground attack.

Force 4—A smaller number of B-1s with re-engined B-52G/Hs (B-52I). Entire force programmed to penetrate air defenses; i.e., no standoff cruise missiles included.

Force 5—All standoff force of wide-bodied jets (747) and B-52Hs employing standoff cruise missiles from outside defenses.

Force 6—"Stretched" FB-111 (FB-111G) substituted for B-1 in quantities about twice as large as the number of B-1s in baseline force. FB-111Gs penetrated air defenses to attack, while B-52Hs launched cruise missiles from outside defenses.

Force 7—About two-thirds of the planned B-1 buy which penetrate. A B-52G/H force carried cruise missiles employed in a standoff role.

Study results indicated that Forces 2, 3, and 4, containing B-1s in greater numbers, performed substantially better than others.

In terms of cost-effectiveness, there was no significant difference between Forces 2, 3, and 4.

The effectiveness of the B-52I/B-1 combination in Force 4 was close to that of the other forces which contained higher numbers of B-1s.

However, the B-52I suffered significant mission degradation from fighters; further, the large force would generate higher O&M costs beyond 1988.

Force 5, which consisted only of cruise missiles employed by B-52s and 747-type aircraft, was not as cost-effective as Forces 2, 3, or 4.

The "stretch" FB-111G (Force 6) was clearly non-competitive due to deficiencies in range, payload, and ECM capability.

Force 7, which included a smaller number of B-1s accompanied by large numbers of cruise missiles launched from the standoff B-52G/H force, was not as cost-effective as Forces 2, 3, or 4.

Mr. GOLDWATER. Mr. President, the new engine proposal for the B-52 has been with us as long as this argument has been going. No. 1, we do not have any new engines for the B-52. I hate to say this, but we do not have any new engines. This country is terribly deficient in the progress it has been making on new engines for new aircraft. But even if we did have the new engines of the type that the Senator envisions, there is no way that we could fit an engine to the B-52 that would provide the thrust that he feels would make it equal to the B-1, for example, talking about a 0.85 mach.

Mr. President, I have flown the B-1 at 0.85 mach at 500 feet with most of the power still in reserve.

Mr. President, I know that I am not going to be able to get through this entire paper today. I will be referring to it again as we go on.

Some time ago the Brookings Institution issued a report written by Mr. Quanbeck and Mr. Wood against the B-1.

I have great respect for the Brookings Institution as a business institution, as a foundation put together to help businessmen understand our system of government, understand what business is all about. But, Mr. President, I have yet to detect any expertise anyplace in the organization relative to weapons systems. So I think it is necessary that we look into what we get from them in this area.

Mr. President, I have here an assessment of the Quanbeck-Wood study prepared by the Air Force. The preface of the Air Force assessment states:

This paper assesses the Quanbeck-Wood report, which proposes to replace the concept of manned aircraft penetrating hostile airspace with air launched cruise missiles launched from aircraft flying outside of defended airspace. The discussion contained herein deals with the relative effectiveness of either force concept in the context of the strategic nuclear mission.

Air launched cruise missiles are small, pilotless, fan jet powered aircraft using advanced propulsion and guidance techniques and modern structural design and materials. In this paper, such cruise missiles are used exclusively with nuclear warheads to attack fixed, preplanned targets on the ground.

Nothing in this commentary should be construed to denigrate the value of cruise missile technology as it might apply to other missions, to include a wide variety of nuclear and non-nuclear roles. Such subjects were not addressed in the Quanbeck-Wood report.

The Air Force believes that there are promising applications for air launched cruise missiles in many areas.

Mr. President, the Research and Development Subcommittee of the Armed Services Committee of the Senate, of which I am a member, spent a vast amount of time over the last several years discussing cruise missiles. The ALCM, now under development has actually been launched, and they will probably be proven to be good. But right now they have not been developed to the point that either Quanbeck-Wood thinks they have or Senator PROXMIRE thinks they have.

I noticed that the cost that is mentioned by the opponents of the B-1 of providing a launch platform for cruise missiles either a C-5, 747, 1011, DC-10, or something like that, will approach $50 to $60 million which, while it is a savings, is not a substantial enough savings to take the risk of denying ourselves the accuracy of an improved manned bomber.

On the B-52 modernization, the last one came off the line about 1968. To make the B-52 a flyable bomber well into the 1990's, and the B-1 is going to be flying beyond the year 2000, we will have to reskin the airplane, that is, replace all of the surface skin. We will have to reconstruct some of the main aerodynamic structures.

So when we wind up, we wind up with an old airplane that in all the estimates I have seen comes pretty close in cost to the bomber that we are now discussing, the B-1. But, it is not as effective.

I might say that the Air Force is very anxious to have the cruise missile. They look upon it as a great added weapon for our weapons systems, but it cannot replace the bomb.

As I discussed yesterday, we may well be reaching a place in our relationship with the Soviet Union where they will be able to say to us, "All right, you have your ICBM's, you have your bombs, you have all of these weapons, but you do not know where our targets are."

I proposed yesterday in a letter to the Committee on Armed Services and the Committee on Foreign Affairs that we undertake a study to determine just what the DIA, CIA, and others of the intelligence community can tell us about the efforts that have been going on in the Soviet Union since the 1950's to put things underground, to protect their citizens by a very interesting civil defense move, to place their command posts underground and their communications systems.

Mr. President, continuing the Air Force assessment of the Quanbeck-Wood paper:

Quanbeck-Wood Study Conclusions and Recommendations: The Quanbeck-Wood study concludes that "The effectiveness of the current bomber force is more than adequate now and, with minor force modifications, will remain so in the future under foreseeable conditions." (page 93)

The comment is: The current bomber force is adequate only because of a continuous modification program that began in 1970 and is projected to continue through 1977. The Quick Start modification on B-52G/Hs and KC-135s is necessary to cope with the increasing Soviet SSBN threat and helps to improve aircraft survival by reducing reaction time. SRAM and visual sensors on the B-52G/H were necessary to offset the growing low altitude SAM defenses, and Phase VI ECM is designed to improve B-52 penetration of the increasingly sophisticated and growing Soviet interceptor defense. But there is a limit to the effect of modifications, and the Air Force believes that point is near with the current bomber force. The basic aircraft structure—now an average 16 years of age for the B-52G/H force—cannot be significantly modified. Greater speed, lower radar cross section, and higher resistance to nuclear effects can most efficiently be incorporated in a new design; all are, of course, incorporated in the B-1.

Quanbeck-Wood Report: "There are marked economic advantages for a bomber force that carries standoff missiles . . ." And "There appear to be no significant military advantages to be gained by deploying a new penetrating bomber such as the B-1. . . ." (page 93)

Comment: The Quanbeck-Wood conclusion is based on simplified analytical methods that biased the case against the penetrating force before the analysis was performed. By using a formula in which only mass could overwhelm the air defenses, forces containing large numbers of penetrating objects had to be the most effective. The DOD Joint Strategic Bomber Study (JSBS) used a model which considered not only mass but the detailed characteristics of both the offense and defense to include: geographic orientation, command control structure, the effect that different penetration characteristics had on alternative forces (such as electronic countermeasures (ECM), radar cross section (RCS), altitude, delivery accuracy (CEP), weapons load, penetration range, and many other detailed factors), actual target locations and prescribed values, detailed weapons effects calculations, and comprehensive reports on the relative cost effectiveness of alternative forces. In the JSBS, a B-1 dominated force was about twice

as cost effective as the equal cost standoff cruise missile force. Only when numbers of terminal SAM sites were reduced by two-thirds and their effectiveness cut by one-third did the cruise missile force approach the B–1 force in cost effectiveness. The JSBS found B–1 survival to be insensitive to the same SAMs which severely attrited the cruise missiles. In addition, the Quanbeck-Wood report loaded the B–1 force cost by including the cost of an advanced tanker, plus three times as many air-to-surface missiles as are planned for the B–1, plus the total cost of strategic surveillance and command which is considered to be a separate mission (see Part VII). If the burden of those costs, not normally attributed, were removed, the B–1 force and the ground alert cruise missile force would have been about equal in cost.

Quanbeck-Wood Report: ". . . we see no reason to make a commitment to produce the B-1 and we believe there is considerable justification for exploring alternatives based on the use of standoff missiles . . ." (page 93).

Comment: If a decision is made in 1976 to produce the B-1, it will take ten years to deploy the planned force. During that period, substantial changes are projected to take place in Soviet offensive and defensive capabilities. It does not appear to be prudent for the U.S. to defer a decision to modernize the U.S. bomber force until the Soviet force improvements are a "fait accompli." The B–1 is needed to ensure essential equivalence with the USSR and maintain a strategic nuclear balance. Regarding the Quanbeck-Wood report assertion that there is justification for exploring alternatives based on the use of standoff missiles, it should be noted that such an examination was done in the DOD bomber study (JSBS); the results of that study have withstood the careful scrutiny of the GAO as well as dozens of DOD and non-DOD agencies. That study, carefully prepared and fully documented, clearly showed the relative cost ineffectiveness of the standoff cruise missile force when compared to the B-1 force. No detailed analysis is available which supports the Quanbeck-Wood conclusions that standoff cruise missiles are more cost effective than B-1s.

Quanbeck-Wood Report: ". . . production of the B–1 should not be approved . . ." the R&D ". . . program should be brought to a speedy conclusion . . .", and ". . . advanced development of a standoff bomber should begin."(page 97).

Comment: The JSBS showed the B–1 to be less sensitive to threat change than standoff cruise missiles, both in launch and penetration. For example, moving the SSBNs used in the study to the closest point of submarine operation caused the wide-body jet cruise missile carrier survival to decrease by one-fourth while B–1 survival decreased only slightly. Before moving the SSBN force closer to our shores, both forces survived at about the same rate. When look-down shoot-down interceptors were about doubled there was essentially no reduction in B–1 survival; yet when total low altitude SAMs were about doubled, cruise missile attrition increased over one-third. Since the B-1 has been shown to be the most cost effective alternative, and since it will take ten years to product and deploy the B-1 even though it has already been in flight test for over one year, the Air Force believes that the best interests of the nation are served by continuing the program as planned. Moreover, the cruise missile carrier is a "paper" airplane which, even using the Quanbeck-Wood report preliminary estimates, would have a higher unit cost than the B-1. And, as shown in the JSBS, standoff cruise missiles could be negated by a modest low altitude mobile SAM defense (see Part VIII).

Quanbeck-Wood Report: ". . . several pertinent strategic arms control measures should be pursued: preserve ABM treaty; seek a ban on depressed trajectory missiles; avoid cruise missile range limits which would severely limit all the major options in the study; consider patrol limits on SSBN's (page 97).

Comment: Assessment of U.S. strategic forces must also recognize that there is no guarantee that the ABM Treaty will be preserved. Current Soviet efforts in ABM systems R&D would allow rapid deployment of advanced ballistic missile defenses if the treaty were abrogated. Since the ratification of the SALT agreement, the Soviets have emphasized the development and testing of new radars which have an apparent ballistic missile defense capability.

PART II: THE MISSION OF U.S. STRATEGIC FORCES

Quanbeck-Wood Report: "The United States acquires and maintains nuclear forces for four principal reasons:

To deter nuclear attacks on the United States.

To help deter conventional and nuclear attacks on U.S. allies.

To strengthen U.S. power and influence in world affairs.

To engage in nuclear wars should deterrence fail (page 4).

Comment: The Air Force agrees with the first two Quanbeck-Wood points, but disagrees with the remainder of their assessment of the strategic U.S. nuclear forces mission. First, strategic nuclear forces are designed to ensure essential equivalence with the USSR and maintain stability in the strategic nuclear competition. Second, if deterrence fails, to achieve early war termination at the lowest possible level of conflict. Finally, to achieve the best possible outcome for the U.S. and its allies if escalation cannot be controlled and a major nuclear conflict occurs.

A COMPARISON OF THE QUANBECK-WOOD STUDY AND JOINT STRATEGIC BOMBER STUDY, BOMBER MISSION AND REQUIREMENTS RELATIVE TO THE TRIAD

Quanbeck-Wood Report: ". . . the bomber force should be designed and sized to attack fixed industrial and urban targets . . . About 400 one-megaton weapons . . . could destroy about three-fourths of the industrial capacity of the Soviet Union and about one-third of its population." (page 19). Table C–1 contained the top 50 cities that, according to the Quanbeck-Wood report, represents one-third of the USSR population which is shown as 50,120,000.

Comment: Target data in the Joint Strategic Bomber Study was based on national guidance. The JSBS target base included government controls (national, civil, and political), industrial-economic installations, and military installations.

Regarding the Quanbeck-Wood report target base, current Soviet population is estimated to be 253 million with a projected growth to 283 million by 1985 (end year of Quanbeck-Wood alternative force deployment). Thus, one-third of the Soviet population is about 84 million. To attack 84 million people would require targeting the largest 181 cities—360% more than the Quanbeck-Wood calculations. Moreover, only 42% of Soviet industry is in the largest 50 cities today. To destroy three-fourths of Soviet industry would require the attack of 371 cities—740% more than the Quanbeck-Wood calculations. Of interest, it should also be noted that only 39 of the 50 cities on the Quanbeck-Wood target list can be reached by their postulated 1500 NM cruise missiles when remaining outside of projected defenses and using feasible launch points. To further complicate the Quanbeck-Wood approach to a target base, there is a massive Soviet civil defense effort currently underway (estimated to involve 50,000 personnel at an annual cost of $1 billion) combined with extensive hardening and dispersal of industry. The combination of these factors could greatly increase the number of weapons required to achieve the Quanbeck-Wood goal of destruction of one-third of the population and three-fourths of the industry.

Quanbeck-Wood Study: Fundamental to the authors' approach was the assumption that the bomber force ensures against the failure of ICBMs and SLBMs. Yet, the report says "We believe that, in buying its bomber force, the United States can safely assume that ballistic missiles can be used to suppress air defences . . . (page 69).

Comment: Alternative bomber forces in the Joint Strategic Bomber Study did not rely on the other legs of the Triad for penetation. ". . . bomber forces assumed to face undegraded defenses." The philosophy underlying the JSBS approach was that the U.S. should have insight regarding effectiveness of forces under procurement consideration without their reliance on other elements of the Triad, themselves acting as a hedge against the forces under consideration. However, the JSBS included excursions to examine the sensitivity of alternative forces to defense suppression.

PART III: A COMPARISON OF BASIC GROUND RULES AND ASSUMPTIONS USED IN THE QUANBECK-WOOD STUDY AND JOINT STRATEGIC BOMBER STUDY

Quanbeck-Wood Report: The Quanbeck-Wood analysis contained five "equal effectiveness" forces that were "played" against the most severe threat under crisis (generated) alert conditions (85% alert for ground forces and 60% alert for airborne forces). New advanced tankers replaced KC–135s, 30–100 bases were assumed to be required, modeling of launch and penetration analysis was highly aggregated, ballistic missile suppression was required for cruise missile penetration, the target base was the 50 largest cities, and measure of merit was the cost of the alternative forces.

Joint Strategic Bomber Study: The JSBS contained six equal cost forces that were examined against a mid range threat under day-to-day alert conditions. Existing KC–135s were used (no new tankers were procured), specific bases were identified, modeling of launch and penetration analysis was highly detailed (the analysis required 6,000 hours of computer time and consumed 40 man-years), ballistic missile suuppression was not assumed (but was examined in excursions), the target base had several thousand installations of political, economic, and military value, and the measures of merit were target value destroyed, weapons and megatons delivered, and aircraft recovered. Supplementary analyses performed by DDR&E on varying effectiveness levels showed that conclusions of relative effectiveness were not sensitive to exact cost levels, unless the USSR failed to make any significant improvement in current air defenses.

PART IV: A COMPARISON OF THE FORCES AND THEIR CHARACTERISTICS USED IN THE QUANBECK-WOOD STUDY AND THE JOINT STRATEGIC BOMBER STUDY

Quanbeck-Wood Report: The five "equal effectiveness" forces in the Quanbeck-Wood study, as shown in Table 1 below, included (1) a modernized B–52 with new engines, a supercritical wing, an extended bomb bay (twice the weapon spaces of a B–52G or H—24 vs 12), improved avionics, low level ride control, and provisions for a four-man crew. Costing about $40 million (program unit) in current dollars, this force was assumed to penetrate Soviet defenses carrying a load of 24 SRAM and SCAD (armed decoys) for attack on the 50 cities. The authors further assumed that rockets were added to the B–52s to speed their takeoff. The B–1 force (2) also carried a load of 24 SRAM and SCAN and was assumed to require new tankers starting in 1981. The airborne alert standoff cruise mis-

sile force (3) also had advanced tankers, carried 50 cruise missiles each or contained air launched ballistic missiles (ALBM, three per aircraft) used for fixed SAM site suppression. A force (4) of fast, hard cruise missile carriers (B–1–like but without supersonic capability) had no tankers and carried 35 cruise missiles or two ALBMs. Finally, the last force (5) consisted of wide-body standoff cruise missile carriers carrying 35 cruise missiles or two ALBMs and was also equipped with rocket assisted takeoff. According to a 1974 Boeing brochure on 747 cruise missile carriers, the rocket consisted of a Minuteman first stage weighing about 50,600 lbs and having a thrust of 206,000 lbs.

Mr. President, I ask unanimous consent that table 1, entitled "Quanbeck-Wood Alternative Forces" be printed in the RECORD.

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

TABLE 1.—QUANBECK-WOOD ALTERNATIVE FORCES

Force	Number and type of aircraft [1]	Number and type of tankers	Number of dispersal bases	Number of air-to-surface missiles
1	255 improved B–52's (penetrating)	255 KC–135's and advanced tankers	100	6,120 SRAM's and armed decoys.
2	200 B–1's (penetrating)	200 KC–135's and advanced tankers	75	4,800 SRAM's and armed decoys.
3	80 cruise missile carriers	80 advanced tankers	(2)	3,100 ALCM's; 54 ALBM's.
4	105 fast hard cruise missile carriers	None	75	2,660 ALCM's; 58 ALBM's.
5	120 high-acceleration cruise missile carriers	do	100	3,185 ALCM's; 58 ALBM's.

[1] Soft missile carriers in force 3 are assumed to carry 50 cruise missiles or 3 ALBM's; in forces 4 and 5, 35 cruise missiles or 2 ALBM's. The modified B–52's and B–1's are both assumed to have 24 spaces each for SRAM's, and decoys are assumed to display 1 SRAM each.

[2] Airborne alert.

Mr. GOLDWATER. The Air Force assessment continues:

Joint Strategic Bomber Study: Six equal cost forces and the FYDP–80 force were examined as a basis for comparison. Three forces contained a mix of standoff and penetrating aircraft (2, 6, and 7); two forces were all penetrating (3 and 4), and force 5 was an all standoff force. The modernized B–52 was a re-engined aircraft costing about $7.7 million (1975 dollars) each; all other characteristics were similar to the B–52G/H. The B–1 used in the JSBS was identical to the Quanbeck-Wood aircraft with the exception of the weapon load which was a mix of gravity weapons and SRAM instead of just SRAM and SCAD.

The cruise missile carrier was a Boeing 747. Three other forces contained in the JSBS were not examined by the Quanbeck-Wood report. One consisted of B–1s and B–52Hs carrying Advanced Strategic Air Launched missiles (then called the multi-mission missile) and used to attack area defenses; one force contained the stretched FB–111G; and one force contained a smaller number of penetrating B–1s together with the full B–52G/H force standing off outside Soviet defenses launching cruise missiles.

Force Characteristics Differences: Differences show up in aircraft nuclear vulnerability since Quanbeck-Wood credited the B–1 with less ability to withstand overpressure than did the JSBS. Quanbeck-Wood assumed only SRAM or SCAD on penetrating forces while the JSBS used the more effective mixed load of SRAM and gravity bombs. Moreover, the JSBS credited its cruise missile carrier with the ability to carry more cruise missiles than Quanbeck-Wood. Penetration capabilities of the Quanbeck-Wood forces were not significant because the model employed was not sensitive to system characteristics. The same is true for their cruise missile analysis. It was significant, however, that the Quanbeck-Wood report did not credit the B–52 or the B–1 with ECM yet they assumed an armed decoy (SCAD) to be necessary which could have effective ECM. The JSBS treated the ECM for each penetrating aircraft in detail, measuring the effect of penetrator ECM on each of the dozens of radars encountered during the detailed geographic simulation of the many air battles performed. Quanbeck and Wood provided no technical description to support their ECM assumptions nor any sensitivity of their results to the "no ECM" assumption.

The significant point regarding cruise missile technology assumed by the Quanbeck-Wood report is that it does not appear possible to build a 2,000 lb. missile that will fly 1,500 NM, low altitude, particularly at "high subsonic" speed (about 500 knots). Air Force engineering estimates indicate that to fly 1,500 NM at low altitude—at 360 knots, not "high subsonic speed" (high speed missiles would be even larger)—would require a missile weight of almost 4,000 lbs vice the 2,000 lbs suggested by Quanbeck and Wood. For a load of 50 missiles per carrier, the total payload weight would be 95,000 lbs greater than the Quanbeck-Wood conceptual missile. Such a missile would require new ground handling equipment since the SRAM AGE planned for the Air Force ALCM would not be sized properly.

VIEWS OF OPTIONS CONTAINED OR OMITTED IN THE QUANBECK-WOOD REPORT

Modernized B–52: This aircraft, sometimes referred to as the B–52X, would be extensively modified with cost estimates running up to $40 million per aircraft in current dollars. Since it is an unproven concept, a long development period would be required (at least ten years from go-ahead to full modification). It may be difficult to harden to resist greater nuclear effects without significant structural change; it would not have a radar cross section competitive with the B–1 and it would not be capable of supersonic high altitude flight although it might have an increased low level penetration speed. Moreover, the 24 weapon version suggested by Quanbeck-Wood would be high risk due to the weight increase necessary towards the tail of the aircraft.. It would be possible to install new offensive and defensive avionics (similar to the B–1 system) in the modernized B–52. And the Air Force believes that the aircraft could reach a top low level speed about 25% less than the B–1.. Of course it would still be an old aircraft—the B–52G/H average age is now 16 years and will be at least 26 years when full B–1 equipage occurs. Finally, the feasibility of the rocket assisted takeoff is an unproven concept and may not work. The Air Force assessment of this option is that it would still be less cost effective than the B–1 (and it would be 56 years old at the end of the B–1's projected useful lifetime of 30 years).

Wide-Body Cruise Missile Carriers: This also would be an expensive option. The Air Force estimates a $65–70 million unit procurement cost in 1976 dollars for a buy of 110 aircraft. Quanbeck-Wood estimated $60 million unit procurement cost; with a 10% cost growth, this alternative could easily run from $72–$77 million (in 1976 dollars). The B–1 procurement unit cost is currently estimated to be $53.5 million (in 1976 dollars). A long development period would be involved for wide body cruise missile carriers (at least ten years to force deployment). It may be difficult to harden to nuclear effects simply because of its large size. With a large concentration of weapons on a single aircraft, it would represent a preferential target both during launch of the carrier and prior to cruise missile launch, providing the Soviets added incentive to develop an effective offense/defense capability. Since cruise missiles are vulnerable to good SAMs, defense suppression would have to work to avoid catastrophic failure. Even a small number of effective mobile SAMs—as shown in the JSBS (see Part VIII below)—could defeat the standoff cruise missile concept. Also, the feasibility of rocket assisted takeoff is unproven and may not work. The JSBS found the all standoff cruise missile force to be about one-half as cost effective as the predominantly B–1 force.

Fast Hard Cruise Missile Carriers: This Quanbeck-Wood option would have B–1 characteristics "but without a supersonic capability." The least expensive approach would be to use the existing B–1 program, deleting those elements necessary for low level penetration such as defensive avionics, forward looking infrared, terrain following radar and low altitude ride control. The aircraft is too far along to save any money by eliminating the supersonic capability. Substantial structural re-work, including removing the bulkhead between the two forward weapon bays and extending the aft weapon bay (by eliminating fuel volume) to accommodate cruise missiles, combined with pylon carriage, might allow up to 12 missiles to be carried internally and eight externally. Since the total load would be 43% less than the Quanbeck-Wood assumed 35 missiles per aircraft, a significantly larger number of aircraft would be required to accomplish the Quanbeck-Wood bomber mission of 400 EMT delivered. The substantial structral re-work is not estimated to offset the cost avoidance made possible by removal of penetration aids—but about $1 billion would be available to offset the increased cost brought about by a substantial delay in the program, with a commensurate increase in the time to deploy (assumes a buy equal to the current program). The unit procurement cost, according to Air Force estimates, would be about $47.8 million in 1976 dollars for such an aircraft equipped to carry 20 cruise missiles (costing based on the current buy program). This conceptual aircraft would be unable to penetrate defenses and would be unable to carry and release other types of weapons (SRAM, etc).

Subsonic Cruise Armed Decoy (SCAD): This Quanbeck-Wood postulated missile would be used as a penetration aid for B–52s or B–1s, and even if the defense could discriminate between bombers and SCAD, and preferentially attacked bombers, would still be able to penetrate to the target and deliver a minimum amount of EMT on the UI target base. However, since the Quanback-Wood report assumes that the cities to be attacked are defended with good low alti-

tude SAMs, SCADs would require defense suppression from bomber carried SRAM—or land launched/sea launched ballistic missiles—to be effctive. Moreover, the SCAD was assumed to carry ECM to help the bomber penetrate, yet the bomber carried ECM was assumed to be ineffective. SCAD development was terminated by the DOD in June 1973 because the cost was assessed to be greater than the return.

Air Launched Ballistic Missile (ALBM): This Quanbeck-Wood 45–50,000 lb. missile concept was postulated to allow cruise missile penetration to the cities, yet its utility can easily be circumvented by an effective low altitude mobile SAM defense. Attrition during launch of the ALBM carrier would reduce confidence in its use for defense suppression, and, if the Soviets could determine which aircraft carried ALBMs, they could preferentially target them thereby negating the cruise missile concept that relies on defense suppression. Moreover, the ALBM would be a costly development program and would be added to the cost of ALCMs.

Advanced Strategic Air Launched Missile—ASALM (called the Multi-Mission Missile in the JSBS): This option, contained in the JSBS but omitted in the Quanbeck-Wood report, provides an alternative penetration aid that would also be very useful in striking targets at long distances from the penetrating bomber. It was used in the JSBS for attack of C^3 sites, interceptor airfields, and high value targets that were defended by high quality low altitude SAMs. In contrast to the cruise missile, the integral ram jet ASALM would have a high probability of penetrating sophisticated SAM defenses, thus would be relatively insensitive to either mobile or fixed site SAM deployment.

Airborne Alert Option in Quanbeck-Wood Report: The Quanbeck-Wood report contained a force of wide-body cruise missile carriers that were assumed to go on a 60% airborne alert during "crisis" conditions. This force was assumed to be on normal day-to-day alert at a 6% rate but would launch to airborne alert when a crisis occurred. Manning for this force (maintenance and combat crews) was assumed to be calculated on maintaining a day-to-day alert rate of 60%. Under those manning conditions, the force could mount an airborne alert of 60% for three days and thereafter would be limited to an airborne alert rate of 10% for an indefinite period. Assuming unlimited maintenance manpower (eight times as much as required to sustain a 60% ground alert rate) and a combat crew ratio of 3.6:1 (2:1 for ground alert), the cruise missile carrier could theoretically maintain a 60% airborne alert indefinitely—at least for 30–60 days. The cost of maintaining the additional manpower year round would be about $1.7 billion over a ten-year period for a force of 80 UE aircraft. The Quanbeck-Wood costing of the cruise missile force does not appear to consider the large maintenance and combat crew manpower requirement that would be required to sustain a 60% airborne alert rate. Moreover, the aircraft would require high systems reliability to remain airborne at such high rates, similar to the very high systems reliability of the Apollo spacecraft (and similarly obtainable only at great cost).

Quanbeck-Wood: "We consider airborne alert to be viable only for systems employing long-range missiles." ". . . the B–52 and the B–1, lack sufficient fuel reserve to permit an economical airborne alert." ". . . efficient aircraft in the class of the Boeing 747 and the C–5 would be used in airborne alert." (page 40)

Comment: Using similar distance profiles up to the cruise missile launch or bomber penetration point, calculations show that the difference in fuel efficiency does not form the basis for preferring wide-body aircraft over penetrating bombers for airborne alert. The Boeing 747, carrying 50 cruise missiles, consumes fuel at about twice the rate of the B–1 carrying 24 weapons. If a wide-body tanker were required to refuel the wide-body cruise missile carrier (and Quanbeck-Wood assumed this to be so), and a KC–135 or similar size tanker refueled the B–1, then the cruise missile carrier's tanker would also consume fuel at twice the rate of the penetrating B–1's tanker. This further exacerbates the greater amount of fuel required for wide-body cruise missile carriers on airborne alert. When considering the above factors for an equal number of weapons airborne case, the B–1 and the wide-body cruise missile carrier would require about the same amount of fuel.

Force Mix (JSBS): The JSBS contained force mixes using existing aircraft in an attempt to economically use up their remaining effectiveness. The Quanbeck-Wood report, however, proposed discarding existing bomber forces as the alternatives were phased in. The FB–111A and B–52D were phased out in 1976; and the B–52G/H (in most forces) were phased out beginning in 1980. Over half the KC–135s were phased out in 1976, disregarding their remaining utility (they are now having the underwing re-skined thereby extending their useful lifetime from 10,000 to 40,000 hours) and the growing need for tankers to support tactical and airlift forces. All of the Quanbeck-Wood alternative forces were "pure" in content, with the older aircraft being phased out thereby abandoning viable strategic assets.

PART V

Prelaunch Survival: The Quanbeck-Wood report concluded that ". . . a well executed surprise attack is the most demanding problem for those charged with designing the bomber force," yet "The likelihood of a surprise attack . . . is extremley remote . . ." Moreover, the authors believed that" . . . the bomber force as currently planned, including the B–1, is not well adapted to cope with such a threat." Rocket assisted takeoff, reduction in bomber reaction time, and dispersal basing were solutions to the problem of launch survival used by the authors. Further, they believe that ". . . sometime in the future depressed trajectory missiles might figure importantly in the threat to U.S. bombers," concluding that adequate time would be available for the U.S. to counter that mode of SLBM operation.

Comment: It will take 16 years from initiation of B–1 full scale development to full deployment. The B–1 was specifically designed to resist the effects of nearby nuclear weapon bursts—in fact it was the first large strategic aircraft to be so designed—and has proven to be far less threat sensitive to the SSBN threat than aircraft such as the wide-body jet (as noted above in Part I). If the U.S. chooses to wait until there is a serious threat to bomber survival before starting procurement of a modern bomber, one leg of the Triad could be rendered essentially ineffective.

Differences in Ground Rules/Assumptions in Prelaunch Survival Analysis: The Quanbeck-Wood report assumed a varying level of bases ranging from 30 to 100 as a function of the force characteristic and scenario employed. For example, the airborne alert cruise missile force was based on 30 bases while the improved B–52 force used 100 bases operating in an 85% generated, dispersed "crisis" mode. No bases were identified; all were "notional." In contrast, the JSBS used specific bases, most of which were SAC bases when the JSBS was performed. SLBMs were assumed to launch about 50 NM off the U.S. coasts in the Quanbeck-Wood report, while SLBMs were launched somewhat farther out from the coast in the JSBS. Quanbeck-Wood placed their forces on either 85% (generated) ground alert, or 60% airborne alert (cruise missile carrier). The JSBS used a day-to-day ground alert rate substantially less than 85%. Although the Quanbeck-Wood report did not specify crew alert postures, they assumed 120–240 seconds for the crew to reach the cockpit after klaxon while the JSBS located the crews in facilities (like trailers) at the aircraft and used a reaction time based on SAC tests conducted over an extensive time period at bases in both the north and the south. These demonstrated reaction times are markedly less than the Quanbeck-Wood estimate. Warning times were about the same in both studies. The substantial difference in crew reaction time in day-to-day alert (defined as missile break water to first aircraft brake release) significantly affected the results. When combined with weapons effects factors not considered by Quanbeck-Wood and the use of a faster flight time on the SLBM than the JSBS best intelligence projections, plus a slower B–1 flyout speed in the Quanbeck-Wood report, the difference in day-to-day survival for the B–1 force in the two studies can only be termed striking. The results were:

Percentage of surviving B–1s

Quanbeck-Wood, day-to-day, 31; crisis, 87.

JSBS, day-to-day, above 95; crisis, above 95.

The major factor that drove the Quanbeck-Wood analysis was a failure to accept combat crew reaction times that have been proven sustainable when necessary. The SAC force does not operate that way today because SSBNs are not patrolling off U.S. beaches. We believe the technical inaccuracies in the Quanbeck-Wood report which accounted for the balance of the difference in aircraft survival are due to the use of estimates and unclassified documents containing inaccurate figures; and simplifying assumptions such as use of a two-dimensional model which did not allow the aircraft to climb-out above the triple point (Mach stem) effects generated by the nuclear weapon shock waves reflected off the earth.

Equal treatment of the alternative forces by the authors would have revealed other interesting conclusions. For example, the authors assumed the modernized B–52 and widebody cruise missile carrier to be equipped with RATO to speed their departure from the base. Examination of the effect of RATO on the cruise missile carrier and modernized B–52 showed a fairly significant increase in the distance traveled after "blast-off." If this would help the cruise missile carrier, it should also help the B–1. Our analysis shows that, if Quanbeck and Wood had treated the B–1 equally with the cruise missile carrier by installing RATO, 28 more B–1s would have survived in the day-to-day case (14% of the total force) and six more in the "crisis" scenario. There is, however, no detailed assessment on which to base confidence in the RATO concept.

Regarding the prelaunch survival of other alternative forces, we believe the prelaunch survival of the modernized B–52—although still significantly less than the B–1—to be too low in the Quanbeck-Wood analysis. A brief review of similar factors for this aircraft reveals that Quanback-Wood assumed the B–52 to be one-third softer than the B–52I used in the JSBS, and certainly softer than one would permit for such a major modification program ($25 million unit procurement, 1976 dollars). However, the exact extent to which one could harden the B–52 is a matter of considerable uncertainty. Although less data is available on the wide-body cruise missile carrier, the JSBS analysis indicated that the aircraft would survive at a substantially greater rate when on day-to-day alert than the Quanbeck-Wood calculated 22% rate. Again the principal differences between the two analyses appear to be reaction time combined with nuclear vulnerability with other differences arising from simplifying assumptions or unclassified sources for performance material.

PART VI

Penetration Survival: Only two aircraft forces were assumed to penetrate air defenses—the modernized B–52 and the B–1.

The remaining three forces lauched cruise missiles, from outside air defense perimeters, against the 50 cities in the Quanbeck-Wood target base. Each force—penetrating bombers or penetrating cruise missiles—was assumed to encounter an interceptor defense capable of enforcing 400 kills. Terminal defenses consisted of 400 low altitude SAM sites ringing the 50 cities. SAMs were assumed to be effective against cruise missiles but ineffective against the SRAMs which were launched from the penetrating bomber. Therefore, the three forces launching cruise missiles from standoff also carried air launched ballistic missiles which were necessary to suppress the SAMs protecting the 50 cities.

Penetrating bombers (B–52 in force 1, B–1 in force 2) were equipped with 24 SRAM/SCAD per aircraft. The SCAD were assumed to carry an ECM package designed to simulate the bomber's radar signature. In discussion of the problems facing the penetrating bomber force (Chapter V), Quanbeck and Wood credited the defense with the ability to discriminate between the SCAD and the bomber. Bombers were then preferentially attacked, all of their SRAM were attrited before reaching target, and only the armed decoys—which looked like cruise missiles since their ECM did not work—reached the target. When the cost-effectiveness analysis was performed by Quanbeck-Wood (Chapter VI), the reverse was true. The SCAD were assumed to be credible (no discrimination of bombers), thus both penetrating bombers and SCAD were attacked in proportion to their respective force size. Since SCAD outnumbered penetrating bombers by about 8:1 enough bombers survived to place the required 400 EMT on target.

The exhaustion (also called subtractive) model used for the Quanbeck-Wood report heavily biased results in favor of large penetrating forces, that is, force effectiveness was directly proportional to the number of penetrating objects. Differences in timing in force penetration were not considered by their model. If timing had been considered, for example, 17 early arriving B–1s carrying 24 SCAD each could have launched the 400 objects necessary to exhaust the defenses. The remaining aircraft (116 reliable B–1s would be left in the Quanbeck-Wood analysis) each carrying 24 SRAM, could have placed more than twice the number of weapons on target than Quanbeck-Wood assumed to be required. Similarly, their "exhaustion" model did not take into account individual aircraft or cruise missile penetration characteristics such as speed, radar cross section, altitude, CEP, electronic countermeasures, and tactics. In contrast, the JSBS considered all of those factors—and hundreds more—in performing an analysis that could withstand the scrutiny of the most severe critic; all systems were treated objectively in the advanced penetration model which conducts an air battle on an aircraft by aircraft and missile by missile basis.

There were a number of sensitivities not examined in the Quanbeck-Wood penetration analysis which provide interesting insight to the importance of their assumptions. Table 2 provides a comparison of the sensitivity of the Quanbeck-Wood assumption that SRAMs would not be used for defense suppression—but would only attack defended targets—and the hundreds of SCAD that survived the area defenses would not be used for target attack. In this comparison, the Air Force assumes that SRAM would be used, as they were designed, to suppress SAM defenses. The surviving SCAD, which numbered around 600, would then be used to attack targets following suppression of their defenses by SRAM. This approach is quite similar to the Quanbeck-Wood use of the ALBM to suppress defenses so that cruise missiles could penetrate to their targets. Table 2 shows that in only one out of six variations of SAM suppression assumptions would the standoff force (3) outperform the penetrating B–1 force (2), and then only by 50 more weapons on target. In the remaining five cases the B–1 force outperforms the Quanbeck-Wood preferred standoff cruise missile force by at least 116%. As Table 2 depicts, Quanbeck and Wood chose to use the only force employment strategy that would allow the smaller standoff force to be more effective than the penetrating B–1 force. Had Quanbeck-Wood looked more closely at employment strategy, they too may have noted that the B–1 using SRAM is far more effective than standoff cruise missiles.

Table 3 shows the threat levels used by Quanbeck and Wood. Threat level 1 was the most severe, containing 300 depressed trajectory SLBMs, 400 area interceptor kills, and 400 terminal SAMs. Threat level 2 had 300 minimum energy SLBMs and the same area and terminal threat as level 1. Threat level 3 had negligible terminal defenses, 400 area interceptor kills, and minimum energy SLBMs. Threat level 4 was negligible in all three areas.

Table 4 shows the sensitivity to the use of SRAM for suppression of SAM sites as a function of the threat level used by Quanbeck and Wood. The table depicts weapons on target as a function of number of area interceptor kills, and whether or not SRAMs were used to suppress terminal SAM defenses. In every case where SRAM were used to suppress defenses (except one where the standoff force had a slight edge), the B–1 force outperformed the Quanbeck-Wood preferred force—and by as much as 750 more weapons on target.

These two examples have been provided to point out the extreme sensitivity of the Quanbeck-Wood report to the assumptions they used and the apparent lack of fairness and consistency in treatment of the alternative forces. They show that the B–1 force employing SRAM for defense suppression is the preferred option by a wide margin in almost every case—even when using the Quanbeck-Wood exhaustion model that heavily favors cruise missiles. Further, the B–1 force, capable of self contained suppression of SAM sites, never fails although the authors preferred force fails on half of the potential suppression strategies. The Air Force plans to deploy a mixed force of B–1s equipped with SRAM, and B–52s equipped with both SRAM and cruise missiles which will allow the optimum weapon employment strategies to be used to extract maximum force effectivenesses.

Mr. President, I ask unanimous consent that the tables to which I have referred be printed in the RECORD.

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

TABLE 2.—SENSITIVITY OF QUANBECK-WOOD FORCE 2 AND FORCE 3 TO USE OF SRAM FOR SAM SUPPRESSION

Sam's suppressed by	Weapons delivered on Sam defended targets [1]	
	Force 2 (B–1)	Force 3 (CMC)
ICBM, SLBM	1,800	1,550
ICBM or SLBM, but failed	1,200	0
ALBM only (Quanbeck and Wood method)	1,200	1,250
SRAM only	1,700	0
SRAM or ALBM	1,700	1,250
SAM suppression tried but failed [2]	1,050	0

[1] Q. & W. methodology (weapons delivered rounded to closest 50) threat level 1 (depressed trajectory, 400 area defense kills, 400 SAMS) weapon loading and mixes (SCAD and SRAM, ALCMs and ALBMs) alert rate (85 percent force 2, 60 percent force 3 on airborne alert) prelaunch survival (87 percent force 2, 100 percent force 3).
[2] SRAMs used with force 2.

TABLE 3.—QUANBECK-WOOD THREAT LEVELS

Threat level and prelaunch threat	Area air defenses	Terminal air defenses
1—300 depressed trajectory SLBM's.	400 effective intercepts.	400 low-altitude SAM sites at 50 cities.
2—300 minimum-energy trajectory SLBM's.	do	Do.
3—300 minimum-energy trajectory SLBM's.	do	Negligible.
4—Negligible	Negligible	Do.

TABLE 4.—SENSITIVITY OF QUANBECK AND WOOD FORCE 2 AND 3 WEAPONS DELIVERED TO USE OF SRAM FOR SAM SUPPRESSION AND LEVEL OF AREA THREAT KILL [1]

	Threat level							
	1		2		3		4	
	Force 2	Force 3	Force 2	Force 3	Force 2	Force 3	Force 2	Force 3
Surviving alert aircraft	148	48	170	68	170	68	170	68
Q. & W. SRAM's not used	1,200	1,250	1,500	1,700	1,500	2,150	3,100	2,600
Using SRAM to suppress SAM's with 400 area kills	1,700	1,250	2,000	1,700	2,900	2,150	3,300	2,600
Sensitivity to area kills: [2]								
600 enforced kills	1,200	1,050	1,450	1,500	1,700	1,950	3,300	2,600
200 enforced kills	2,200	1,500	2,600	1,900	3,100	2,350	3,300	2,600

[1] Force 2 is 200 B–1's carrying a mix of SRAM and armed decoys and force 3 is 80 wide body transports carrying a mix of ALBM's and cruise missiles. 3 and 4, therefore only armed SCAD loaded on B–1's).
[2] Force 2 uses SRAM to suppress SAM's against threat levels 1 and 2 (no SAM's in threat level Note: Weapons delivered rounded to nearest 50.

Mr. GOLDWATER. I now turn to part VII.

PART VII

Cost Data: A comparison of costs in the Quanbeck-Wood report with costs in the JSBS is difficult to make because of the different types of aircraft and sizes of forces contained in the two studies. In general, Quanbeck-Wood used "equal effectiveness" forces whereas the JSBS used equal cost forces. Quanbeck-Wood included both direct and indirect costs in their ten-year costing while the JSBS used 15-year direct costs. (In the JSBS indirect costs were equal for all alternatives.) Quanbeck-Wood apparently also added the total cost of the Air Force Strategic Control and Surveillance mission to the bomber force. The JSBS (and DOD) treats Strategic Control and Surveillance as a separate mission. Additionally, Quanbeck-Wood wrongfully assumed that the B–1 would need a new tanker fleet costing about $6 billion, twice the number of SRAM planned, and a 1,600 UE buy of the SCAD—

the additional missiles costing another $2 billion.

The B–1 alternative force proposed by Quanbeck-Wood has about the same cost as the cruise missile ground alert alternative force if one deducts from the B–1 the cost of tankers and weapons not required, and from both alternatives the Strategic Control and Surveillance costs.

Although the significance of the inconsistency in costing basing is not readily apparent, it should be noted that Quanbeck and Wood dispersed the B–1 force (2) to 75 bases for the force effectiveness analysis (page 88) yet assumed the B–1s to require 100 bases for costing (Table A–4). According to their launch survival analysis, basing the B–1 force on 100 bases (instead of the 75 they used) would have survived an additional three aircraft (72 weapons). In contrast, the ground alert cruise missile force (5) was costed on the basis of 90 bases (Table A–7) yet their launch survival analysis assumed 100 bases (page 88). Had the launch survival analysis included only 90 bases, two less cruise missile carriers would have survived (70 weapons). Thus, just these small inconsistencies caused the B–1 force to begin with a 140 weapon disadvantage.

PART VIII

Assessment of Quanbeck-Wood Estimated Soviet Capability (Offensive): The offensive threat estimate used by the authors is close in total SSBNs and SLBM launchers to that projected for 1985. Although there are significant discrepancies in the number of submarines and launchers within a given type in the Quanbeck-Wood estimate, the Air Force assessment is that a more accurate threat projection of SSBNs and launchers would not significantly alter the analysis performed by the authors. Those factors which could alter the analysis, some by a factor of three or four, are noted above in the Prelaunch Analysis section (Part V).

The threat scenario used by Quanbeck-Wood included 20 boats attacking the bomber bases assumed for each force. No specific SSBN or bomber base locations were provided, thus the impact on these assumptions cannot easily be assessed. However, a review of the other elements of the prelaunch survival analysis indicates that the important factors were not basing or SSBN location (see Part V above).

The Quanbeck-Wood report included a postulated sea launched cruise missile. If the Soviets chose to deploy a similar missile, U.S. warning systems would be capable of providing adequate detection and warning for strategic aircraft. Moreover, such an approach could give away the Soviet plan early in the attack thus providing more than adequate time for both bombers and ICBMs to escape.

Assessment of Quanbeck-Wood Estimated Soviet Capability (Defensive): Quanbeck-Wood discussed Soviet air defense consisting principally of SUAWACS, airborne interceptors, and low altitude SAMs. The area threat in their analysis was assumed to consist of 250–300 F–14 type interceptors each carrying six air-to-air missiles capable of a 50% probability of kill which, according to the authors, would allow an interceptor force of 333 aircraft to "enforce" about 1,000 kills on penetrators. In contrast, in the JSBS where careful attention was paid to the detailed capabilities of both the offensive and defensive force interactions, a similar number of look-down shoot-down interceptors were able to enforce only a small number of kills on a B–1 alert force. There are numerous reasons for the major differences in results of the Quanbeck-Wood penetration analysis and the JSBS (see Part VI above), but their threat assessment had no bearing on the outcome because the simple model used did not consider the quality of the defense (or the offense); it only considered the ability of the defense to enforce a given number of kills.

Regarding terminal defense, the Quanbeck-Wood report included surface-to-air missile site estimates and discussed capabilities for "fixed" sites. The 1985 projection of high performance "fixed" SAM sites is less than the number assumed by Quanbeck-Wood. However, the only significance of the authors numbers was to indicate that sufficient SAMs might exist to defend their assumed target base of 50 cities. Using a simple formula to determine how many SAM sites must be suppressed to allow unimpeded access to the cities, the authors were able to determine how many ballistic missiles were required for suppression. The specific SAM capabilities, as was the case with airborne interceptors, were not used in the simple suppression calculations.

Although the authors raised the issue of mobile SAMs being used to attack penetrators, they dismissed that possibility as having ". . . a host of practical problems (making) their actual effectiveness highly problematical." Thus, their analysis did not include mobile SAMs. There are a substantial number of mobile tactical SAMs with moderate to good low altitude capability currently deployed in the USSR with field armies.

The JSBS did, in excursions, look at the potential effects of mobile SAMs against both cruise missiles and penetrating bombers. In recognition of the problems associated with mobility of such systems, the salvo probability of kill was reduced by one-third over that credited to fixed SAMs and the acquisition radar power was reduced by one-half. With the random deployment user, cruise missiles were found to be ineffective at even modest SAM employment levels while bombers were affected far less at even the highest level.

PART IX: OTHER INCONSISTENCIES IN THE QUANBECK-WOOD REPORT

Quanbeck-Wood: "Bombers were once the backbone of U.S. deterrent forces, but that role has been taken over by the other strategic forces. . . ."

Comment: Bombers still carry over 50% of the strategic forces megatonnage and about one-third of the weapons of the total Triad, and are fully capable of providing their share of deterrent force.

Quanbeck-Wood: "Fighter-bombers and carrier-based aircraft . . . are faster and have better penetration capabilities than strategic bombers."

Comment: During the Korean and Southeast Asian wars when range and heavy payload were required, strategic bombers were considered the preferred weapon system.

Quanbeck-Wood: ". . . The B–52s encountered relatively severe attrition over Hanoi, about 3% by some estimates . . . (at that rate 50% of a given bomber force would be destroyed (in) twenty-three missions."

Comment: Actual B–52 attrition over Hanoi was 2% overall—none during last days when defenses exhausted or destroyed.

Quanbeck-Wood: "There are now no serious threats to the effectiveness of the B–52 force. . . . Nonetheless, the United States is now on the threshold of a program to modernize the bomber force."

Comment: The B–1 will take ten years to deploy, is designed to last 30 years. That is the period during which threats to the B–52 force should be assessed, not now. Moreover:

MM II/III, POLARIS/POSEIDON, and the B–52 force will age out long before the end of this period

Three new Soviet ICBMs being deployed, another under development. Two ICBMs probably "cold launched" allowing silo re-use

Extensive hardening of defenses, industry, and civil defense make current U.S. forces less effective

New intercontinental bomber (Backfire) with B–1 like characteristics in expanded production and deployment

Three models of SSBNs now in production, another may be under construction

These facts argue for continuing to modernize U.S. strategic forces.

PART X: SUMMARY: KEY AIR FORCE COMMENTS

Summary: The Quanbeck and Wood study, in agreeing that maintenance of a U.S. bomber force is important to essential equivalence, concludes that ". . . the current bomber force is more than adequate now and, with minor force modifications, will remain so in the future under foreseeable conditions." But the study acknowledges that bombers may be faced with severe threats by the mid 80's and concludes by recommending ". . . exploring alternatives based on the use of standoff missiles" (that penetrate)—and phasing out of penetrating bombers.

Comment: The present bomber force is adequate today because of a continuous modification program. However, the basic aircraft structure—now 16 years old for the average B–52G/H—cannot be significantly modified for greater speed, lower radar cross section, and higher resistance to nuclear effects. These things are incorporated in the B–1 in anticipation of the kinds of threats that Quanbeck and Wood discuss. Full B–1 deployment is planned for 1986; meanwhile the B–52 force continues to age. Alternatives were explored in the DOD Joint Strategic Bomber Study which found the B–1 to be about twice as cost effective and much less sensitive to the Quanbeck-Wood type of severe threats than their preferred standoff cruise missile force.

Quanbeck-Wood: ". . . the bomber force should be designed and sized to attack fixed industrial and urban targets . . . about 400 one-megaton weapons . . . could destroy about three-fourths of the industrial capacity of the Soviet Union and about one-third of its population."

Comment: The target base necessary for deterrence of nuclear conflict assumes a balanced attack designed to allow early war termination and to preclude early return to post attack power and influence. Quanbeck and Wood believe bombers should only back up missiles for a city busting role (50 largest cities); precluding survival of the Red army and the leadership and materials necessary for achieving a dominant position requires attack of political controls, industry, and military installations. These goals are necessary to deter, and to achieve the best possible outcome for the US and its allies if nuclear conflict occurs. Even if the Quanbeck-Wood target goals were desirable (destroy ⅓ population and ¾ industry in USSR), the number of cities requiring attack would be over seven times those contained in their target base. The extensive Soviet civil defense program with concomitant dispersal and hardening of personnel shelters and factories and a "cradle to grave" indoctrination training for all personnel further reduces the effectiveness of Quanbeck-Wood's city busting policy.

Quanbeck-Wood: Postulating a 1500 NM low altitude cruise missile weighing 2,000 pounds for their standoff forces, the authors also chose to equip the B–1 force with an unnecessary new tanker and three times the air-to-surface missiles planned for the B–1 by the DOD.

Comment: Engineering assessments of the Quanbeck-Wood missile (as opposed to "back of the envelope" designs) are about twice the weight they suggested. The B–1 is designed and planned to be supported by existing KC–135s. The planned mix of fewer air-to-surface missiles with gravity weapons is far more effective and less costly. Just the unnecessary tankers and missiles assumed by Quanbeck-Wood added $8 billion to B–1 force costs.

Quanbeck-Wood: Crediting the B–1 with less than design speed and higher nuclear

vulnerability and the SAC force with crew response times far greater than demonstrated capability, the authors postulated a severe SLBM threat that required B–1s to be based on 75 airfields—thus making smaller airborne alert standoff forces the most attractive.

Comment: Unlike wide body transports, the B–1 was designed to survive a nuclear attack and has already demonstrated speeds substantially higher than credited by Quanbeck-Wood—thus requiring only a small fraction of the bases used in their report. Further exacerbating the case against the B–1, the authors costed the B–1 force with 100 bases to determine force survivability but used only 75; in contrast, the ground alert cruise missile force was costed with 90 bases yet used 100 in determining its survival. Regarding airborne alert efficiency, analyses of use of B–1s or wide body transports in this mode reveals that both aircraft would require about the same amount of fuel to maintain an equal number of weapons airborne. This contrasts with the authors conclusion: ". . . we consider airborne alert to be viable only for systems employing long-range missiles." It should be noted that B–52s have been frequently used for airborne alert operations since the late 1950s and the B–1 was specifically designed for airborne alert if required.

Quanbeck-Wood: Penetration analysis was based on ". . . a simple 'subtractive,' or 'exhaustion,' model."

Comment: Their penetration model was chosen to bias the outcome in favor of forces containing large numbers of penetrators, i.e., standoff cruise missiles. In contrast to the penetration model used in the Joint Strategic Bomber Study, Quanbeck-Wood's model ignored differences between penetrators, e.g., speed, altitude, radar cross section, and electronic countermeasures; it ignored attack routing and timing, defense command control, and geography. In one chapter, the defense was allowed to discriminate between B–1s and SCAD; in another chapter, B–1s and SCAD were equal in appearance. SCADs could have effective ECM, yet B–1s could not. Moreover, Quanbeck and Wood chose the only weapons employment strategy that gave standoff forces the appearance of being more effective (than penetrating B–1s) at lower cost. Employing only air launched ballistic missiles (ALBM) for surface-to-air missile (SAM) suppression, the authors failed to use the system designed and deployed (since 1970) for that purpose—the short range attack missile (SRAM) carried on penetrating B–1s and B–52s. Properly employed SRAMs can be used to suppress SAMs so that the armed decoys (SCAD) can attack the target base. When that method is used, the B–1 force outperforms the authors preferred airborne alert standoff cruise missile force 16 out of 18 times as threat levels and employment strategies are varied. In omitting these variations in strategy, the study failed to show how the single thread solution (ALBMs for SAM suppression) can fail utterly. The mixed approach planned by the Air Force—B–1 with SRAM, B–52s with SRAM and cruise missiles—produces multiple strategies designed to offset failures that may occur. If force timing and B–1 weapon loading variations had been considered, proper use of SCAD in their model could have doubled B–1 weapons on target with no increase in force cost.

The cumulative effects of costing errors and charging the B–1 with unnecessary items such as new tankers, excess SRAM, and the SCAD, combined with selection of models and strategies designed to favor cruise missiles, resulted in cost effectiveness comparisons of forces which cannot be looked on as valid.

Quanbeck-Wood: "There are now no serious threats to the effectiveness of the B–52 force . . . Nonetheless, the United States is now on the threshold of a program to modernize the bomber force."

Comment: The B–1 will take ten years to deploy, is designed to last 30 years. That is the period during which threats to the B–52 force should be assessed, not now. Moreover:

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These facts argue for continuing to modernize U.S. strategic forces.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. GOLDWATER. Oh, I am sorry. I did not realize that.

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

Mr. PROXMIRE. Mr. President, will the Senator yield 30 seconds to me?

Mr. CULVER. I am delighted to yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I reiterate once again to my good friend from Arizona that there are three performance deteriorations, slippages, or downgrading that the Air Force and the Senator from Arizona have not addressed. These are subsonic range, supersonic range, and maximum speed at sea level. These are vital characteristics. The Air Force refuses to tell us about that performance, and it is my conclusion, on the basis of their silence, that these have been degraded.

Mr. President, I thank my good friend for yielding.

Mr. GOLDWATER. Mr. President, if the Senator will yield to me, I do not wish to intrude on the Senator's time.

Mr. CULVER. I yield.

Mr. GOLDWATER. I remind my friend again that these questions have been answered, answered, and answered, and I will answer them once again.

The Air Force decided that because of the cost we would not need a mach 2-plus speed. We have achieved mach 2.1 in the present test model, and it will be 1.6 in subsequent ones.

I personally have flown the aircraft, to answer the question that the Senator raised, and I wish that he would give me his sources other than GAO, whose test pilots I do not know, to justify the statement that I personally have answered.

Mr. PROXMIRE. Mr. President, I do not wish to impose further on the time of the Senator from Iowa.

But what I was talking about is range, not speed, range.

Mr. GOLDWATER. Range has never entered into this question. I will be glad to answer that next time around. It has not deteriorated one bit.

FUNDING THE B–1 AND COMPARABLE CONVENTIONAL WEAPONS

Mr. ROBERT C. BYRD. Mr. President, part of the continuing debate on the readiness and strength of the U.S. military concerns the status of our conventional forces. U.S. Navy, Air Force, and Marine personnel serve around the globe in many important roles to protect American interests wherever they may be. In order to perform their duties, these troops must have the finest equipment and weaponry available in sufficient quantity to deter aggression and preserve the peace.

This means that our Navy must have enough ships—sufficiently maintained and equipped—to protect the sea lanes from a Soviet Navy that continues to grow. It also means that our ground and air forces must have adequate numbers of tanks, aircraft, helicopters, and related equipment to respond quickly in many possible hostile situations. However, there has been an increasing amount of skepticism directed toward the readiness and strength of these frontline forces. Few would argue that if these conventional forces are not equipped and trained for the highest level of military preparedness, our national interests would be in jeopardy.

At the same time, we are maintaining a diverse and powerful arsenal of strategic weapons, based upon the Triad concept of a mixture of B–52 bombers, ICBM's and SLBM's, for use in a nuclear war. Few dispute U.S. technological superiority in these strategic weapons. However, these weapons would be of little use in a conventional or limited confrontation.

With 1976 being the year in which the fate of the B–1 bomber will be decided, I believe it is necessary to take into consideration the state of both conventional and strategic forces. The decision on whether or not the B–1 should be approved should not be made without a judicious consideration of the status of our conventional forces.

According to the latest Defense Department estimates, the Air Force wants $18.5 billion from fiscal year 1977 to fiscal year 1989 to produce 244 B–1 bombers. However, if these resources were to be applied to our conventional military, they would offer several attractive alternatives.

The projected B–1 program cost, as of December 31, 1975, is $21.4 billion, of which $2.8 billion was appropriated prior to the fiscal year 1977 budget request. If the B–1 program funding were denied by Congress, starting with the fiscal year 1977 budget request, approximately $18.5 billion of these moneys could be made available for procurement of conventional weapons between fiscal year 1977 and fiscal year 1989.

For about $18.5 billion, the following representative alternatives for funding procurement of general purpose ground, naval, and air forces over the next 12 years could be provided.

NAVY CONVENTIONAL ALTERNATIVE NO. 1

Pay for the expansion of the Navy from its present size to about 600 ships during

the next 10 years as recommended by Navy leadership.

(Fiscal year 1977 budget dollars)

		Millions
Additional attack submarines (SSN 688 class)	19	$5,861.5
Guided missile frigates (FFG 7 class)	51	8,450.7
Landing ship docks	5	750.0
Replenishment ships	11	1,616.8
Auxiliary ships	4	1,042.1
	*90	17,721.1

* These ships are in addition to those already authorized.

NAVY CONVENTIONAL ALTERNATIVE NO. 2

Pay for replacement of destroyers coming due for retirement because of obsolescence before 1990 for which funding would ordinarily have to be provided by 1986.

Replace 68 destroyers: $16,414.7 million (fiscal year 1977 budget dollars).

NAVY CONVENTIONAL ALTERNATIVE NO. 3

Replace aircraft carriers, cruisers, and attack submarines coming due for retirement because of obsolescence before 1990 for which funding would ordinarily have to be provided by 1986.

(Fiscal year 1977 budget dollars)

	Millions
Replace 4 aircraft carriers	$8,081.2
5 cruisers	5,078.0
10 attack submarines	3,085.0
	16,244.2

MULTI-SERVICES CONVENTIONAL ALTERNATIVE NO. 4

Pay for additional weapons and equipment for Army, Navy, Air Force and the Marines:

[*Dollars in millions (then-year dollars)*]

M113A1 Armored Personnel Carrier	3,000	129
M60 Diesel-powered tank w/ 105 mm gun	3,000	1,002
MICV Mechanized Infantry Combat Vehicle	3,000	825
Harpoon Ship/air launched anti-ship missile	1,000	458
ATCA Advanced Tanker Cargo Aircraft	50	3,505
A-10 Close air support aircraft	500	2,600
UTTAS Tactical infantry helicopter	500	1,300
AAH Attack Helicopter w/ missiles & cannon	100	490
CH-53E Shipboard troop/ cargo helicopter	100	730
P-3C Anti-submarine warfare patrol plane	50	710
F-18 High performance carrier based fighter	100	1,370
A-7E Carrier based light attack aircraft	100	440
F-16 Light-weight high performance fighter	200	1,660
EA-6B All-weather electronic jamming aircraft	10	200
		15,419

Total "then year" cost is a function of the base year cost plus adjustments for inflation spanning the procurement cycle. Therefore, "then year" costs for different weapon systems are not necessarily comparable.

NATO CONVENTIONAL ALTERNATIVE NO. 5

Three additional Army divisions could be equipped and supported in NATO in addition to the presently authorized 16 divisions:

COST

[In millions of dollars]

Type division (number)	Nonrecurring Equipment	Nonrecurring O. & M.	Annually recurring Equipment	Annually recurring Mil per appropriation	Annually recurring O. & M.
Infantry (1)	172	45	16	181	58
Armored (1)	313	50	26	184	68
Infantry (mechanized) (1)	275	48	22	179	64
Divisions (3)	760	143	64	544	190
Combined total		903		798	

Total cost of three new divisions for 12 fiscal years would aggregate to $10,479 million in fiscal year 1976 dollars. This amount would approximate the estimated B-1 project funding yet to be appropriated—approximately $18.5 billion in "then year" dollars—if provision for inflation is made. Each new division would continuously employ about 16,000 combat-ready troops.

There are two types of costs that must be considered: Initial, or nonrecurring costs, and costs which are annually recurring. In addition, it should be noted that although equipment and personnel are funded from different accounts, both are supported by the operation and maintenance appropriation. Equipment costs shown in the chart include ammunition and essential replacement spares based on average unit cost of the last lot purchased. These costs do not provide for modernization items and their projected costs or potential adjustments in equipment density for modernization items. The MPA costs include pay, PCS costs, and the MPA associated with MOS training and are shown in fiscal year 1976 budget dollar values. No nonrecurring MPA costs are shown since the situation assumes a steady-state Army and the nonrecurring MPA costs would not apply. The O. & M. costs are shown in fiscal year 1976 budget dollar values.

DIEGO GARCIA

Mr. CULVER. Mr. President, it will be recalled that last summer when the administration proposed naval base expansion on the Indian Ocean Island of Diego Garcia was considered, the Defense Department, in dramatic fashion, contended that this expansion was necessary to offset Soviet military activities in Somalia.

Tuesday, former U.S. Ambassador to Saudi Arabia James Akins testified before a Foreign Relations Subcommittee that, at this very time the Congress was considering this issue, our State Department was turning a deaf ear to a Saudi Government offer to finance military and economic assistance programs in Somalia as a means of eliminating the Russian presence there.

This is only the most recent revelation of this Indian Ocean drama of determined military expansionism, deception, and coverup, and flat refusal to so much as try negotiations and other nonmilitary means to achieve mutual arms restraint.

If our Government proceeds on its present course, we may well unnecessarily trigger another superpower arms race in a comparatively stable area of the world at the expense of billions for new naval forces to build a third ocean fleet.

In this post-Vietnam period, with so much at stake for the future, Diego Garcia represents a crossroads of U.S. foreign policy and it is essential that the American people be given the true facts of the Diego Garcia—Somalia—Indian Ocean story.

Why are our leaders afraid to try negotiations? Why are they afraid to encourage cooperation among Persian Gulf states to resist Soviet influence? Why has it been considered necessary to be so secretive and to deceive the Congress and the American people?

We were told that the islands were uninhabited, when in fact a secret deal was made with the British to evict the settled, local population.

We were told that we got base rights without charge, and yet that same secret deal permitted the British to be credited with $14 million in payments to the United States—facts which were not fully reported to the Congress until last fall.

We were told that the Russians had "missiles" in Somalia, only to learn later that these were the old, 1950's vintage Styx antiship missiles which the Russians had given to over a dozen other countries.

In its headlong rush to build the base at Diego Garcia, the administration pulled out all the stops. It has consistently ignored the explicit guidance of the Congress to seek mutual naval arms limitation agreements with the Russians before proceeding with construction.

Mr. President, these tactics of delay and avoidance are losing us friends and influence in the Indian Ocean. Coupled with these latest revelations, these decisions amount to a policy of surrender to Soviet influence.

Right now, the United States is blamed for starting superpower military rivalry in the Indian Ocean, and the Russians largely escape criticism. We need an American diplomatic counterpunch to convince the nations of that region that we are willing to limit our own activities, in return for similar restrictions on the U.S.S.R.

By remaining silent when we could be taking the lead on this issue, we are handing the Russians a cheap, and undeserved, propaganda victory.

We have been told repeatedly by our leaders that the United States must negotiate from a position of strength. We have that strength—clearly and unequivocably—in the Indian Ocean. But what good is the strength if our Government refuses even to try negotiations?

In a report to Congress, the State Department said that initiating mutual arms restraint negotiations in that area would be "inappropriate" at this time, that it might be interpreted by the So-

viets as acquiescence in their activities in Angola and Somalia.

If a willingness to negotiate force reductions is ruled out by our Government as a sign of weakness, then it would appear we are locked into the cold war and the arms race from here to eternity.

With so much at stake for the future, the American people have a right to know in what direction our leaders are taking them.

It is generally agreed that the realities of a changing world in the post-Vietnam era call for new directions in U.S. foreign policy. Last year in the Senate we conducted what was billed as a "great debate" on the subject. In the course of that dialog, a number of Senators stressed the need to search for nonmilitary options wherever possible to settle international disputes. The need for clear-cut objectives in the conduct of our foreign relations was underscored, as was the need for closer linkage between perceived foreign policy goals and military spending.

Secretary Kissinger himself has spoken of the opportunity our generation has "to shape a new international order." And he has pointed out that if we miss that opportunity, "we shall live in a world of increasing chaos and danger."

The rhetoric awakens hope for new realistic initiatives in foreign and defense policy. Yet, when confronted with an actual situation, as in the Indian Ocean, the administration reverts to the old cold war formula of military expansion and manipulation through secrecy and deception to frighten Congress and the American people into concurrence.

Mr. President, the curtain has now been partially lifted on the selling by the administration of the naval base expansion on Diego Garcia.

It is a shocking example of the deception of Congress and the American people.

Even more shocking are the implications to the future of U.S. foreign policy of this recent example of the conduct of our foreign and defense policy.

All the way along, administration leaders have flatly rejected the urging of Congress to at least attempt negotiations and other nonmilitary initiatives to preserve a safe strategic balance between our country and the Soviets before plunging into expansionist policies that may trigger a massive and deadly extension of the superpower arms pact.

It is one thing to rule "détente" out of our official vocabulary. It is another thing to rule commonsense out of our foreign policy.

I repeat, Mr. President, that the people have a right to know where their leaders are taking them. If the future is to be a continuation of the cold war, they are entitled to the truth.

I therefore conclude that, in light of what has been revealed thus far, we urgently need a full-scale investigation by Congress of the administration's military expansionist policies and cold war coverup in the Indian Ocean.

SENATE JOINT RESOLUTION 193

Later today, Mr. President, I shall submit a joint resolution that will call for the suspension of funding in the Diego Garcia program until Congress has had an opportunity to conduct such an investigation fully.

Mr. President, the State Department responded in a most pathetic way on April 15 to our congressional request to initiate negotiation efforts with the Soviet Union on this subject. I ask unanimous consent to have printed in the RECORD that response, together with an editorial published in the Des Moines Register, which deplores the refusal of the administration even to try negotiations, and a background paper prepared by my staff, which, hopefully, will help document this sorry episode.

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

REPORT ON INDIAN OCEAN ARMS LIMITATION

The Executive Branch has given careful consideration to the issues involved in arms limitation in the Indian Ocean area. We have examined the technical problems involved in any such limitation and we have considered the issue of arms limitation in the broader political context of recent events in the region, as well as our overall relationship to the Soviet Union. We have concluded that although we might want to give further consideration to some arms limitation initiative at a later date and perhaps take up the matter with the Soviet government then, any such initiative would be inappropriate now.

The situation in the Indian Ocean cannot be considered in isolation from past and possible future events on the African mainland. Soviet activities in Angola and the Soviet buildup of facilities in Somalia have raised major questions about the intentions of the Soviet Union in areas bordering on the Indian Ocean. While reemphasizing our support for majority rule in Africa and for political solutions of regional problems by regional states, we have made clear that we cannot acquiesce in the use of Soviet or surrogate forces as a means of determining the outcome of local conflicts.

We are now seeking to encourage the Soviet Union to conduct itself with restraint and to avoid exploiting local crises for unilateral gain. An arms limitation initiative at this time in a region immediately contiguous to the African continent might convey the mistaken impression to the Soviets and our friends and allies that we are willing to acquiesce in this type of Soviet behavior.

For these reasons, we could not consider seriously an arms limitation initiative focused on the Indian Ocean without clear evidence of Soviet willingness to exercise restraint in the region as a whole. This view has been reinforced by our examination of the technical issues which would be involved in any arms limitations negotiations. Although the technical complexities do not in themselves preclude negotiations, it is evident that a successful arrangement could occur only within a general political framework of mutual restraint in this region.

Clearly, it is not in our interest for this region to become a theater of contention and rivalry, nor would the states of the area welcome such a development. In fact, over the past two years the naval deployments of the United States and the Soviet Union have remained relatively stable. For our part, we will continue a policy of restraint in our military activities in the Indian Ocean area. We intend to proceed with our planned improvements to the support facilities on Diego Garcia, but there is no present intention to go beyond the plans as presented to the Congress last year or to increase our naval deployments to the area.

We, of course, hope that the Soviets wil exercise restraint in this area. We will watcl carefully to determine the impact on the Soviet military presence of their expansion of naval and air support facilities in Somalia. Restraint in Soviet Indian Ocean deployments, coupled with a more general forebearance from adventurism in the region as a whole, would provide a better context for considering the possibilities for arms limitation in the Indian Ocean. Thus, while we will keep open the matter of a possible future arms limitation initiative as a potential contribution to regional stability and to our relationship with the Soviet Union, we do not perceive it to be in the U.S. interest just at this time.

[From the Des Moines Register, Apr. 26, 1976]

THEY WON'T EVEN TRY

Last December Congress asked the administration to try to negotiate mutual restraints with the Soviet Union in the Indian Ocean area, and held up the appropriation for further work on the U.S. naval "facility" at Diego Garcia in that ocean until this Apr. 15 to give it time to try. The administration waited until Apr. 15 and responded with a curt letter saying it would not even try at this time.

Once again, the administration is losing a chance to halt a dangerous naval race.

The United States and the Soviet Union began moving slowly and cautiously into the vacuum left in the Indian Ocean as Britain wound down its empire and pulled in its armed forces from their once worldwide role.

Sharp U.S. words in 1971 about Soviet moves in the area drew from Soviet chief Leonid Brezhnev that the Soviet Navy had as much right in the Indian Ocean as the U.S. Navy—but that he might consider an "equal bargain."

In 1971, the United Nations General Assembly, urged by its Indian Ocean members, passed a resolution urging both superpowers to keep their navies and naval bases out of the Indian Ocean.

In 1974 a United Nations panel investigated how far the U.S. had gone with its plans in Diego Garcia and how far the Soviet Union had gone in Somalia—bringing indignant denials from the superpowers and their host nations that there were any "foreign bases" where tht U.N. panel said there were. The bases are there all right, but their legal and military and construction status is low-profile for now.

At the urging of Senator John Culver (Dem., Ia.) the Senate Armed Services Committee and later all of Congress expressed the hope that the administration would take Brezhnev up on mutual restraint by agreement on the ocean.

The letter of refusal explained that the administration feared a U.S. initiative for arms limitation in the Indian Ocean "might convey the mistaken impression to the Soviets and our friends and allies that we are willing to acquiesce" in the Soviet and Cuban intervention in Angola, on the Atlantic coast of Africa, and the Soviet naval facilities in Somalia, on the Indian Ocean coast.

Senator Culver commented: "This administration seems to have maneuvered itself into a sort of doomsday, Catch 22 situation so far as U.S.-Soviet relations are concerned. If a willingness to negotiate force reductions is ruled out by our government as a sign of weakness, then we are in for a long, bleak period of cold war and unrestrained arms buildup."

Three-ocean navy, here we come—"we" being the United States and Russia.

BACKGROUND TO INDIAN OCEAN REPORT

In 1971, Soviet officials indicated some interest in mutual naval restraint in the Indian Ocean. When American officials sought clarification on this matter, they received no specific answers and the matter was dropped.

In 1974 the Administration requested funds for expansion of the facilities on Diego Garcia. In voting to defer funds pending a Presi-

dential certification that the base was essential, the Senate Armed Services Committee expressed its "hope" that "such an evaluation would include a thorough explanation of the possibility of achieving with the Soviet Union mutual military restraint without jeopardizing U.S. interest in the area of the Indian Ocean."

On July 11, 1975, Senators Culver, Hart of Colorado, and Leahy sent a letter to Secretary of State Kissinger, reporting on discussions they had had with Soviet officials during a Senatorial delegation visit in early July. The Senators wrote: "Although initial Soviet responses were generally vague, we were subsequently given reason to believe that the Soviet Union would respond favorably to an American initiative to seek means of reducing tension in that area. We believe that this signal should not be dismissed or disregarded, for it may indicate a possible reversal of previous Soviet unresponsiveness on this crucial issue."

On July 15, 1975, Assistant Secretary of State Robert J. McCloskey, responding on behalf of the Secretary, expressed interest in the Senators' discussions. Mr. McCloskey went on to say, however, that the Administration "would be prepared . . . to explore the possible methods of limitations" if two conditions were met: (1) evidence of Soviet willingness to negotiate, and (2) construction of Diego Garcia.

On July 28, 1975, the Senate rejected a measure to disapprove Diego Garcia expansion, thereby freeing fiscal year 1975 funds for initial construction.

In December, the Congress enacted an amendment, originally proposed by Senator Culver, to approve but to defer fiscal year 1976 funds for Diego Garcia expansion until April 15, 1976. The intention of the amendment was to provide an example of restraint which would be evident to nations of the region and which would improve the chances of a U.S. initiative toward negotiations. The House-Senate conferees declared that negotiations on mutual arms restraint were "highly desirable and should proceed at the earliest practical time." They also expressed "the full expectation that the Administration will report . . . (to the Congress) regarding negotiation initiatives before April 15, 1976."

On February 25, 1976, the United States and United Kingdom concluded an executive agreement (reported to Congress but not subject to congressional approval) setting conditions for Diego Garcia expansion and use.

On April 16, 1976, Assistant Secretary McCloskey sent the attached report to Senator Culver, calling it "a statement of the Administration's position" on the question of mutual arms restraint in the Indian Ocean.

THE FORMATION OF NATIONAL POLICY BY THE EXECUTIVE BRANCH

Mr. MANSFIELD. Mr. President, I am dismayed and shocked at the report by our former U.S. Ambassador to Saudi Arabia James Akins to the Senate Foreign Relations Committee that the State Department turned a deaf ear to an offer by the Saudi Government last year to finance military and economic programs for the Democratic Republic of Somalia as a means of eliminating the presence of the Soviet Union in that country. Ambassador Akins stated he was informed by a State Department colleague that the reason Washington did not respond to the Saudi offer was that the Department of Defense was pressing its case for development of a U.S. naval base on the island of Diego Garcia in the Indian Ocean.

When, Mr. President, will the executive branch of this Government ever learn its proper role in the formulation of national policy? How many shocks to the American body politic are needed to dispel from the appointed members of the executive branch that national policy under our Constitution is granted to the 537 elected members of this Federal Government. What form of distorted elitism compels appointed members of the executive to withhold essential information from the elected because it might lead to a decision by the elected that might differ from what the appointed think is best?

What, Mr. President, has been the meaning of these past 4 years? What has been the message to those appointed members of the executive branch who fear the facts may lead the elected to a faulty judgment? What a low regard they must maintain for our democratic Republic. What distrust of our democracy.

Mr. President, I believed from the beginning that regardless of Soviet Union activity in the Indian Ocean, the administration and the Navy would have found a reason to build a naval base on the island of Diego Garcia. How convenient the magnified presence in Somalia of Soviet support facilities served these desires. The scare tactics of the cold war calling upon fears rather than sound judgment are far more effective in gaining the assent of Congress especially when no national or strategic case can be made for the facility.

Last fall, Senator CULVER submitted an amendment to the Military Construction Appropriations Act asking the administration to open negotiations with the Soviet Union on the limiting of great powers' military activity in the Indian Ocean area. As a result of the Culver amendment, the conference report on the Military Construction Appropriations Act requested that the administration report by April 15, 1976, on negotiating initiatives with regard to mutual arms restraint in the Indian Ocean area. That report contained approximately 500 words, not pages, but words. Most of these words were unnecessary since the conclusion states,

> We do not perceive it [arms limitation initiatives in Indian Ocean] to be in the U.S. interest at this time.

I was going to ask unanimous consent that this report be printed at this point in the RECORD; but inasmuch as the Senator from Iowa has done so, I will not make that request.

It is evident that the administration has not approached the Soviet Union on the limiting of arms in the Indian Ocean area and has disregarded the efforts and the collective judgment of the elected Members of this Government as expressed by the adoption of the conference report.

Instead, the administration has ignored the congressional judgment and has ordained itself as the only organ for determining the policy of the United States. In fact, last July, when the Senate sent a delegation to Somalia on a fact-finding mission relating to the Diego Garcia appropriations request, the original itinerary called for a delegation stop in Saudi Arabia, but that stop was eliminated at the direct request of the State Department because the stop might be "embarrassing to the Saudis." Now it is clear, Mr. President, why the Saudi Arabia stop by the Senate delegation might have proven embarrassing. The Senate would have found out about the offer, the administration would have been embarrassed, and the Senate judgment on expanding the facilities on Diego Garcia might very well have been different.

Yesterday afternoon, an official from the Department of Defense, in answer to a query on this matter, admitted that the Defense Department did receive a copy of Ambassador Akins' cable containing the Saudi offer, but the Defense Department was not consulted thereafter by the Department of State.

I do not know, Mr. President, what it takes to exceed the threshold of this Congress. How much arrogance will it tolerate? I hope the leadership of the distinguished Senator from Iowa (Mr. CULVER) will continue on this matter and that Congress will respond to this challenge.

Mr. President, I ask unanimous consent that several newspaper articles be printed in the RECORD at this point in my remarks.

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

[From the Washington Post, May 5, 1976]

SAUDI OFFER OF AID REPORTED

(By Laurence Stern)

Former U.S. Ambassador to Saudi Arabia James Akins told a Senate subcommittee yesterday that the State Department turned a deaf ear last year to a Saudi government offer to finance military and economic aid programs to Somalia as a means of eliminating the Russian presence there.

Akins said he was informed by a State Department colleague that the reason he received no answer from Washington to the Saudi offer was that the Defense Department was pressing its case for development of a major U.S. naval base in the Indian Ocean on Diego Garcia island.

A powerful Pentagon argument to Congress on the Diego Garcia base last year was the growing threat of the Soviet presence in Somalia.

"This is the most dishonest thing I have heard in 30 years in Congress," exclaimed Sen. Stuart Symington (D-Mo.), who opposed the Indian Ocean base in the Senate Armed Services Committee.

". . . The argument was used with great persuasion in Congress that since the Russians were in Somalia it was necessary to establish a base in Diego Garcia," he said.

Congress approved $13.8 million for a permanent naval base on the Indian Ocean island after a stormy battle over costs and increasing military rivalries in the region.

Subcommittee Chairman Frank Church (D-Idaho), after hearing Akins, said, "the circumstantial evidence certainly suggests a relationship between the desire of the Navy for the Diego Garcia base with a continuation of the Russian presence in Somalia to justify the base."

Akins said the Saudi offer was relayed to Washington through him because of the growing concern of the Saudi government over the Russian naval buildup in Somalia.

This concern, the former ambassador said, was stimulated by U.S. officials who made available to the Saudis photographs of Soviet naval facilities in Somalia. The Saudis, said Akins, "became very frightened."

The terms of the Saudi proposal which he reported to Washington, Akins said, was that the Saudis would provide some $15 million in economic support and for the supply of U.S. military aid to Somalia.

Akins said he had no idea whether the proposal was acceptable to the Somalis because it was stopped dead in Washington.

[After Akins' testimony, Symington confronted Defense Secretary Donald Rumsfeld and Navy Secretary William Middendorf about the allegations, Reuter reported.

[Both denied knowledge of the reported Saudi offer. A State Department spokesman declined to comment on the testimony.]

Akins, a 22-year career Foreign Service veteran and specialist in Arab affairs, was dismissed as ambassador to Saudi Arabia last year in the wake of his differences with Secretary of State Henry A. Kissinger over dealings with the Saudi government and on oil policy questions. He is no longer in the Foreign Service.

In another revelation, Akins acknowledged in reply to a question that the State Department denied him permission to go to London in late 1974 in an effort to persuade Prince Fahd to agree to a large auction of Saudi oil—a move that would have moderated the steep climb in Persian Gulf oil prices.

Top Saudi government officials, Akins said, had asked him to intercede with Fahd who was under pressure by other oil-producing countries to call off the auction.

Akins testified under oath that his trip to see Fahd was vetoed by superiors in Washington on grounds that the State Department lacked travel funds for the Jidda-to-London journey and that his presence in London would be "too conspicuous."

On another matter, Akins said he was not aware of the use of Saudi Arabian arms agent Adnan Khashoggi as an intermediary in contacts between President Nixon and King Faisal during and after the 1973 Middle East war, as reported yesterday in The Washington Post.

Questioned about The Post article, Akins said: "I was not aware of any such communications and I don't believe they took place." If they had, he told the subcommittee, it would have been "highly irregular and improper."

However, he said that the Saudi defense minister, Prince Sultan, had confided to him that Khashoggi had boasted in Riyadh "that he got me removed (as ambassador) in reprisal for having blocked agent fees."

The former diplomat testified ruefully that "I still think it (Khashoggi's boast) is a joke, but I don't think it's as funny anymore."

[From the Wall Street Journal, May 5, 1976]

U.S. Apparently Favored Building Base Over Eviction of Soviet Troops in Somalia

Washington.—The U.S. last year rejected a chance to get Soviet troops evicted from Somalia because it feared this would remove justification for building a controversial new military base, testimony before a Senate subcommittee indicated yesterday.

The U.S. base in question is on Diego Garcia, a remote Indian Ocean island where a "logistical support" facility is under construction. The main reason for building the base, Pentagon officials told Congress last July, is that the Soviet navy has established a major presence in Somalia, an African state facing the Indian Ocean.

According to James Akins, former U.S. ambassador to Saudi Arabia, the Ford administration had a chance to get the Russians thrown out of Somalia but declined to try. He said he assumes—but doesn't know for sure—that the reason was an administration fear that Congress would then refuse to finance the Navy's Diego Garcia base, which already faced strong opposition.

"One would have to be pretty dense not to get this connection," Mr. Akins told the Senate Foreign Relations Subcommittee on Multinational Corporations. He also said a State Department official told him later that that was the reason, though Mr. Akins said he couldn't be positive that the official in question knew why the decision was made.

SAUDI ARABIAN OFFER

The offer to get the Russians evicted came from Saudi Arabia, where Mr. Akins was stationed at the time. He said the Saudis shared U.S. concern about the Soviet presence, so they discussed the matter with Somalia, a poor country just across the Red Sea.

The Saudis offered to take over economic-aid projects being financed by Moscow, and to buy U.S. arms for Somalia as substitutes for Russian weapons then being delivered, according to Mr. Akins. He said only $15 million of U.S. weapons would have been needed—at Saudi expense—to make the effort.

However, the former ambassador said he couldn't get any Washington response, either positive or negative, to the offer. Nor could he get an official explanation for this official silence. But Mr. Akins testified that the Ford administration may have been afraid that evicting the Soviets would remove the official rationale for building the Diego Garcia base, so it didn't dare encourage the Saudis to go ahead.

PREFERRED SOVIET THREAT

If true, this makes it seem that Washington preferred a Soviet threat and the means to counter it, rather than no threat and no base. Sen. Frank Church (D., Idaho), subcommittee chairman, called it "disturbing" and Sen. Stuart Symington (D., Mo.) termed it "outrageous." Sen. Church, a presidential aspirant, promised further investigation of the matter.

Saudi officials told Mr. Akins that Somalia was ready to make such an agreement, the former ambassador said. However, he cautioned the subcommittee that the attempt mightn't have worked—it's possible the Somalis couldn't or wouldn't have thrown out the Russians even if Saudi Arabia provided economic aid and U.S. weapons.

However, Mr. Akins testified that he strongly favored making the effort, and he recommended it to the State Department. It was embarrassing, he said, that he couldn't tell the Saudis why the U.S. didn't respond to their offer.

Mr. Akins, one of the more outspoken State Department officials, was fired by Secretary of State Henry Kissinger last December after assorted disagreements. He said yesterday that he never received any explanation for this, but assumes Mr. Kissinger found him too abrasive. Mr. Akins for years was the department's senior expert on petroleum matters.

Although yesterday's testimony didn't say specifically when the Saudi offer about Somalia was made, Mr. Akins and Sen. Church said it occurred about the time the Senate was considering the Diego Garcia matter. Last July 27 the Senate voted 53 to 43 to finance construction of the naval base there.

[From the New York Times, May 5, 1976]

Ex-Envoy Charges U.S. Ignored Offer on Soviet Somalia Role

(By Robert M. Smith)

Washington, May 4.—The former American ambassador to Saudi Arabia told a Senate subcommittee today that a Saudi proposal to reduce Soviet influence in Somalia had been ignored by the United States.

Senator Frank Church, the Idaho Democrat who heads the subcommittee on multinational corporations, noted that the Saudi offer came about the time that Congress was considering the Administration's request for a naval base in Diego Garcia in the Indian Ocean. We asked the diplomat, James E. Akins, if there was a connection.

"One would have to be pretty dense not to make that connection," Mr. Akins replied, "but I have no proof."

The Administration's case for a Diego Garcia base was linked to the Soviet naval presence in Somalia.

Mr. Akins has in effect been dismissed from the Foreign Service since his tour in Saudi Arabia. He said that one of the reasons for his dismissal was the fact that he was outspoken, "quite abrasive," and irritated Secretary of State Henry A. Kissinger.

Mr. Akins was also asked by the Senate Foreign Relations subcommittee about bribery in Saudi Arabia. Both the Northrop Corporation and the Lockheed Aircraft Corporation have admitted trying to pay bribes in Saudi Arabia to sell their airplanes.

"It is not necessary to engage in bribery in the Middle East or anywhere else in the world," the former ambassador said. "I told all the American firms in Saudi Arabia that you didn't have to pay bribes."

Mr. Akins said that he had also taken up the bribery question "with every top Government official" in Saudi Arabia except the King and had been assured that the Saudi Government would protect companies that refused to pay bribes.

He said that he was "almost certain" that the Bechtel Corporation, which does substantial business in the Middle East, and the major oil companies had not paid bribes in Saudi Arabia.

Asked to comment on Mr. Akins' report on the Saudi offer concerning Somalia, a State Department spokesman said that he would have to look into the matter.

Mr. MANSFIELD. Mr. President, I yield as much of my time as I have left to the distinguished Senator from Missouri.

Mr. SYMINGTON. Mr. President, I thank the able majority leader. First, I commend him for his logical and penetrating discussion of what has been going on lately with respect to Diego Garcia. I also commend the distinguished Senator from Iowa (Mr. Culver), who has followed this issue closely, presenting more information about this problem than anybody in the Senate to the best of my knowledge.

I am here this afternoon because I have been interested in Diego Garcia for some years; especially as chairman of the Subcommittee on Military Construction of the Senate Armed Services Committee. Last year the subcommittee authorized $13.8 million for further construction on Diego Garcia.

We have continued building on that island regardless of the reservations expressed for sometime by many Members of the Senate, because we were told by this administration that the Soviet presence in Somalia presented a threat to U.S. defense interests.

Today this matter assumes even more significant proportions, because under oath, the former ambassador to Saudi Arabia, James Akins, recently testified that while serving as ambassador to that country he notified the Department of State that the Saudi Arabians would be glad to put up all the economic aid and all the military aid Somalia wanted in order to prevent a strong Soviet presence in Somalia.

He said he never heard a word from the Department of State after presenting this information.

Mr. Akins further testified, under oath, I might emphasize, that when he returned to the United States he asked a Department of State official why nobody had replied to the offer of Saudi Arabia; he was told the reason was that the Navy wanted to get congressional approval for the development of a base on Diego Garcia.

In other words, Mr. President, we have here a most extraordinary reaction by the Department of State to its own ambassador. There would be no apparent reason for not pursuing this offer through our ambassador; and it would appear something was deliberately being done under the table to prevent the Saudi Arabia offer from coming before Congress.

I addressed the Senate on this matter last July, Mr. President, when I urged passage of the Mansfield resolution on Diego Garcia. I ask unanimous consent that that statement be printed in the RECORD at this point.

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

FOR MANSFIELD RESOLUTION ON DIEGO GARCIA

Now that the Mansfield Resolution, S. 160, which would deny funds for the further expansion of the United States naval facility at Diego Garcia, is on the floor for a final Congressional determination of the issue, I would make the following brief observations.

By its own admission, the Administration has made no serious effort to initiate discussions with the Soviet Union on the possibility of mutual arms restraint in the Indian Ocean.

Last year the Senate Armed Services Committee noted that the serious defense and foreign policy questions related to the Administration's request for expanding the facility at Diego Garcia required further consideration; and urged the Administration to make a "thorough exploration of the possibility of achieving with the Soviet Union mutual military restraint without jeopardizing U.S. interests in the Indian Ocean."

This year, at the Senate Armed Services Committee hearing on Diego Garcia on June 10, the Administration representative was asked whether any effort had been made to initiate with the Soviet Union a discourse on the possibility of mutual arms restraint. His answer was "no."

Such lack of initiative would appear inexcusable. We can always build up militarily in the Indian Ocean, but the opportunity for negotiation should not be bypassed.

The nations in the Indian Ocean region have repeatedly urged adoption of the concept that this ocean be made a "zone of peace"; and several resolutions to that effect have been passed in the United Nations.

Yet the Administration has opposed the establishment of such a peace zone on the grounds that it would restrict "freedom of the seas."

President Ford himself, in his letter to the Congress on May 23, 1975, justifying the Diego Garcia expansion, noted that the project "has been criticized by a number of region states which favor the concept of a special legal regime limiting the presence of the great powers in the Indian Ocean, as expressed in the several Indian Ocean Zone of Peace resolutions adopted by the United Nations General Assembly." And in the same letter, the President observed that United States policy has been to oppose such measures because they "would constitute an unacceptable departure from customary international law concerning freedom of navigation on the high seas."

This interpretation of American interest in freedom of the seas as precluding negotiations to achieve a "zone of peace"—or arms restraint—in the Indian Ocean is difficult to understand. It seems almost unconscionable that our Nation would pass up the opportunity to try to prevent further naval competition in a far-away ocean under this pretext.

It is true that the Soviet Union has gradually expanded its presence in the Indian Ocean, but this presence is very limited and provides no real military threat to the United States and Allied forces in the area which collectively possess greater strength than the Soviets and have access to a larger number of ports.

Indeed the French alone have more combatant ships permanently deployed in the Indian Ocean than either the Soviet Union or the United States. They also possess more port facilities.

And when the United States brings a carrier task force into the area, the scales of power in the Indian Ocean tip in favor of the United States.

The Administration has cited the development of a Soviet base at Berbera as a major reason for expanding our facility at Diego Garcia. Yet even with a new base at Berbera the Soviet position in the Indian Ocean is still modest; and in the absence of a significant new Soviet threat in this ocean, it would not only be a waste of money, but also a possible provocation for the United States to expand its presence at Diego Garcia. In this regard, consider CIA Director Colby's testimony in 1974 that "should the United States make a substantial increase in its naval presence in the Indian Ocean, a Soviet buildup faster and larger . . . would be likely."

It would appear that the prudent course for us to follow at this time, therefore, would be to enter into negotiations with the Soviet Union and other powers involved in the Indian Ocean to prevent what could turn out to be a costly naval arms race.

Considering that the Administration has thus far not taken the initiative, passage of the Mansfield Resolution, S. 160, disapproving the Diego Garcia expansion, might help achieve such negotiations and would certainly save the taxpayers of America millions of dollars at no expense to security.

Mr. SYMINGTON. Unfortunately that resolution was defeated; it failed on July 28, 1975, by a vote of 43 to 53.

As I look over my previous remarks, and reflect on subsequent events regarding this matter, this appears another sad illustration of adequate information being denied to Congress by the executive branch. Mr. President, I understand the distinguished junior Senator from Iowa is requesting an investigation, am I correct?

Mr. CULVER. The Senator is correct.

Mr. SYMINGTON. I support this request because it would appear that we have been consistently misled as the able Senator has well brought out. This new information is almost beyond belief. I hope we get into it in detail and find out what the facts are.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, may I speak on Senator MANFIELDS's time?

Mr. CULVER. Mr. President, how much time do I have remaining on my special order?

The PRESIDING OFFICER. The Senator from Iowa had 4 minutes remaining when he finished speaking, but did not reserve it.

Mr. CULVER. I ask unanimous consent, Mr. President, that the 4 minutes remaining on my special order be made available to me.

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

Mr. KENNEDY. Parliamentary inquiry, Mr. President: Was there time remaining to the majority leader?

The PRESIDING OFFICER. The Senator from Montana had 4 minutes remaining.

Mr. CULVER. I think the Senator from Montana had yieled his time to the Senator from Missouri.

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I ask unanimous consent that his time be retained, as well.

The PRESIDING OFFICER. Without objection, it is so ordered. Therefore, there is a total of 7 minutes remaining. The Senator from Iowa has 7 minutes.

Mr. CULVER. I yield 4 minutes to the Senator from Rhode Island.

Mr. PELL. Mr. President, if ever there was a pig in a poke, our proposed base at Diego Garcia is it.

I too was shocked to learn that the Department of State apparently ignored a Saudi Arabian proposal, transmitted early last year through our Ambassador in Jidda, to diminish Soviet influence in Somalia. I understand that the Saudi's offered to give Somalia the amount of economic aid promised to Somalia by the Soviet Union if the United States would furnish Somalia with the arms promised by Moscow. Coincidentally, this proposal by Saudi Arabia came at about the same time that Congress was considering the administration's request for the expansion of facilities at Diego Garcia in the Indian Ocean.

I well remember those requests, because I was interested in the problem as a member of the Committee on Foreign Relations and had briefings by the Department of Defense and by the Central Intelligence Agency. I recall that the difference in their assessments of the Soviet strength in the Indian Ocean was tremendous. The number of Soviet personnel involved, according to the Department of Defense, was many times the number estimated by the CIA. Later the CIA apparently was brought to heel and brought its estimate a little more in line with the Defense Department. But I do remember this discrepancy in the estimates.

This is one more bit of evidence that the administration has not kept to the strict line of accuracy and truth in letting the facts be known to the Senate and to the American people.

I recall that the Soviet presence in Somalia was a major point in the administration's justification for the need to expand the Diego Garcia facility. Secretary of Defense Schlesinger, in testimony before the Armed Services Committee on June 10, 1975, explained in detail what the Soviets were doing in Somalia and said that:

It is evident that the USSR is in the process of establishing a significant new facility capable of supporting their naval and air activities in the northwest Indian Ocean.

He went on to say that:

Since an effective military balance is essential to the preservation of regional security and stability in this area of great importance . . . we feel we should have logisti-

cal facilities which will permit us to maintain a credible presence.

The impression that these statements gave was that nothing could be done to prevent a Soviet buildup, and that therefore we needed Diego Garcia as part of a balancing act. Now we find that an opportunity was apparently either overlooked or deliberately ignored to eliminate this presumed Soviet threat.

We see how this was done. First, you exaggerate the Soviet presence through intelligence estimates, and then you do not respond to the proposal of the Government of Saudi Arabia to diminish that threat and virtually to eliminate it. It was very well done from the viewpoint of achieving the result the administration desired but not straightforward action, in my view.

More recently, the administration has been unresponsive to congressional proposals that negotiations be undertaken with the Soviet Union on mutual limitations on military deployments in the Indian Ocean.

Mr. President, these actions by the administration raise serious questions about this country's intentions in the Indian Ocean area. Statements about the need to maintain a balance in the area ring hollow if no effort is made to eliminate the Soviet presence which is to be balanced.

Mr. President, the Congress deserves a full explanation from the administration on this matter, and I am pleased that the distinguished Senator from Iowa, Mr. CLARK, has requested such an explanation. In these days of electoral anguishing over who is No. 1 in military strength, the American people deserve to know why diplomatic alternatives to military confrontation are not being pursued.

I believe, too, that the measure the Senator from Iowa has proposed is an excellent one, and I ask that he make me a cosponsor of that proposal.

I yield the remainder of my time.

Mr. KENNEDY. Mr. President, I ask unanimous consent to be included as a cosponsor of the resolution of the Senator from Iowa, when it is submitted this afternoon.

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

Mr. CULVER. Mr. President, if the Senator will yield, could I also ask unanimous consent that Senator Pell be added as a cosponsor.

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

Mr. SYMINGTON. Mr. President, will the Senator yield? I would also ask that I be added as a cosponsor.

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

Mr. KENNEDY. Mr. President, I join in commending the Senator from Iowa for focusing the attention of the Senate on this important matter at this time. Each of my colleagues has spoken about his interests in Diego Garcia over a period of years.

I, too, have shared an interest and concern about the escalation of the arms race in the Indian Ocean. Two years ago, when I traveled to the Soviet Union, this was an area which I explored with General Secretary Brezhnev, in the course of a conversation lasting 4 hours.

The Soviet leader indicated to me that this particular issue had not been explored by the United States with the Soviet Union.

I have followed this issue for the last few years, and I have heard the weak and lame explanations by the Department of State that, first, the Soviet Union would not talk about Indian Ocean as is control, and, second, if they were willing to talk about it, it would be impossible to make progress because of the different kinds of U.S. and Soviet deployments in the Indian Ocean.

Then we heard the argument last year, when the Senator from Iowa's resolution was before the Senate, that we should not accept his approach, because the Russians were expanding their base in Somalia and, therefore, it was inappropriate for us to consider any kind of arms limitation with the Soviet Union in the Indian Ocean.

Then we hear the weak explanation by the administration that it is inappropriate for us to consider any arms limitation in the Indian Ocean because of the activities of the Soviet Union in Angola.

It seems to me that the reason and the justification of the administration are convoluted. When we find the Soviet and Cuban presence in Angola, it seems to me, it would make much greater sense for us to try to limit Soviet involvement in the Indian Ocean and in Somalia.

One of the primary ways of reducing their presence, their prestige, their influence in Africa, it seems to me, would be to seek real arms limitations in the Indian Ocean, as well as a reduction of Soviet influence and presence in Somalia. Rather than accepting the administration's concept that we cannot consider negotiating about the Soviet Union's presence in the Indian Ocean because it is active in Angola, it seems to me, that is one important reason, among others, for us to consider negotiating with the Soviet Union in ways which are consistent with the interests of the United States. We are not talking about a one-sided negotiation that is only going to be in the interests of the Soviet Union. We are talking about negotiations that are going to be in the interests of the United States in that part of the world—negotiations that can have enormous implications in terms of the general relationship between the Soviet Union and the United States, let alone the billions of dollars which the American taxpayer will have to pay if we go to a three-ocean Navy: which may very well be the danger in terms of escalation if we continue building the Diego Garcia base, and the Russians continue their naval buildup.

A final point, Mr. President: It is difficult for me to understand the administration's posture in terms of great power relations in the Indian Ocean. In reading the Secretary of State's Lusaka speech last week, one sees that he spent only about a paragraph and a half talking about the great power conflict in Africa. On the one hand, when issue is actions by Congress and the Senate of the United States on arms control in the Indian Ocean, the Secretary of State waves the great power threat and the great power danger in terms of the African countries. But on the other hand—when he is talking in Africa to Africans—he minimizes the importance and consequence of the great power aspect. But he cannot have it both ways, Mr. President.

The administration's report of April 15 on this subject therefore marks what I consider to be the total abdication of forthright comment and statement in this extremely important area of American foreign policy—where there are profound and deep implications for our security and for the security of our allies in that part of the world. This is why I look forward to supporting the Senator from Iowa's resolution, hopefully to a successful conclusion.

Mr. BARTLETT. I thank the distinguished Senator from Virginia for yielding.

I think it is important in discussing the matter that has been talked about this morning, the question of Diego Garcia, on the one hand, and the question of defusing Somalia, on the other, or reducing the military capability of the Soviets in Somalia, on the other, that they should be looked at separately.

First, I am very concerned with the resolution introduced by the distinguished Senator from Iowa which would once again delay construction on Diego Garcia. I think this matter must be looked at just in its own importance.

There is no question but what the Soviets in Somalia have continued increasing their capability there far beyond what it was last Fourth of July when I was in Berbera. They now have two small ships capable of firing Styx missiles which they did not have there for the Somalians. They have a very large facility, floating drydock, which will take care of the largest ship the Soviets have, far greater than any requirement that the Somalians have.

They have a huge missile-handling facility which will handle any missile which the Soviets have, and they have continued expanding their capability in various parts of Somalia.

So the need for Diego Garcia and the modest increase that is going to take place, unless there is some action to the contrary, is not going to create parity or equality at all. It is going to be a facility that does not have nearly the capability that the Soviets have in Somalia. So I do not think that an investigation into the statement by former Ambassador Jim Akins should in any way delay or in any way affect what we are doing in Diego Garcia.

On the other matter, I have had discussions in the past with the Senator from Iowa on this matter, with the Ambassador from Somalia, Ambassador Addou, with our own State Department, with Secretary Clements in the Defense Department, and with others.

I look forward to a reasonable investigation of this matter. I would like to see just who said what and what the attitude of various people of the State Department is.

I do want to point out a couple of things. One is that Secretary Clements has cooperated with me in my effort to

have a port call visit put back on schedule, an invitation for the Navy to pay a visit to Mogadishu was issued prior to my going to Somalia on July 4 of last year.

This invitation was rescinded shortly after my return. Since that time I have been talking with the Ambassador from Somalia to have that invitation for the visit offered again. It has not been forthcoming, even though he said he hoped it would be by April or May of this year.

I want to emphasize that Secretary Clements has been working hard trying to impress upon Ambassador Addou that this would be helpful in friendly relations between the two countries and would be a step toward an opportunity for some kind of arrangement between our countries which would reduce the Soviet capability.

I have been very much interested in doing this. I hope that the effort toward this can be accomplished.

I want to say to the Senator from Iowa, that in my opinion, I think it is a long shot because of the momentum that is going on in Somalia by the Soviets to increase their capability, by the reluctance of the President to reissue his invitation for the port call visit. It certainly indicates some second thoughts on his part about his willingness, perhaps, to discuss a defusing of the Somalia area as far as the Soviets are concerned.

I do agree very strongly that it is most important for this country to try with some kind of quid pro quo basis, some kind of negotiations, to have Somalia accord this Nation treatment that would be evenhanded to the Soviets, which defined in other terms would mean reducing the Soviet capability in this area.

This would go a long way for people in the little countries around the Indian Ocean and Africa itself.

So I strongly support the efforts that have been going on by some of us to reach some kind of an accord or agreement whereby the presence that the Soviets have in Somalia could be reduced.

I do hope that this investigation will proceed. I do hope that it will proceed with stability and with reasonableness so that it will not go far beyond to matters of Diego Garcia that I do not believe are called for prior to such an investigation.

I am happy to yield to the Senator.

Mr. CULVER. I thank the Senator very much.

How much time do I have, Mr. President?

The PRESIDING OFFICER (Mr. NELSON). The Senator from Oklahoma has 1 minute remaining.

Mr. CULVER. I thank the Senator for yielding.

I very much appreciate his constructive support of a full inquiry into the circumstances surrounding this most recent incident involving the former U.S. Ambassador to Saudi Arabia and the issue of Saudi Arabian relations with Somalia and its impact on Soviet activities there.

I wish to commend him for his most conscientious involvement in this general area.

We have not always agreed in terms of the appropriate approach and its timing, but I think he has been most sincere in his efforts to improve, particularly, the relationship between the U.S. Government and the Somalian Government.

I have worked with him on this U.S. naval visitation. I am very hopeful that this invitation will be forthcoming this spring. I think that will be a most important breakthrough.

The PRESIDING OFFICER. The time of the Senator has expired under the previous order.

Mr. CULVER. I thank the Chair.

Mr. BARTLETT. I thank the distinguished Senator.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized for 15 minutes.

RHODESIAN CHROME: THE PRESIDENT'S OPINION

Mr. HARRY F. BYRD, JR. Mr. President, Secretary of State Kissinger, in a statement while on tour in Africa, has stated that he will urge the Congress to repeal the Byrd amendment.

The Byrd amendment, adopted in 1971, in effect permits the importation into the United States from Rhodesia of chrome—a material designated by the U.S. Government as essential to defense.

Without the Byrd amendment, Rhodesian chrome could not come into the United States, because after the 1965 declaration of independence from Britain by Rhodesia, the United Nations Security Council imposed first partial, then total sanctions on trade with the African country.

Former President Johnson, following the lead of the U.N. Security Council, issued an Executive order prohibiting U.S. trade with Rhodesia. This he did by unilateral action, without referring to the Congress.

In urging adoption of the Byrd amendment, I pointed out that Rhodesia has two-thirds of the world's supply of metallurgical chrome, used in the production of stainless steel needed for such vital defense items as jet aircraft, nuclear submarines and missiles, and essential in many important U.S. industries.

I also noted that elimination of Rhodesia as a source of chrome greatly increased the dependence of the United States upon the Soviet Union for this critical material.

In framing the Byrd amendment, I kept in mind those two key points: the importance of stainless steel to our defense and economy, and the undesirability of reliance upon Russia for chrome. After all, the United States is spending $100 billion a year to arm itself against a potential Russian threat.

As written, the Byrd amendment states only that the President may not ban imports of a strategic commodity from a free world country if the same material is being imported from a Communist country.

Thus, the Byrd amendment has flexibility which permits the President to nullify it by his own action.

Secretary Kissinger has raised a phony issue in his statement.

If the position taken by Dr. Kissinger on his African tour were a sound one, the President could cut off Rhodesian chrome shipments to the United States tomorrow morning.

Chrome is a strategic material—so designated by the executive branch since World War II.

Chrome is imported in substantial quantities from Russia.

So, if the administration wants to cut off chrome shipments from Rhodesia, it need only declare chrome nonstrategic, or ban imports from Russia.

Opponents of my legislation for years have argued that the importance of chrome is overrated. If they really believe that, why is chrome not declared nonessential?

My opponents also have said that cutting off Rhodesian chrome will not make the United States dependent upon the Soviet Union. If that were true, we could get along without chrome from either Rhodesia or Russia.

Of course, the facts are that chrome is vital, and that we cannot cut off both the Rhodesian and Russian supplies.

The failure of the administration to take chrome off the strategic materials list, or to cut off Russian imports, shows the real need for chrome—and dramatizes the validity of the Byrd amendment.

Mr. President, on Sunday, May 2, 1976, our able colleague from Arizona (Mr. GOLDWATER) was queried about this African tour of Secretary Kissinger and his desire to repeal the Byrd amendment. Senator GOLDWATER was asked this question:

Do you think Congress will repeal the Byrd amendment?

Senator GOLDWATER replied:

I hope not. I don't like buying anything from Russia that we can buy from anyone else in the world for less than half the price.

Mr. President, I say again, it is not logical for the United States to spend $100 billion a year to arm itself against a potential Russian threat and then to make itself dependent on Russia for a vital, strategic material.

Mr. President, at this point I want to refer to a dialog which I had with Secretary of State Kissinger when he appeared before the Senate Finance Committee on March 7, 1974. I put a number of questions to the Secretary of State in regard to this matter of chrome, Russia, and Rhodesia. I will read several into the RECORD at this point:

Senator BYRD. Do you regard the Soviet Union as being governed by a tight dictatorship, by a very few persons over a great number of individuals.

Secretary KISSINGER. I consider the Soviet Union, yes, as a dictatorship of an oligarchic nature, that is, of a small number of people in the Politburo.

Senator BYRD. In your judgment, is Rhodesia a threat to world peace?

Secretary KISSINGER. No.

Senator BYRD. In your judgment, is Russia a potential threat to world peace?

Secretary KISSINGER. I think the Soviet Union has the military capacity to disturb the peace, yes.

Senator BYRD. In your judgment, does Rus-

sia have a more democratic government than Rhodesia?

Secretary KISSINGER. No.

Mr. President, at a later point in that meeting before the Finance Committee, I asked this question of the Secretary of State:

Senator BYRD. If it is just to embargo trade on Rhodesia, would it be equally just to embargo trade against South Africa?

Secretary KISSINGER. I believe that the embargoing of trade on Rhodesia is not based on its internal policies so much as on the fact that a minority has established a separate state, and it does not therefore represent exclusively a judgment on the domestic policies of the Rhodesian government, but also a question with respect to the legitimacy of the Rhodesian government.

Senator BYRD. The staff informs me that the Rhodesian trades actions were imposed January 5, 1967, before the Smith government was established.

Well, to get back to—so it is not because of the internal policy, it is not because of the racial policies——

Secretary KISSINGER. Not at all.

Mr. President, the Secretary of State has now reversed his position, apparently, during his tour of Africa. It is a very expensive tour, I might say, not because of getting him there and getting him back, and getting his party there and getting his party back. I am not talking about that. I am talking about all of the multitudes of American tax dollars that he has been promising everywhere he has been going.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a number of questions which I directed to the Secretary of State in the Senate Finance Committee hearing on March 7, 1974, with his replies.

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

Senator BYRD. That is what gets me to the next subject that I was interested in, the question of domestic policy in other nations and subjecting ourselves on other nations. You are here to advocate relaxing trade barriers with other nations, but you recommend that legislation be enacted by the Congress to embargo the purchasse of a vitally strategic material from Rhodesia, of which material the United States has none.

Now your testimony before the Foreign Relations Committee, of which the present Chairman is in the Chair, you were then urging an embargo on trade. Now you are coming here and urging a relaxing on trade with another country.

Secretary KISSINGER. First of all, Senator, I must say you were very restrained in your first round of question.

[General laughter.]

Secretary KISSINGER. I have already been asked substantially this question earlier. Quite frankly, the foreign policy context of the decisions is somewhat different, both because of the case of Rhodesia, it is tied to the status of the government itself. It is tied to the implementation of U.N. resolutions. And it is related to our relationship with many other countries.

In the case of the Soviet Union you have this overriding, practical necessity.

Senator BYRD. Do you think our actions toward Rhodesia are just or unjust?

Secretary KISSINGER. I think it reflects the decisions of the international community and the general conviction about justice.

Senator BYRD. Well, I am not clear whether you regard it as just or unjust.

Secretary KISSINGER. Our action? Yes, I recognize it as just.

Senator BYRD. You recognize our action in embargoing trade with Rhodesia as being just?

Secretary KISSINGER. Yes.

Senator BYRD. Do you regard the Soviet Union as being governed by a tight dictatorship, by a very few persons over a great number of individuals.

Secretary KISSINGER. I consider the Soviet Union, yes, as a dictatorship of an oligarchic nature, that is, of a small number of people in the Politburo.

Senator BYRD. In your judgment, is Rhodesia a threat to world peace?

Secretary KISSINGER. No.

Senator BYRD. In your judgment, is Russia a potential threat to world peace?

Secretary KISSINGER. I think the Soviet Union has the military capacity to disturb the peace, yes.

Senator BYRD. In your judgment, does Russia have a more democratic government than Rhodesia?

Secretary KISSINGER. No.

Senator BYRD. In your judgment, does South Africa have better racial policies than Rhodesia?

Secretary KISSINGER. Does South Africa have better racial policies?

Senator BYRD. Yes.

Secretary KISSINGER. I would not think so.

Senator BYRD. If it is just to embargo trade on Rhodesia, would it be equally just to embargo trade against South Africa?

Secretary KISSINGER. I believe that the embargoing of trade on Rhodesia is not based on its internal policies so much as on the fact that a minority has established a separate state, and it does not therefore represent exclusively a judgment on the domestic policies of the Rhodesian government, but also a question with respect to the legitimacy of the Rhodesian government.

Senator BYRD. The staff informs me that the Rhodesian trades actions were imposed January 5, 1967, before the Smith government was established.

Well, to get back to—so it is not because of the internal policy, it is not because of the racial policies——

Secretary KISSINGER. Not at all.

Senator BYRD. Well, then you say it is because Rhodesia seeks to establish her own government. Is that not what the United States did in 1776?

Secretary KISSINGER. In a different international context.

Senator FULBRIGHT. Well the Secretary said he would stay until 1:00 o'clock. Does the Senator from Virginia have two or three more minutes he would like to have?

Senator BYRD. I have three or four more questions.

[General laughter.]

Senator FULBRIGHT. Well, the Chairman made a bargain with him. If he stayed until around 1:00, he would not have him back this afternoon.

Senator BYRD. But the Chairman made a bargain on behalf of himself, not on behalf of the Committee.

Senator FULBRIGHT. Well, go ahead.

Senator BYRD. My questions are brief and I do not want to hold you up, Mr. Secretary.

Senator FULBRIGHT. No. The Senator is recognized.

Senator BYRD. Mr. Secretary, I am very much interested in this Rhodesian matter. I have never been there. I have no connection with it one way or the other. And you have testified that you feel that the action that the United States has taken is a just action, and you are entitled to your view, just as I am entitled to my view; I feel that it is a very unprincipled action.

Now you have testified, and it is interesting to note, that the then foreign secretary of Great Britain, Douglas Hume, in an interview last December, said that while his government supports trade sanctions against Rhodesia because it had been put on by the previous Labor government, he did not think it was the correct policy. And then he added "We disagree with the political systems of a number of countries, for example, South Africa. But we trade with them. And by and large, we do not believe in ostracism and a boycott.

Would you care to comment on that?

Secretary KISSINGER. I agree with the general principle that he has enunciated.

Senator BYRD. And then you have testified that you do not regard Rhodesia as being a threat to world peace.

Secretary KISSINGER. That is correct.

Senator BYRD. And then you know, of course, that under the United Nations Charter action can only be taken against a country in regard to an embargo, if that country is judged to be a threat to world peace.

And so my question to you is do you think the United Nations acted improperly?

Secretary KISSINGER. I had not thought that the United Nations had acted improperly, but in the light of what you have said, I would have to review the particular positions of the embargo.

Senator BYRD. Thank you.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes with statements therein limited to 5 minutes.

Is there any morning business?

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGES FROM THE HOUSE

At 12:58 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, with amendments in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED APPROPRIATION LANGUAGE CHANGES AND TRANSFER AUTHORITY TO LIQUIDATE DEFICIENCIES FOR THE DEPARTMENT OF DEFENSE—MILITARY

A communication from the President of the United States, transmitting proposed appropriation language changes and transfer authority to liquidate deficiencies for the Department of Defense—Military (with accompanying papers); to the Committee on Appropriations.

PETITIONS

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

Assembly Joint Resolution No. 55 adopted by the Legislature of the State of California; to the Committee on Labor and Public Welfare:

"ASSEMBLY JOINT RESOLUTION No. 55

"Whereas, A proposal was made by the Bureau of Alcohol, Tobacco and Firearms to impose ingredient labeling on wine containers; and

"Whereas, An extended administrative hearing was held in Washington, D.C. on April 29, 1975, at which time extensive testimony was offered not only by industry members of the United States but by witnesses from foreign governments; and,

"Whereas, Such testimony found that ingredient labeling was not only unnecessary and not in the best interests of the consumer but would actually tend in many instances to mislead the consumer as well as impose extraordinary and inflationary costs in its implementation, with especially disastrous consequences for small wineries; and

"Whereas, At said hearing no proponents appeared and offered any testimony; and

"Whereas, The Bureau of Alcohol, Tobacco and Firearms after due consideration determined that ingredient labeling should not be imposed upon the wine industry; and

"Whereas, The Food and Drug Administration has in spite of these facts ordered ingredient labeling to be imposed as of January 1, 1977; and

"Whereas, Exemptions from the ingredient labeling requirement of the Federal Food, Drug, and Cosmetic Act are authorized in appropriate cases; and

"Whereas, The Bureau of Alcohol, Tobacco and Firearms has maintained effective control over wine production, marketing and labeling under the Federal Alcohol Administration Act for decades and the intercession of the Food and Drug Administration in this matter appears unnecessary, wasteful and inflationary on the costs of wine to the industry and the consumer; and

"Whereas, There has been no showing of benefit or need to the industry or the consumer; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly. That the Legislature of the State of California does hereby petition the Food and Drug Administration to reconsider its position, and in view of all the facts rescind its action requiring ingredient labeling of wine; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to each Senator and Congressman from California and to the Food and Drug Administration."

A resolution adopted by the General Court of the Commonwealth of Massachusetts; to the Committee on the Judiciary:

"RESOLUTIONS

"Memorializing for the Congress of the United States to enact legislation providing for the amendment of the bill of rights to establish the rights of the unborn

"Whereas, The Supreme Court of the United States ruled that an abortion during the first three months of pregnancy is to be governed by the medical judgment of a physician; and

"Whereas, The Supreme Court of the United States ruled that an abortion during the third to sixth month of pregnancy is to be determined by the woman and her physician; therefore be it

"Resolved, That the general court of Massachusetts respectfully urges the Congress of the United States to enact legislation presenting to the states a proposed constitutional amendment proposing:

"All men are conceived and born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties from the moment of conception; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

"The United States shall not make or enforce any law which shall abridge the privileges or immunities of its citizens; nor shall it deprive any persons, including the unborn, of life, liberty, or property without due process of law, nor deny to any person, including the unborn, within its jurisdiction, the equal protection of the laws; and be it further

"Resolved, That copies of these resolutions be sent forthwith by the Clerk of the House of Representatives to the President of the United States, the presiding officer of each branch of the Congress and to each member therefore from the commonwealth."

House Resolution No. 353 adopted by the House of Representatives of the State of Hawaii; to the Committee on the Judiciary:

"HOUSE RESOLUTION 353

"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, 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 localities 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 Resolution be sent to the President 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."

House Concurrent Resolution No. 5061 adopted by the Legislature of the State of Kansas; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION No. 5061

"A concurrent resolution memorializing the Congress of the United States to act on present legislation which increases the Federal estate tax exemption from $60,000 to $200,000

"Whereas, The Federal Estate Tax, on transfers at death, is computed on a "taxable estate" after deduction of a $60,000 specific exemption; and

"Whereas, Inflation, rising prices, and improved technology in recent years have pushed values of farm property upward. U.S. farm real estate values per acre in early 1975 averaged about eleven times higher than in 1940 and three times higher than in 1960. Since 1940, the average size of farms has more than doubled. Consequently, many landowners find that the value of their real estate that would have escaped estate taxes a few years ago is now of such value as to incur major estate tax payments; and

"Whereas, The estate tax has been a permanent part of the federal revenue system since 1916. The present $60,000 exemption has been in effect since 1942 and the present rate scale since 1941. Although all federal tax rates have been changed infrequently and have seriously lagged behind the general rate of inflation, only the gift tax has remained fixed for as long a time as the estate tax; and

"Whereas, In recent years, changes in federal estate tax laws have been proposed. Bills carrying out federal estate tax reform have been introduced in both the House of Representatives and the Senate. Since the $60,000 exemption was established a generation ago, it is apparent that inflation has caused capricious changes in the original intent of Congress: Now, therefore,

"Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature of the state of Kansas respectfully petition the Congress of the United States to amend the federal estate tax law. As a minimum, these amendments should include (1) an increase in the standard estate tax exemption to reflect the effects of inflation since the present $60,000 exemption was set in 1942; and (2)

provisions for basing the value of farmland and open spaces at levels reflecting their current use rather than their highest possible use. We ask that this issue be classified as a high priority so that the average farm family and every citizen will get relief from those revisions; and

"Be it further resolved: That the secretary of state be directed to send enrolled copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Kansas delegation in the Congress of the United States."

Senate Resolution 24 adopted by the Senate of the State of Wisconsin; to the Committee on Commerce:

"SENATE RESOLUTION 24

"Memorializing the president and congress to support the Arctic Gas Project

"Whereas, the United States suffers economically and environmentally from a severe shortage of natural gas; and

"Whereas, the state of Wisconsin requires and will benefit from increased, secure supplies of energy; and

"Whereas, it is therefore in the national and regional interest that a transportation system be promptly approved and constructed to transport the huge supplies of natural gas from northern Alaska to markets across the nation; and

"Whereas, the transportation system for such purpose which appears to deliver such gas most directly to markets; to conserve, by operating efficiency, the most natural gas; to transport such gas at a very materially lower cost to all parts of the nation; to best support the level of imports of natural gas from Canada by providing access for Canada to its supplies of gas in the Canadian arctic; to operate in the most environmentally protective manner; and to be capable of being put into operation most promptly, is the all-land pipeline across Alaska, Canada and the contiguous United States proposed by the Arctic Gas Project; now, therefore, be it

"Resolved by the senate, That the members of the senate hereby express their support for the Arctic Gas Project; and, be it further

"Resolved, That the senate hereby urges the President and Congress of the United States to take all feasible action to expedite the authorization of the construction of said Arctic Gas Project; and, be it further

"Resolved, That duly attested copies of this resolution be transmitted to the President of the United States, to each member of the congressional delegation from this state, and to the chief officer of the department of interior, the federal energy administration, and the federal power commission."

A resolution adopted by the Senate of the Commonwealth of Massachusetts; to the Committee on Armed Services:

"RESOLUTION

"Memorializing the Congress of the United States to maintain natural disasters within the jurisdiction of the Department of Defense Civil Preparedness Agency

"Whereas, It has long been recognized that certain critical functions such as warning, communications and operational capability have basic validity for both nuclear and natural disaster situations; and

"Whereas, In the past these functions have been performed by the National Defense Civil Preparedness Agency; and

"Whereas, The proposed FY77 federal budget will reduce funding and limit the National Defense Civil Preparedness Agency to limited nuclear preparedness planning program; and

"Whereas, Individual communities and states will be asked to assume an overwhelming burden in terms of immediate medical and manpower assistance in dealing with natural disasters; and

"Whereas, Individual communities and states will be asked to assume an overwhelming burden in financing direct assistance and followup operations in dealing with natural disasters; and

"Whereas, Shifting these additional burdens to communities and states is indefensible in light of proposed cuts in federal funding combined with the limited financial resources of local and state governments; now therefore be it

"Resolved, That the Massachusetts Senate hereby memorializes the Congress of the United States to maintain natural disasters within the jurisdiction of the Department of Defense, Defense Civil Preparedness Agency; and be it further

"Resolved, That the Clerk of the Senate transmit a copy of this resolution forthwith to the presiding officer of each branch of the Congress and to each member thereof from the Commonwealth."

Joint Resolution No. 64 adopted by the Legislature of the State of New York; to the Committee on Armed Services:

"JOINT RESOLUTION NO. 64

"Joint Resolution of the Senate and Assembly of the State of New York memorializing the Congress of the United States to reinstate the Congressional Medal of Honor previously awarded to Dr. Mary Edwards Walker in 1865

"Whereas, Dr. Mary Edwards Walker, born in Oswego, New York, on November twenty-sixth, eighteen hundred thirty-two and destined for greatness, broke through the barriers of traditional nineteenth century America by graduating from Syracuse Medical College in eighteen hundred fifty-five and becoming a doctor; and

"Whereas, Dr. Walker, a person one hundred years ahead of her time, fulfilled many other roles which included teaching, writing and lecturing as an outspoken advocate of women's rights, urging women's suffrage and other unheard of reforms; and

"Whereas, During the Civil War and while in the service of the Union Army, Dr. Walker became the first woman commissioned an assistant surgeon and was later awarded the Congressional Medal of Honor by President Andrew Johnson for her patriotic zeal in attending sick and wounded soldiers; and

"Whereas, Dr. Walker, being the only woman ever to receive this nation's highest award for valor, had her name stricken from those entitled to wear this medal in nineteen hundred seventeen for some vague reason that her award failed to state specific acts of valor; and

"Whereas, Dr. Walker was recently nominated to the Women's Hall of Fame in Seneca Falls, New York and it is the sense of this legislature to recognize the contributions to society made by its citizenry, especially in this year of the Bicentennial; now, therefore, be it

"Resolved, The legislature of the State of New York does hereby respectfully memorialize the Congress of the United States to reconsider this matter involving Dr. Mary Edwards Walker and to ultimately reinstate the Congressional Medal of Honor to Dr. Walker which she so justly deserves; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the Senate of the United States, the Speaker of the House of Representatives, and to each member of the Congress of the United States from the State of New York."

House Concurrent Resolution No. 74 adopted by the Legislature of the State of Hawaii; to the Committee on Agriculture and Forestry:

"HOUSE CONCURRENT RESOLUTION 74

"Relating to United States Department of Agriculture reform of the food stamp program rules and regulations.

"Whereas, the food stamp program was created by Congress for the purpose of permitting low-income households to purchase a nutritionally adequate diet; and

"Whereas, food stamps is the only nationwide assistance program responsive to the needs of both those who are persistently poor and those experiencing temporary poverty; and

"Whereas, the rapid increase in food stamp participation from 14 million to 19 million in the period between August, 1974, and June, 1975, was largely due to a 70% rise in unemployment levels; and

"Whereas, increased participation and consequent changes in the composition of the program have raised questions concerning its scope and costs, with criticism being particularly directed to certain structural features of the food stamp law; and

"Whereas, the United States Congress is presently considering major food stamp reform measures, one of which was proposed by the Administration to represent its concerns; and

"Whereas, the Administration, through the United States Department of Agriculture, has acted in bad faith by promulgating new federal rules and regulations with plans for implementation by June 1, 1976 while Congress is actively debating the various alternatives; and

"Whereas, the effect of the proposed rules and regulations would be to cut participation to 13 million by reducing eligibility to the poverty level; replacing itemized deductions with a standard deduction of $100 per household; and instituting a 90-day budgeting period for calculating income; and

"Whereas, the impact on Hawaii, with its high standard of living, would be to cut total participation by one-third, from 100,000 to 70,000 beneficiaries per month; and to reduce benefits by 30% for those deemed eligible; 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 direct the Secretary of the United States Department of Agriculture to cease any promulgation or implementation of the proposed food stamp regulations until such time as Congress has acted; and

"Be it further resolved that certified copies of this Concurrent Resolution be transmitted to members of Hawaii's Congressional Delegation; the President of the United States Senate; the Speaker of the United States House of Representatives; the respective committees on Agriculture of the Senate and House of Representatives; the Secretary of the United States Department of Agriculture; the Food Stamp Division, Food and Nutrition Service branch of the United States Department of Agriculture; and to the President of the United States."

Senate Joint Resolution 40 adopted by the Legislature of the State of Wisconsin; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION 40

"Memorializing Congress and the President of the United States to aid in securing the release of Katherine Zenz and Jo Ann McDaniel from imprisonment in Turkey

"Whereas, Katherine Zenz, daughter of Mr. and Mrs. Ralph Zenz of Lancaster, Wisconsin, and Jo Ann McDaniel of the state of Oregon have been sentenced to 24 years' imprisonment in Turkey because the Turkish customs authorities discovered hashish in certain vehicles in which they were traveling while attempting to enter the country; and

"Whereas, Katherine Zenz and Jo Ann McDaniel have now been incarcerated in the Republic of Turkey for a period of more than 4 years as a result of that incident; now, therefore, be it

"Resolved by the senate, the assembly concurring, That the state of Wisconsin affirms

continuing concern for Katherine Zenz; and, be it further

"Resolved, That the President, the Secretary of State and the Congress of the United States are urged to attempt to secure the early release of Katherine Zenz and Jo Ann McDaniel; and, be it further

"Resolved, That duly attested copies of this resolution be transmitted to the Honorable Gerald R. Ford, President of the United States, to Henry A. Kissinger, Secretary of State, to the secretary of the U.S. senate, to the chief clerk of the house of representatives and to each member of the congressional delegation from this state."

Senate Joint Resolution 51 adopted by the Legislature of the State of Wisconsin; to the Committee on Commerce:

"SENATE JOINT RESOLUTION 51

"Memorializing congress to preserve railroad lines and rail traffic

"Whereas, many railroad lines and branches are being abandoned or discontinued throughout the nation; and

"Whereas, the decrease in rail traffic has caused great hardship to many communities, both urban and rural; and

"Whereas, the possible abandonment of the Ashland branch of the Chicago and North Western Railway Co. will cause great hardship to the people of Antigo, Aniwa, Birnamwood, Eland, Wittenberg, Whitcomb, Tigertown, Marion, Clintonville, Bear Creek, Suger Bush, New London, Hortonville, Appleton and to all the people in the communities north and south of said Ashland branch of the Chicago and North Western transportation line; and

"Whereas, rail traffic is an energy efficient mode of travel and transporation; now therefore, be it

"Resolved by the senate, the assembly concurring, That the congress of the United States do all in its power to prevent the abandonment of railroad lines and promote increased reliance on rail transportation; and be it further

"Resolved, That duly attested copies of this resolution be transmitted to the secretary of the senate of the United States, the chief clerk of the house of representatives and the members of Wisconsin's congressional delegation."

Senate Joint Resolution 63 adopted by the legislature of the State of Wisconsin; to the Committee on Banking, Housing and Urban Affairs:

"SENATE JOINT RESOLUTION 63

"Memorializing Congress to establish a National Consumer Cooperative Bank

"Whereas, legislation (S. 2631 and H.R. 10881 and 10873) is now pending in the U.S. Congress to establish a National Consumer Cooperative Bank; and

"Whereas, the citizens of Wisconsin have benefited from the use of the self-help cooperative technique to purchase necessary farm supplies, market our state's agricultural products and procure needed services for farm and home in the fields of credit, electricity, health, transportation, housing and basic family needs, and sound credit institutions serving cooperatives have always been essential, especially in rural areas; and

"Whereas, the major portion of our population today live in urban areas or are rural nonfarm residents, and, in our inflationary economy, they increasingly are seeking ways to stretch their hard-earned dollars to procure basic needs of life such as housing, food and other necessary services; thus many are turning to the cooperative self-help approach which has served our farmers so well; and

"Whereas, the success of these efforts and the benefits which will accrue to our citizenry and our state thereby depend on the same type of technical and financial assistance which was so vital to the effectiveness of farm cooperatives serving our people, and since such assistance, patterned after the successful Farm Credit System, is embodied in the proposed legislation to form a National Consumer Cooperative Bank, would require limited government capitalization and expenditure, and would provide that government capital originally invested would eventually be repaid by the cooperatives using the bank; now therefore, be it

"Resolved, by the senate, the assembly concurring, That the congress of the United States is urged to enact legislation which will establish a National Consumer Cooperative Bank; and, be it further

"Resolved, That duly attested copies of this resolution be transmitted to the secretary of the senate of the United States, the chief clerk of the house of representatives and the members of Wisconsin's congressional delegation."

A resolution adopted by the Town Board of Penfield, N.Y., concerning Federal revenue sharing; to the Committee on Finance.

A resolution adopted by the Greater Juneau (Alaska) Chamber of Commerce relating to the management of the national forests; to the Committee on Agriculture and Forestry.

IMMIGRATION AND NATURALIZATION—SPECIAL REPORT OF THE COMMITTEE ON THE JUDICIARY—(REPT. NO 94–782)

Mr. EASTLAND, from the Committee on the Judiciary, submitted a special report entitled "Immigration and Naturalization," prepared by its Subcommittee on Immigration and Naturalization pursuant to Senate Resolution 72, 94th Congress, 1st session, which was ordered to be printed.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 2318. A bill for the relief of Dr. Crispin E. See (Rept. No. 94–783).

H.R. 2776. An act for the relief of Candido Badua (Rept. No. 94–784).

H.R. 4038. An act for the relief of Jennifer Ann Blum (Rept. No. 94–785).

H.R. 5227. An act for the relief of Frank M. Russell (Rept. No. 94–786).

HR. 8863. An act for the relief of Randy E. Crismundo (Rept. No. 94–787).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S. 1404. A bill for the relief of Kyong Chu Stout (Rept. No. 91–788).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 440. An original resolution to pay a gratuity to Edward P. Fexreter.

S. Res. 441. An original resolution to pay a gratuity to Ann G. O'Neil.

S. Res. 442. An original resolution to pay a gratuity to Clarence Orton.

S. Res. 443. An original resolution to pay a gratuity to Marcia C. Washington, Carolyn J. Crutchfield, Joan E. Crutchfield; and Lindon N. Crutchfield.

S. Con. Res. 113. A concurrent resolution authorizing the printing of additional copies of the committee print entitled "Soviet Space Programs, 1971–1975" (Rept. No. 94–789); and

S. Res. 156. A resolution authorizing and directing the Committee on Rules and Administration to prepare a revision of the Standing Rules of the Senate (Rept. No. 94–790).

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

S. Res. 68. A resolution establishing a procedure for requiring amendments to bills and resolutions to be germane (Rept. No. 94-791).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

H. Con. Res. 536. A concurrent resolution to authorize the printing as a House document "Our Flag", and to provide for additional copies (Rept. No. 94–792);

H. Con. Res. 537. A concurrent resolution to provide for the printing as a House document of the Constitution and the Declaration of Independence (Rept. No. 94–793);

H. Con. Res. 539. A concurrent resolution to print as a House document the Constitution of the United States (Rept. No. 94–794); and

H. Con. Res. 540. A concurrent resolution to print as a House document "How Our Laws Are Made" (Rept. No. 94–795).

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

H. Con. Res. 538. A concurrent resolution providing for the printing as a House document of the Constitution of the United States (Pocket-Size Edition) (Rept. No. 94–796).

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

S.J. Res. 49. A joint resolution to amend the joint resolution entitled "Joint Resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America" (Rept. No. 94–797).

By Mr. McCLELLAN, from the Committee on the Judiciary, without amendment:

S. 3187. A bill to extend the authorization of appropriations for the National Commission on New Technological Uses of Copyrighted Works to be coextensive with the life of such Commission (Rept. No. 94–798).

By Mr. BURDICK, from the Committee on the Judiciary, with amendments and an amendment to the title:

S. 12. A bill to improve judicial machinery by providing benefits for survivors of Federal judges comparable to benefits received by survivors of Members of Congress, and for other purposes (Rept. No. 94–799).

By Mr. BURDICK, from the Committee on the Judiciary, without amendment:

S. 2412. A bill to provide for holding terms of the District Court of the United States for the Eastern Division of the Northern District of Mississippi in Corinth, Mississippi (Rept. No. 94–800); and

S. 2887. A bill to amend title 28, United States Code, to provide that Bottineau, McHenry, Pierce, Sheridan, and Wells Counties, North Dakota, shall be included in the Northwestern Division of the Judicial District of North Dakota (Rept. No. 94–801).

By Mr. McCLELLAN, from the Committee on Appropriations, with amendments:

H.R. 13172. An act making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, together with additional views (Rept. No. 94–802).

By Mr. MANSFIELD (for Mr. PHILIP A. HART), from the Committee on the Judiciary, with an amendment:

S. 1284. A bill to improve and facilitate the expeditious and effective enforcement of the antitrust laws, and for other purposes, together with additional and minority views (Rept. No. 94–803).

By Mr. TALMADGE, from the Committee on Agriculture and Forestry, without amendment:

S. Res. 444. An original resolution relating to the impact on American agriculture of loans for palm oil production (Rept. No. 94–804).

S. 3384—JOINT REFERRAL OF A BILL

Mr. PEARSON. Mr. President, I ask unanimous consent that S. 3384, a bill

to assure that the Federal Government discharges its present constitutional and statutory responsibilities in such manner as to protect and serve the interests of consumers, and for other purposes, introduced by me yesterday, be jointly referred to the Committee on Government Operations and the Committee on Commerce.

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

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. HUGH SCOTT:

S. 3387. A bill for the relief of the O'Brien Dieselectric Corp. Referred to the Committee on the Judiciary.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 3388. A bill to modify the project for navigation improvement of the Chetco River, Oregon;

S. 3389. A bill to modify the project for navigation improvement of the Siuslaw River, Oregon; and

S. 3390. A bill to modify the project for navigation improvement of the Umpqua River, Mouth to Reedsport, Oregon. Referred to the Committee on Public Works.

By Mr. INOUYE:

S. 3391. A bill to amend title 5 of the United States Code in order to provide that certain benefits to which employees of the United States stationed in Alaska, Hawaii, Puerto Rico, the Canal Zone, or the Territories or Possessions of the United States are entitled may be terminated under certain conditiones, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. GARY HART:

S. 3392. A bill to provide for judicial review of administrative determinations made by the Administrator of the Veterans' Administration. Referred to the Committee on Veterans' Affairs.

By Mr. FANNIN (for himself and Mr. BARTLETT):

S. 3393. A bill to amend the Voting Rights Act of 1965 to limit certain aspects of its coverage for other than racial groups. Referred to the Committee on the Judiciary.

By Mr. HASKELL:

S. 3394. A bill to authorize engineering investigation, stabilization, and rehabilitation of the Leadville Mine Drainage Tunnel and the construction of facilities for the treatment of the drainage effluent. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS (for himself and Mr. GARN):

S. 3395. A bill to authorize appropriations for the construction of the Uintah Unit of the Central Utah Project. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOLE:

S. 3396. A bill for the relief of Alfred Yuk-Bun Yip. Referred to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. KENNEDY, Mr. PELL, and Mr. SYMINGTON):

S.J. Res. 192. A joint resolution clarifying the implementation of section 403(1) of the Congressional Budget Act of 1974; to require estimation of costs incurred by State and local governments as a result of proposed legislation. Referred to the Committee on Government Operations.

By Mr. CULVER (for himself, Mr. PELL, Mr. SYMINGTON, and Mr. KENNEDY):

S.J. Res. 193. A joint resolution to temporarily suspend construction in the Indian Ocean area. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GARY HART:

S. 3392. A bill to provide for judicial review of administrative determinations made by the Administrator of the Veterans' Administration. Referred to the Committee on Veterans' Affairs.

VETERANS' ADMINISTRATION JUDICIAL REVIEW ACT

Mr. GARY HART. Mr. President, today I am introducing S. 3392, a bill to amend title 38 of the United States Code to provide for the judicial review of administrative decisions promulgated by the Veterans' Administration.

Unlike other Federal agencies, most of the administrative actions and regulations of the Veterans' Administration are not subject to the scrutiny of the Federal courts. Only a narrow range of actions are exempt from the no-review provisions; these include servicemen's group life insurance, national service life insurance, and certain loan entitlements provided by title 38, United States Code.

Under section 211(a) title 38, United States Code, the Veterans' Administration, the third largest agency of the Government with an annual budget approaching $20 billion, has been free from judicial review of its adjudicated decisions. This denies American veterans and their dependents or survivors complete access to due process of law on decisions of benefit eligibility adjudicated by the VA. This is particularly significant since 73.6 percent of the VA budget is spent on benefit programs.

Adjudication of VA benefits falls mainly within two areas: Disability and pension eligibilities. In each instance, a local three-member rating board, made up of VA employees, determines the veteran's eligibility and level of disability payment. The only recourse for a veteran desiring to challenge the determination is an appeal to the Board of Veterans Appeals, also composed of VA employees, in Washington, D.C. The decision of the board is final and unless new and material evidence is presented, the case is closed. At no point in the process is there provision for review by perons outside of the agency.

I believe that American veterans should have the right to bring their cases to the Federal court for independent judicial review.

Most Federal agencies are subject to the Administrative Procedures Act, title 5 United States Code, which allows judicial review of final administrative actions. Under section 701 of that act, "any person suffering a legal wrong because of agency action, or who is adversely affected or aggrieved by agency action within the meaning of the relevant statute" can seek judicial recourse. The court can determine whether the agency observed the statutory requirements and adhered to constitutional requirements in the administrative procedures employed.

Mr. President, this bill which I offer today would grant to the veteran and his dependents or survivors access to an independent judicial review of Veterans' Administration actions.

This measure would—

First, Amend section 211(a) title 38, United States Code to allow for the judicial review of all VA administrative decisions.

Second. Require the VA to follow the same review procedures set forth in the Administrative Procedure Act (title 5, United States Code) as for other Federal agencies.

Third. Allow attorneys to represent veterans in VA proceedings and remove the $10 attorney fee ceiling in such proceedings.

The Veterans' Administration processes thousands of benefit claims annually but a review of the statistics shows that the Board of Veterans Appeals, the final reviewing board for disputed claims, handles about 30,000 cases per year. Of these, 10,000 are reversed or remanded to the local rating boards for their reconsideration. This leaves approximately 20,000 cases which could be brought before the courts for review.

While most of the thousands of cases reviewed by the Veterans' Administration are adjudicated in a fair and equitable manner, there are cases in which the administrative process breaks down and the veteran is denied true justice. To those citizens who believe their right to the due process of law has not been fully served, we must offer another channel of appeal outside the Veterans' Administration once they have exhausted all internal remedies.

Mr. President, accountability of Federal agency actions is the fundamental issue of this proposed legislation. At a time when public trust of our Government is at low ebb, we must prove our willingness to protect citizens from arbitrary agency decisions and regulations.

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

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

S. 3392

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 "Veterans Administration Judicial Review Act".

SEC. 2. Section 211 (a) of title 38, United States Code, is amended by striking out after "shall be" all that follows through the end of such subsection and inserting in lieu thereof the following: "subject to judicial review as provided in chapter 7 of title 5.".

SEC. 3. Section 3404 (c) of title 38, United States Code, is hereby repealed.

By Mr. FANNIN (for himself and Mr. BARTLETT):

S. 3393. A bill to amend the Voting Rights Act of 1965 to limit certain aspects of its coverage for other than racial groups. Referred to the Committee on the Judiciary

VOTING RIGHTS ACT REPEALER AMENDMENTS ACT

Mr. FANNIN. Mr. President, I am pleased to introduce today on behalf of

myself and Senator BARTLETT a bill to repeal the 1975 bilingual amendments to the Voting Rights Act. This bill shall be known as the "Voting Rights Act Repealer Amendments Act of 1976."

This legislation is designed to repeal those amendments approved last year by the Congress that expanded coverage of the Voting Rights Act to include so-called language minority groups. An identical bill, H.R. 10997, was introduced in the House on December 4, 1975, by Congressman ROBERT MCCLORY of Illinois, a member of the House Judiciary Committee, to which that bill was referred.

This bill would end the application, under title III of Public Law 94–73, of the Federal law to jurisdictions where more than 5 percent of the citizens of voting age in the jurisdiction are of a single language minority. It would also end the requirement imposed by title II of Public Law 94–73 that such jurisdictions provide registration and voting material to minority groups in the language of such groups.

The effect of the 1975 amendments to the Voting Rights Act has been to place an unreasonable burden upon local governments in voting districts throughout the country. Since those amendments extended Federal requirements to all 14 counties in my own State, cities and towns in Arizona are now being compelled to expend large sums of money on providing bilingual ballots and other election materials in many different foreign languages, including numerous Spanish and Indian dialects. In those areas inhabited by Indian tribes whose language is unwritten, this means providing on-the-spot translators as well as bilingual registration and voting materials for prospective voters. Since the cost of providing these materials must be borne by local governments, the city fathers are finding that the new Federal voting rights requirements divert scarce tax money from many more worthwhile and important projects in their communities.

Mr. President, providing bilingual registration and election materials in Indian districts is no mean task. An article published in the Washington Post on May 2 discusses this issue. I ask unanimous consent that it be printed in the RECORD.

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

BILINGUAL BALLOTS A PROBLEM

(By Earleen F. Tatro)

The federal law requiring bilingual ballots is posing a quandary for election officials in many Indian areas.

Chickahominy and Arikara are virtually extinct tongues. Lumbee and Ojibway are unwritten languages. Cherokee, says one election official, "looks like a cross between hieroglyphics and Yiddish."

And in Hayword, Wis., city clerk Rolf Williamson said the Indians in surrounding Sawyer County "read English better than I do."

Hayward itself, population 1,600, has about six Indians but none speaks or writes an Indian language, Williamson said. Nevertheless, Hayward is one of about 500 towns, cities and counties which have been told to start printing bilingual ballots and election materials.

The bilingual requirements are included in Voting Rights Act Amendments enacted by Congress last August in an attempt to make it easier for more Americans to vote. Recently the Justice Department issued modifications of interim guidelines sent out last fall. The bilingual rules are to take effect after a 30-day period for public comment.

Some areas where census figures mandated bilingual ballots may be exempted on a common sense basis.

For instance:

Charles City County in Virginia was on the Justice Department's list. More than 5 per cent of the county's 6,200 residents are Chickahominy Indians, so theoretically it is subject to the amendments.

However, the Justice officials agreed with Virginia Attorney General Andrew P. Miller that Chickahominy is a dead language, that all the Indians know English, that few if any know or read a word of Chickahominy, and that therefore bilingual ballots are not "sensible."

Justice Department attorney David Burns said the department's list of bilingual ballot areas was compiled on the basis of Census Bureau reports and failed to consider other conditions.

Juanita Helphrey, executive director of the North Dakota Indian Affairs Commission, said the six counties in her state covered by the guidelines include five tribes: Mandan, Hidatsa, Arikara, Sioux and Chippewa.

She said at least six interpreters would probably be needed at the polls, adding that "few of the younger Indians read and write Indian languages."

Three counties in northwestern Minnesota must offer election ballots printed in Ojibway, according to the federal guidelines.

"We can't put that language on the ballots," Secretary of State Joan Growe said. "There is no written language for Ojibway.

"Those counties are going to have to hire someone who speaks Ojibway to be present at the polling place to interpret ballots for voters," she said, adding that the counties will have to pay for the interpreters.

Alexander K. Brock, North Carolina's director of elections, said it would be "ridiculous" to try to print ballots in Indian languages for his state's 15,000 registered Lumbee voters and 1,400 registered Cherokee voters.

Lumbee has no written language, and Cherokee "looks like a cross between hieroglyphics and Yiddish to the layman," Brock said. Few Cherokees know any language except English, he added.

"They resented considerably the implication that they could not read and write English," Brock said.

In Oklahoma, neither state officials nor Indian leaders believe bilingual election materials would increase voter participation, because most Indians speak and write English.

Mr. FANNIN. Mr. President, I have heard from a number of mayors and other local officials complaining that they are being forced to spend disproportionately large percentages of their budgets to provide bilingual ballots in languages such as Spanish and various native Indian and Chinese dialects, even though no members of those minority groups are within their constituencies.

I am not talking about a small amount of tax money, Mr. President. The State of California, for instance, has estimated an additional cost of $30 million to supply bilingual materials for a single primary election. The city of Phoenix projects its costs around $30,000.

This situation has clearly gotten out of hand. In the city of San Francisco, the registrar of voters sent out cards printed in Cantonese, Mandarin, Spanish, and Tagalog to minority communities within that city in order to find out which citizens would prefer written election materials or oral assistance at the voting places in these respective languages. One militant group felt that this effort did not go far enough and has brought suit against the city of San Francisco and the Department of Justice seeking declaratory relief to require these ballots to be printed and oral assistance to be given in these languages in all parts of the city.

Mr. President, my office has received no mail in favor of the changes in the voting rights law that were approved by the Congress. On the contrary, the correspondence I have received to date has strongly opposed the 1975 amendments to the Voting Rights Act. The most telling criticisms of these amendments have come from members of language minority groups whom the amendments allegedly were designed to protect.

Minority groups in Arizona tell me that vital funds are being withheld from projects which serve their own needs. In fact, they say, no one who really wants to participate in the political process is being prevented from doing so because the available registration and voting materials happen to be printed in the English language.

The typical response I have received has been from Arizonans of Spanish heritage who have complained that the Voting Rights Act amendments were really insulting to them because of the implication that minority group members were either too dumb or too lazy to read English or cared so little about their country that they would not vote if their ballots were printed only in English.

One Phoenix woman, Mrs. Sylvia Castro, wrote me an impassioned letter:

What has happened to America? Why is it all of a sudden so important to have our voting ballots in any language besides English? . . . If one is going to be a citizen, one must learn the Constitution in English. Well, then why can't they read the voting ballot in English? What has happened to our wonderful "melting pot"? Everybody who votes in this land should know how to read English, right? Right!

Mrs. Castro and her husband, who is a Mexican-American, a naturalized citizen and reads English, believe that it is insulting to Spanish Americans and members of other minority groups to have such requirements in the law. They say it is wrong to assume that American citizens who are of foreign heritages and who happen to speak languages other than English are automatically being discriminated against or denied their fundamental rights if their ballots are not printed in their own non-English dialect.

Another constituent, Hector G. Gonzales of Morenci, Ariz., expressed similar sentiments in a letter he wrote to the editor of the Arizona Republic. I quote Mr. Gonzales:

As for bilingual ballots, this is for the birds. All of us Mexican-American citizens can read and write English, most of us far better than we can read Spanish. Frankly, I'll feel insulted if I'm handed a Spanish ballot, because I'm an American.

I'm not ashamed of my Mexican descent, and one day a year I'll celebrate Cinco de

Mayo, just like the Irish (descendants) celebrate St. Patrick's Day, but I want it known I'm an American, not a Mexican or Spaniard. . . . I wouldn't let my kids learn Spanish till they got in high school, and then only one of them took it, as they'd decided they were citizens of (the) United States. . . . It was an insult to us of Mexican descent, and this is useless tax waste.

One of the best letters I received on this subject was from Mr. Earl L. Wilkin of Mesa. I ask unanimous consent that Mr. Wilkin's letter to the Phoenix television station KOOL–TV be printed in the RECORD.

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

MESA, ARIZ.,
September 5, 1975.

Re bilingual ballots.
The EDITOR,
KOOL–TV,
Phoenix, Ariz.

DEAR SIR: In August the Justice Department notified officials in ten counties of Arizona and 454 counties in 26 other states that they must conduct fall elections in a minority language as well as English.

To be eligible to vote, one must be a citizen. Citizenship may be acquired by naturalization or by birth. One of the requirements for naturalization is that the person must demonstrate an ability to read, write and speak English words in ordinary usage.

Citizenship by birth to those children born in the United States and educated in our schools covers the vast majority of these registered to vote when they became 18 or older. Of this group, only an infinitesimally small fraction would not be able to read the column headings on a ballot or voting machine. For those few born to an American citizen who cannot read English at 18 or older, our election laws provide assistance for any handicapped person eligible to vote whether blind, crippled or incompetent. To require that ballots be printed in a minority language is a tremendous waste of taxpayer's money, particularly to enable someone over 18 to vote who does not care enough about his or her citizenship to even learn to read English.

In over twenty years of working at the polls in two states as either a certified party watcher or a paid polling place worker, I have never seen an elector who lost his or her right to vote because of not being able to read English.

Can it be that the Justice Department has not told its left hand what the right hand has had to do for years? Would it not be wiser to require that registered voters be required to read words like governor, judge, commissioner, secretary, superintendent, attorney, inspector, elector, senator, representative, clerk, district, city, county, state, federal, justice, committeeman and possibly a dozen others? The candidate's name and the party emblem will be the same regardless of office title. Most important, the voter will cast a more intelligent ballot because he will know who and what he is voting for.

Very sincerely yours,

EARL L. WILKIN.

Mr. FANNIN. Mr. President, to illustrate the difficulties faced by local voting districts and the farcical situation created by the Voting Rights Act amendments, I call the attention of my colleagues to two excellent editorials of August 29 and September 15, 1975, which appeared in the Arizona Republic. I ask unanimous consent that the text of these articles entitled "How to Print Ballots in Indian?" and "Lingualism Nonsense" be printed in the RECORD.

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

HOW TO PRINT BALLOTS IN INDIAN?

At least some of the 10 Arizona counties ordered by the Justice Department to conduct bilingual elections next fall face some perplexing problems. For example, Coconino and Apache counties are going to have quite a time printing ballots for the Hopi Indians in those counties—inasmuch as the Hopis have no written language.

As far as Arizona Indians are concerned, Washington once again has come up with a simple, as in simpleton, solution to an enormously complex problem. Very likely, someone in the federal bureaucracy decided that the counties can print ballots in English, Spanish and Indian. At least that is typical of the way Washington has dealt with Indians all along, as though they are all alike instead of different tribal societies, with vastly different cultures—and many languages.

It is also possible, however, that the Justice Department is only doing its best to comply with unrealistic amendments to the Voting Rights Act requiring the bilingual elections in areas where persons speaking Spanish, or an Indian or Asian language comprise a significant proportion of the voting population.

Whatever the case, the situation remains preposterous in Arizona. And not only because of the argument that in an English-speaking society at least a rudimentary knowledge of English is required to understand the issues and cast an intelligent vote. Washington already has declared that truth untrue in Orwellian fashion.

Ballots and election instructions printed in Spanish pose no difficult problem, of course. Indian languages are something else again and because different tribes have different cultural heritages, so are Indian voters. Some English words are virtually untranslatable into some of the native languages, and many tribal traditionalists have an eloquent command of their language as it is spoken, but they do not read it at all. Although there are some similarities among some native languages, there are also vast differences. It is going to take some doing to come up with bilingual ballots for Indians.

At least two Arizona tribes—the Hopis and the Whiteriver Apaches—have found a practical way to overcome any language problems in conducting their own elections for tribal governments, and Washington might be surprised at the solution: Those two tribes, and probably others as well, conduct tribal elections in English.

LINGUALISM NONSENSE

Elaborately constructed commandments pouring forth from Washington have nothing necessarily to do with logic. More often, they are amorphously shaped and highly decorative abstractions of social engineers who deal more in fantasy than in fact.

Take the way the Justice Department's Office of Civil Rights has interpreted and enforced the Voting Rights Act. The chief enforcer is J. Stanley Pottinger, who also brought us the Affirmative Action hiring program, whereby colleges have been ordered to hire women and minorities on a quota basis.

States and cities have been informed that election ballots now must be printed also in languages other than English if a community's population includes at least five per cent of what Justice calls a "minority language group."

In the case of Arizona cities like Phoenix, Tucson, Mesa and others, fall elections will feature ballots in both English and Spanish. Phoenix estimates its extra costs will run to about $30,000.

The underlying reason for bi-lingual ballots seems to be Justice's conclusion that any sizable national origin group whose native-tongue is other than English is automatically illiterate in English.

Consider, however, how poor this logic washes.

To vote in a city election, a person must be an American citizen. Therefore, ipso facto, a voter is either native-born, or is a naturalized citizen.

If a native-born person is illiterate in English, he probably also is illiterate in Spanish, and no amount of bi-lingualism will help.

On the other hand, if the voter is a naturalized citizen from a Spanish-speaking background, federal law decrees that before he can become a citizen, "the applicant (for citizenship) has to be able to speak, read and write" English. This is what the Immigration and Naturalization Service says.

So, if a naturalized citizen from a Spanish-speaking background cannot read, write and speak English, then he has fradulently obtained his citizenship.

We don't think that's the case. Bi-lingual ballots being required by Justice simply is more of the bureaucrats' arrogant mandating based on faulty assumptions. Spanish-heritage Americans should be outraged that Justice automatically considers them to be illiterate in English because of their surnames.

And that's how Justice arrived at Phoenix's five per cent qualifying criterium. It relied on census data based on how many persons had Spanish-sounding surnames. State Sen. Alfredo Gutierrez and Phoenix City Councilman Rosendo Gutierrez, as examples, will be happy to know that the Justice Department considers them, prima facie, to be functionally illiterate in English. The opposite, of course, is true.

Justice's methodology, moreover, overlooks some other Mexican-Americans whose family names don't sound or look Spanish in origin—Garfield, Crowe, Jordan, to name a few.

What Mr. Pottinger and his social theocrats have done is to become modern day versions of the plantation owners of the pre-Civil War south, where benevolent slave owners perpetuated black bondage with ethnic judgments—if you are a different color, or a different name, ipso facto, you are illiterate and therefore segregated.

Justice has set a dangerous course. The next inevitable step, in case of states and cities falling under Mr. Pottinger's aegis, is to require that all official documents be printed bi-lingually, and all spoken proceedings be translated to the audience in more than one language, and all textbooks be bilingual in the schools, and . . . .

Alas, arguing is futile.

The law under which Mr. Pottinger operates also includes, in the small print, the notation that decisions "shall not be subject to review in any court."

The U.S. Constitution, at last, has been suspended.

Mr. FANNIN. Mr. President, because the 1975 bilingual amendments to the Voting Rights Act have proven to be unnecessary, burdensome, foolishly expensive and generally unpopular, I am introducing this legislation to repeal those amendments. Now let me discuss briefly what each section of this bill would do.

Section 2 of the bill would strike language from section 4(a) of the Voting Rights Act which incorporates a reference to the bilingual trigger established by the 1975 amendments in section 4(b). Section 2 would not affect in any way the coverage of the Voting Rights Act accomplished by either the 1965 law or the 1970 amendments.

Section 3 would delete from section 4(b) of the Voting Rights Act the bilin-

gual triggering provision added by the 1975 amendments. Section 3 would not affect the traditional triggering mechanism with respect to the Voting Rights Act of 1965 accomplished by the 1970 amendments.

Section 4 would delete section 4(f) of the Voting Rights Act which was added by the 1975 amendments. That section of the Voting Rights Act is the heart of the bilingual extension under the 1975 amendments. Section 4(f) prohibits elections conducted in English only by finding such election to be equivalent to the literacy test once imposed in the South which was later found to be unconstitutional. Section 4(f) also mandates the printing of all registration or voting notices forms, instructions, assistance, or other materials or information relating to the electoral process including ballots in the language of any covered language minority group. That section was not part of the Voting Rights Act of 1965 or the 1970 amendments and its repeal would not affect coverage under the act in any way.

Section 5 would delete from section 5 of the Voting Rights Act the preclearance requirements, based upon coverage by the bilingual triggering mechanism added by the 1975 amendments. This section would not affect the preclearance requirements of section 5 with respect to the Voting Rights Act of 1965 or the 1970 amendments.

Section 6 would limit the coverage of the Voting Rights Act to the 15th amendment of the Constitution by deleting references to the 14th amendment in sections 3 and 6 of the Voting Rights Act which were inserted by the 1975 amendments. Reliance on the 14th amendment is unnecessary since traditional 15th amendment guarantees have proven sufficient, as demonstrated during 10 years' experience under this act. The voting guarantees of the 15th amendment sufficiently safeguard any abridgement of voting rights on account of race or color. The courts have had little trouble in protecting the rights of language minority groups under the 15th amendment. This section in no way affects rights protected by the Voting Rights Act of 1965 or the 1970 amendments.

Section 7 would delete a cross reference in sections 2, 3, 4(a), 4(d), 5, 6, and 13 of the Voting Rights Act to the guarantees established in section 4(f)(2) of that act. Section 4(f)(2) would be repealed in section 4 of this bill and any cross reference in the act to it must be eliminated. Section 7 would in no way affect voting guarantees under the Voting Rights Act of 1965 or the 1970 amendments.

Section 8 would delete the definition of "language minorities" and "language minority" groups from section 14(c) of the Voting Rights Act. Repealing the other bilingual provisions of the Votings Rights Act would remove the need for a definition of language minority groups. This section would not affect the protection of the Voting Rights Act of 1965 or the 1970 amendments.

Finally, section 9 would delete section 203 of the Voting Rights Act which imposes bilingual election requirements in locations where language minority groups have a lower degree of education than the national average. The onerous requirements of section 203 are identical with requirements in section 4(f) repealed in section 4 of this bill. Section 9 also contains technical amendments renumbering successive sections in title II of the Voting Rights Act. This section would not affect traditional guarantees under the Voting Rights Act of 1965 or the 1970 amendments.

Mr. President, from our experience since adopting the 1975 amenlments to the Voting Rights Act, it seems evident that the Congress made a serious misjudgment in expanding the coverage of the Federal law to include language minority groups. This legislation would correct the situation, in my opinion. I do realize that the political pressures of certain groups may well deter the Congress from repealing the Voting Rights Act amendments, especially in an election year. I hope, however, that my colleagues will see the wisdom of such action and the Senate Judiciary Committee will give prompt and favorable consideration to this legislation.

By Mr. HASKELL:

S. 3394. A bill to authorize engineering investigation, stabilization, and rehabilitation of the Leadville mine drainage tunnel and the construction of facilities for the treatment of the drainage effluent. Referred to the Committee on Interior and Insular Affairs.

LEADVILLE MINE DRAINAGE TUNNEL ACT OF 1976

Mr. HASKELL. Mr. President, today I am introducing a bill to assist in the rehabilitation of the Leadville mine drainage tunnel located in Leadville, Colo. The tunnel, under the control of the Bureau of Reclamation, is presently creating a very dangerous situation for the residents of that area and should be maintained and operated in a safe manner.

The Leadville mine drainage tunnel was constructed in two stages by the Bureau of Mines for the primary purpose of providing continuous water drainage of certain basins in the Leadville mine district. This was necessary to fully exploit the potential of the mine. During its second stage the tunnel was extended to a 2½-mile length.

Mining in the Leadville area ended at the end of the Korean war. The Bureau of Mines continued minimal maintenance on the tunnel until 1959. Since that time the lack of care has allowed the tunnel to deteriorate to a serious condition. Timber set and lagging have rotted away and caveins have developed. The collapsed areas developed into sinkholes some of which are 30 feet deep.

As the caving increased the water flowing from the tunnel and the natural ground water flow were blocked. The water table, which was being monitored through observation wells installed in 1968, showed a marked rise in its elevation creating an unstable condition.

This bill I introduce today will provide sufficient funds to allow the Bureau of Reclamation to correct the situation and prevent its recurrence.

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

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

S. 3394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Leadville Mine Drainage Tunnel Act of 1976."

SEC. 2. (a) The Congress finds that:

1. The Leadville Mine Drainage Tunnel was constructed by the Bureau of Mines with completion of 11,299 feet in 1952;

2. Subsequently possession of and responsibility for the Tunnel was assumed by the Bureau of Reclamation in 1959, such possession and responsibility continuing to this date;

3. Slides, falls and erosion within and above the tunnel have resulted in an impoundment of water estimated to be in excess of 8 million gallons, and have resulted in the development of sink holes in the general area;

4. All of which, slides, falls, water impoundment and sink holes, pose a clear and present danger to lives and property in the area.

(b) It is therefore, the purpose of this Act to provide for the stabilization and rehabilitation of the Leadville Mine Drainage Tunnel, near Leadville, Colorado, for public safety and water quality improvement.

SEC. 3. The Secretary of the Interior is hereby authorized to rehabilitate and maintain, in a safe condition, the existing Leadville Mine Drainage Tunnel, constructed and owned by the United States, and to construct, operate, and maintain facilities required for the treatment of drainage water discharges therefrom, as necessary to comply with water quality standards established for such effluent, pursuant to the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500). Such work shall consist of engineering investigations of the existing tunnel conditions, the determination and the implementation of required stabilization and rehabilitation measures, and the construction of water treatment facilities to improve the quality of the tunnel drainage effluent. After completion of the engineering investigations of the existing conditions and the stabilization of the tunnel, the tunnel may be plugged in lieu of rehabilitation and treatment of the drainage effluent.

SEC. 4. Such engineering investigations, determinations and implementation of required stabilization and rehabilitation measures as are directed in Section 3, shall be carried out in consultation with the governor of Colorado.

SEC. 5. There is also authorized to be appropriated such sums as may be necessary for the rehabilitation, administration, operation, and maintenance of the existing tunnel and on the additional facilities authorized by this Act.

SEC. 6. All funds authorized to be appropriated by this Act shall be nonreimbursable.

By Mr. MOSS (for himself and Mr. GARN):

S. 3395. A bill to authorize appropriations for the construction of the Uintah Unit of the Central Utah project. Referred to the Committee on Interior and Insular Affairs.

Mr. MOSS. Mr. President, my colleague from Utah (Mr. GARN) and I are today introducing legislation to authorize appropriations for the Uintah unit of the Central Utah project. This

unit of the project has long been in the works, and it is now critical to move it ahead rapidly. The administration has recently completed and sent to the Congress a study of the economic feasibility of the Uintah Unit, together with a certification of that feasibility, as required by the original authorizing legislation passed in 1968.

The unit was authorized in 1968, but due to a technical defect in the language of that act, no specific authorization of appropriation was included. The bill we are introducing today is designed to remedy that defect.

In view of the administration's certification of the Uintah Unit's desirability as recently as April 6 of this year, which included clearance by the Office of Management and Budget, there would appear to be no problems at that end. Our sincere hope is that this bill can be quickly passed by the Congress, and a start made on construction of the Uintah Unit.

This unit is particularly important to the Ute Indian Tribe, since it will constitute the first major benefit to the tribe from the Central Utah project. It is well known in Utah that development of water rights must take place in a cooperative manner. The Uintah Unit is the best example of the partnership that does and must exist, if the needs of all Utahans, Indian and non-Indian, are to be met.

Mr. GARN. Mr. President, I am today joining with Senator Moss in introducing legislation to authorize appropriations for the Uintah unit of the central Utah project. This unit of the project has long been in the works, and it is now critical to move it ahead rapidly. The administration has recently completed and sent to the Congress a study of the economic feasibility of the Uintah unit, together with a certification of that feasibility, as required by the original authorizing legislation passed in 1968.

The unit was authorized in 1968, but due to a technical defect in the language of that act, no specific authorization of appropriation was included. The bill Senator Moss and I are introducing today is designed to remedy that defect.

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This unit is particularly important to the Ute Indian Tribe, since it will constitute the first major benefit to the tribe from the central Utah project. It is well known in Utah that development of water rights must take place in a cooperative manner. The Uintah unit is the best example of the partnership that does exist, and must if the needs of all Utahans, Indian and non-Indian, are to be met.

By Mr. DOLE (for himself, Mr. KENNEDY, Mr. PELL, and Mr. SYMINGTON):

S.J. Res. 192. A joint resolution clarifying the implementation of section 403(1) of the Congressional Budget Act of 1974; to require estimation of costs incurred by State and local governments as a result of proposed legislation. Referred to the Committee on Government Operations.

Mr. DOLE. Mr. President, it is the task of the Congressional Budget Office as charged by section 403 of the Budget Act to prepare an estimate of the costs incurred for 5 fiscal years by any bills or resolutions of a public character reported by any committee of the House of Representatives or the Senate. However, what costs are to be estimated is not clearly specified. It is the opinion of the Senator from Kansas that all costs associated with any proposed legislation should be identified in order that there is no miscalculation of the net benefit to society to be derived from such legislation. As section 403 of the Budget Act is now being implemented, only the budgetary costs directly incurred by the Federal Government are being estimated. The result of this interpretation is to render an incomplete accounting of the effects of proposed legislation, which then has correspondingly distorting effects on considerations of the proposals.

Part of the problem lies in the failure to fully estimate the costs—and benefits—imposed on the private economy. The Senator from Kansas has already introduced legislation designed to produce such estimates. S. 2516, which is being considered in conjunction with related proposals by the Government Operations Committee, would require more thorough congressional oversight of Government programs which would include a broad cost-benefit type of economic analysis.

I would note that just this year the legislature of the State of Kansas has approved a law which addresses the same problems. State agencies will be required to provide a statement of the affects of administrative decisions on private individuals and companies as well as on local governments. This action is indicative of the fact that people are demanding that the Government be more conscious of the effects of their decisions.

Another part of the problem lies with the neglecting of the effects of legislation on the States and localities. The costs incurred by States and localities include the measures that would be required to obtain State or local funds for matching grant provisions as well as the administrative costs incurred in order for the States and localities to execute the proposed legislation. The imposition of these costs upon the States and localities can lead to many unanticipated and unintended results. For example, the budget director of the State of Kansas has cited several instances—and indicated there are many more—where Federal action has imposed such costs than had these costs been anticipated, the Federal legislation might have been defeated and almost surely would have been altered. One of these is the Federal water quality standards for point source pollution. This has imposed enormous costs on municipalities.

The areas of income maintenance and medical payments provide examples of instances in which the State and local role is substantial. Of the $8.6 billion in total payments in 1975 under aid to families with dependent children, $4 billion, almost half, was supplied by State and local governments. Of the $13 billion in medicaid payments for the same period, $6.3 billion, again almost half of all funding was provided by States and localities. From these examples, it is clear that there exist Federal programs that impose a significant burden on State and local governments; indeed, in these cases, a burden of a size nearly equal to the costs borne by the Federal Government. The burden involves the funding of both benefit payments and administrative costs. Failure of the Congress to specifically require such estimates by the Congressional Budget Office and to take such costs into account when considering the costs of proposed legislation leads to a miscalculation of their impact. It results in an inaccurate appraisal of legislative proposals and possibly misguided enactment of legislation by Congress.

Some states are well ahead of the Federal Government in recognizing the responsibility of legislators to take full account of the likely consequences of their actions. For example, since 1971, the State of Kansas has required a "local fiscal note" on any legislation considered by the State legislature. This fiscal note includes an estimate of the cost which would be imposed on local governments by prospective State laws. Prior to 1971 only a "State fiscal note" had been required. According to the State budget director, these estimates are frequently very crude, but they at least serve to identify the nature of costs imposed and to notify legislators and local governments of these effects. The resolution proposed today by the Senator from Kansas would do much the same at the Federal level, and would make Federal legislation more sensitive to State and local government effects.

In order to improve upon the present situation, the Senator from Kansas today proposes a resolution to clarify the intent of section 403 of the Budget and Impoundment Control Act of 1974. In addition to estimating the costs to the Federal Government for the 5 fiscal years following enactment, involved in carrying out any bill or resolution of a public character reported by any committee of the House of Representatives or the Senate, the Director of the Congressional Budget Office should also prepare an estimate of the costs that would be incurred by the States, and localities. This would include the changes in State and local expenditures that would be necessary to match Federal grants and to administer Federal programs.

The Congressional Budget Office is now more than a year old and has developed a commendable expertise in legislative and economic analysis. The cost estimates required by this resolution are well within their expertise and manpower capabilities. The CBO is not now providing these estimates for lack of a clear mandate to do so. This resolution provides that mandate.

The resolution proposes a January 1, 1977 effective date in consideration of the burden that would be imposed by immediate implementation. There are many legislative proposals that would require immediate analysis. I would like to make clear for the record, however, my expectation that the Congressional Budget Office would accommodate to the maximum extent possible any special request for such cost estimates on legislation of major importance during the rest of this session.

In deriving their estimates, I would urge the CBO to solicit input from the National Association of State Budget Officers, an arm of the National Governors Conference, and other groups representative of State and local government units. The data and expertise these groups can offer could be a helpful input to CBO experts in arriving at realistic cost estimates.

It is the intent of this resolution that these estimates of effect on States and localities need only be done in the cases of those bills or resolutions which would have a direct effect on State and local expenditures by requiring State or local actions through matching Federal funds or administering Federal programs. Included in these estimates should be any offsetting benefits to States and localities associated with proposed Federal legislation which would parallel and thus reduce the need for programs now run individually by States or localities.

False accounting of the consequences of legislation may lead to serious mistakes in public policy. The Nation is not well served by legislation which appears to bring many benefits relative to costs borne by the Federal Government while causing great damage to State and local budgets. The omission of effects upon State and local government and of resulting effects on citizens due to changes in State and local taxes and expenditures leaves the objectives of section 403 of the Budget and Impoundment Control Act unfulfilled. The Senator from Kansas believes that adoption of this resolution will do much to correct this situation.

By Mr. CULVER (for himself, Mr. PELL, Mr. SYMINGTON, and Mr. KENNEDY):

S.J. Res. 193. A joint resolution to temporarily suspend construction in the Indian Ocean area. Referred to the Committee on Foreign Relations.

(The remarks of Mr. CULVER on Diego Garcia are printed earlier in today's RECORD.)

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 61

At the request of Mr. PEARSON, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 61 a bill to establish a commission to study and appraise the organization and operation of the executive branch of the Federal Government.

S. 104

At the request of Mr. INOUYE, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 104, a bill to amend the Social Security Act.

S. 1173

At the request of Mr. CURTIS, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 1173, a bill relating to exemption for purposes of the Federal estate tax.

S. 1379

At the request of Mr. FANNIN, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 1379, a bill to amend the Internal Revenue Code of 1954 to provide for tax credits for certain applications of solar energy equipment, and for other purposes.

S. 2475

At the request of Mr. HUGH SCOTT, the Senator from New Jersey (Mr. CASE), the Senator from Nevada (Mr. LAXALT), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Utah (Mr. Moss) were added as cosponsors of S. 2475, to modify the distribution requirements of private foundations under the Internal Revenue Code.

S. 2475

At the request of Mr. CURTIS, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 2475, a bill to modify the distribution requirements of private foundations under section 4942 of the Internal Revenue Code.

S. 3145

At the request of Mr. METCALF, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of S. 3145, the Energy Conservation Research and Development Act of 1976.

S. 3182

At the request of Mr. TAFT, the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 3182, a bill to amend the Occupational Safety and Health Act of 1970 to provide consultation and education to employers, and for other purposes.

S. 3254

At the request of Mr. INOUYE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 3254, to amend the act to encourage domestic travel.

S. 3316

At the request of Mr. DOLE, the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CLARK), the Senator from Michigan (Mr. GRIFFIN), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Pennsylvania (Mr. HUGH SCOTT) were added as cosponsors of S. 3316, a bill to provide income tax incentives for the modification of certain facilities and vehicles so as to remove architectural and transportational barriers to the handicapped and elderly.

S. 3336

At the request of Mr. HARRY F. BYRD, JR., the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3336, the Federal Program Control Act.

S. 3361

At the request of Mr. PEARSON, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 3361, a bill to provide for the striking of medals commemorating the American Indian heritage.

SENATE JOINT RESOLUTION 45

At the request of Mr. INOUYE, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of Senate Joint Resolution 45, the Municipal Clerk's Week proposal.

SENATE RESOLUTION 440—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 440

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Edward P. Ferreter, widower of Eileen F. Ferreter, an employee of the Senate at the time of her death, a sum equal to 5 months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 441—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 441

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ann G. O'Neil, daughter of Dorothy K. O'Neil, an employee of the Senate at the time of her death, a sum equal to one years' compensation at the rate she was receiving by law as the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 442—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 442

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Clarence Orton, Administrator of the Estate of Charlotte Orton, an employee of the Senate at the time of her death, a sum equal to one years' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 443—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES 443

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate, to

Marcia C. Washington; Carolyn J. Crutchfield and Joan E. Crutchfield, great-nieces and Lindon N. Crutchfield; great-nephew of Nettie I. Johnson, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of her death, a sum to each equal to one and one-half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 444—ORIGINAL RESOLUTION REPORTED RELATING TO CESSATION OF LOANS FOR PALM OIL PRODUCTION

Mr. TALMADGE, from the Committee on Agriculture and Forestry, reported the following original resolution, which was placed on the calendar:

S. RES. 444

Whereas the production of soybeans is a major enterprise in agriculture and important to the national economy of the United States; and

Whereas cash receipts to farmers from the sale of oilseed crops in the United States in 1975 totaled $8 billion, second only to grains as a cash crop; and

Whereas the production of vegetable oil in the United States is mostly from soybeans and cottonseed, which together accounted for nearly 90 percent of our total vegetable oil production in 1975; and

Whereas soybean and cottonseed are joint products—one being oil and the other meal; and

Whereas the continued production of meal and cake produced from U.S. oilseeds is extremely important to livestock producers; and

Whereas the continued production of soybeans and cotton are essential to the welfare of American agriculture and the needs of American consumers; and

Whereas any threat to the continued production of these crops is detrimental to the national welfare; and

Whereas palm oil imports into the United States have increased dramatically in recent years, from 346 million pounds in 1973/74 to an estimated 1 billion pounds in 1975/76; and

Whereas palm oil enters the United States duty free and in unrestricted amounts; and

Whereas the Department of Agriculture estimates that palm oil can be delivered at U.S. ports at about 10 cents per pound; and

Whereas the costs of producing soybeans and cotton have escalated in recent years; and

Whereas the production of palm oil in certain foreign countries has been encouraged and financed by development loans from world development banks, particularly the International Bank for Reconstruction and Development; and

Whereas agricultural development in underdeveloped countries for needed food production internally is essential: Now, therefore, be it

Resolved, That it is the sense of the Senate that the International Bank for Reconstruction and Development direct its loan activities in underdeveloped countries to the production of food and fiber needed internally to alleviate malnutrition and prevent starvation among their peoples and to upgrade the diets of all their citizens, and that the International Bank for Reconstruction and Development should cease further encouragement of palm oil production for export so long as the United States remains the only entirely open major import market for palm oil.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the president of the International Bank for Reconstruction and Development.

AMENDMENTS SUBMITTED FOR PRINTING

JUDICIAL SURVIVORS' ANNUITIES BILL—S. 12

AMENDMENT NO. 1634

(Ordered to be printed and to lie on the table.)

Mr. METCALF. Mr. President, today I am submitting an amendment to S. 12, the judicial survivors' annuities bill. The bill, introduced by Senator MCCLELLAN, has been reported out of the Senate Judiciary Committee. Senator MCCLELLAN and the committee have produced a very good bill. It does much to alleviate problems which have arisen in the judicial survivors' annuities program. Perhaps most importantly the bill as reported would put the program on an actuarily sound basis.

However, Mr. President, I am compelled to submit my amendment because the bill is deficient in one important respect. Benefits under this program have fallen far behind the actual rise in the cost of living. My amendment would correct this glaring error and inequity created by congressional action in 1956 and aggravated by the inflation we have experienced in our economy over the past 20 years. S. 12, as amended by committee, would improve annuity amounts but certainly not to the extent necessary or fair. Annuities would be improved to partially reflect retroactive and prospective cost-of-living increases. Judges would be required to increase contributions from 3 to 4.5 percent and the Federal Government would match this amount.

The bill as reported would provide retroactive cost-of-living increases of 48 percent to a widow who has been covered since 1956. The actual cost of living has increased by 108 percent since that time. The bill as reported would be proportionately more deficient with respect to widows who have begun receiving benefits under the program during the last 10 years. For example, a widow who has been receiving an annuity since 1969 would receive only a 14.4 percent cost-of-living increase while the actual cost of living has increased by 56 percent during that same period.

Under the amendment which I now propose, the current benefits provided under the program would be more closely based on the actual rise in the cost of living since these people were brought into the program at various times since 1956. My amendment would provide no retroactive payments but would adjust current payments to reflect the cost-of-living increase. Mr. President, the shameful fact is that some of the survivors of judges who served on the Federal bench are in a situation now in which they are forced to look to other sources to provide even a subsistence income. This fact compels me to act and I encourage the Senate to act to relieve, to some extent, this dreadful situation. I hope the Senate will demonstrate its concern for the plight of many survivors of our deceased Federal judges and act expeditiously.

I now submit my amendment and I ask unanimous consent that the amendment be printed in the RECORD.

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

AMENDMENT NO. 1634

On page 31, strike out lines 6 through 23, and insert in lieu thereof the following:

"SEC. 5. That on the date upon which this Act becomes effective each annuity then being paid to a widow from the judicial survivors' annuity fund established by section 2 of the Act of August 3, 1956 (70 Stat. 1021), as amended, shall be increased by the same percentages which a surviving spouse's annuity with the same commencing date, being paid from the Civil Service Retirement and Disability Fund under section 8341 of title 5, United States Code, has been increased under section 8340(b) of title 5, United States Code, since that commencing date: *Provided*, That, in applying such percentage increases, every such percentage increase authorized under the Act of October 20, 1969 (Pub. L. No. 91-93, Title II, § 204, 83 Stat. 139) and thereafter shall be reduced by 1 percent before it is applied under this section of this Act. Such funds as are necessary to carry out this section are authorized to be appropriated and, upon appropriation, shall be deposited by the Secretary of the Treasury, in a single payment, to the credit of the 'Judicial Survivors' Annuities Fund' established by section 3 of this Act."

NOTICE OF HEARINGS

Mr. TALMADGE. Mr. President, on behalf of the Senator from Kentucky (Mr. HUDDLESTON), who chairs the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, I wish to announce next week's schedule of hearings before his subcommittee.

At 10 a.m. on Tuesday, May 11, testimony will be heard on S. 1650, an administration bill which would eliminate the maximum on license fees under the Perishable Agricultural Commodities Act. The hearing will be held in the Senate Committee on Agriculture and Forestry hearing room, 322 Russell Senate Office Building.

At 10 a.m. on Wednesday, May 12, testimony will be heard on S. 1985, S. 2610, and H.R. 10339, bills which would authorize the Department of Agriculture to encourage the direct marketing of farm products from farmer to consumer. That hearing also will be held in the committee hearing room, 322 Russell Building.

Persons who wish to testify at either hearing should contact the Hearing Clerk, Senate Agriculture Committee, at (202) 224-2035.

NOTICE OF HEARINGS

Mr. WILLIAMS. Mr. President, on behalf of the Committee on Labor and Public Welfare, I wish to announce joint hearings with the House Committee on Education and Labor, inquiring into the recent disasters at the Scotia Mine in eastern Kentucky.

These joint hearings will be held on Friday, May 7, 1976, in the circuit court room, Letcher County Courthouse, Whitesburg, Ky., and will commence at 8:30 a.m. A second day of hearings is

scheduled for Thursday, May 13, 1976, to be held in Washington, D.C.

Persons wishing to testify or wishing additional information should contact Michael Goldberg, of the Labor Subcommittee staff, room G237, Dirksen Building, telephone 224-4051.

ADDITIONAL STATEMENTS

AMAZING GRACE

Mr. ROBERT C. BYRD. Mr. President, the Morning Herald of Hagerstown, Md., recently carried the story of an outstanding citizen of West Virginia. It is the story of Grace Lintz of Duckwall, W. Va., a small community approximately 5 miles southeast of Berkeley Springs. Mrs. Lintz' home looks out to the east toward Sleepy Creek Mountain and to the west toward Cacapon Mountain—magnificent vistas that are an inspiration to natives of the area as well as to out-of-State visitors who are coming to our State in increasing numbers.

Mrs. Lintz might be called by some people a "country woman" with the implication that such a person is out of touch with the vital concerns of our Nation. Quite the contrary is true. Mrs. Lintz is deeply involved in community activities and enjoys discussing political issues which she follows through the radio and TV broadcasts that bring her the insights and knowledge available to those on the actual scene of world events.

In this Bicentennial Year, I should like to call to the attention of my colleagues the inspiring story of this fine woman as an example to others of the kind of people who have helped to make our country great. "Amazing Grace"—title of the article—is an accurate description of one person, and, also, it is an indication of the quality of life with which the citizens in the mountains of West Virgina feel they are especially blessed.

I ask unanimous consent that the article—"Amazing Grace"—be printed in the RECORD.

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

AMAZING GRACE

(By Mary Weiss)

DUCKWALL, W. VA.—Some jog and touch their toes. Grace Lintz bends over and pulls up weeds.

Some take up meditation and consult their therapists. Grace Lintz snaps beans and grates horseradish root.

Some old folks take an afternoon nap and wait for Sunday. Grace Lintz often sleeps four hours a night and sweeps the church.

At almost 80, Grace Lintz has those things everyone seems to be looking for these days: inner peace, health and good cheer. "But why all the fuss?" her clear eyes and crinkled brow ask. "How else would it be? Why not?"

She fidgets slightly in her rocking chair, pushing away a wisp of straw colored hair, straight and tough like the person underneath. Her hands, still strong and steady, move to smooth her cotton dress, and the apron safety pinned to it at the collar bones.

She jumps up from her rocker with the ease of a grasshopper, bringing this and that: an old tintype photo of her and her six brothers and sisters; a purple-stained recipe for grape jelly from the Ball Blue Book; an address book full of friends and customers from Duckwall to Hagerstown, from Winchester and even Washington and Baltimore.

The tally sheet from the recent Applebutter Festival in nearby Berkeley Springs falls to the floor and she snaps it up like a frog would a fly.

"People can't understand it but it doesn't seem to me like it's too much of a problem," she says of the way she sold $732.40 worth of canned goods at the festival, including 96 gallons of applebutter.

"Let's see. Besides the four kettles of butter, there was the quince jelly and quince jam, the peach jam and the horseradish . . . three cases, I think. There was the dill pickles and relishes and, oh yes, there was the grape and raspberry jelly, the beet pickles, applesauce and . . . I don't know if that takes care of it or not."

Then one mustn't overlook the carrots, beans, bean salad, kraut, tomatoes, dried apples, pears and sour cherries she sells to her special customers, including nearby restaurants and residents.

Her freshly painted white frame house overlooking the Duckwall Church of Christ has two freezers crammed with food. A cellar, a porch and assorted nooks and crannies are also filled with colorful jars of put-up goods.

Under the towels in the bathroom, there's applebutter and canned chicken; over the oil heater in the living room are drying apples; on the back porch are horseradish roots awaiting the grater. Cherry red, grape purple, carrot orange, bean green, quince gold—it's an edible rainbow everywhere you look.

Except the bathtub.

That's full of fabric scraps in assorted boxes . . . brought by a sister from Florida, dropped off by this friend and that; she can't recollect who just now.

She'll use them for her bedcovers . . . the old fashioned tied kind that she sells along with the edibles at festivals or by special order. She weaves them into her schedules whenever she gets a bit of free time.

Bean or bedcover, she stamps out her products at a fast clip, which puzzles many of those who know her. But Grace Lintz was weaned on hard work, and with no one around except two dogs and four cows, there is little distraction or chatter.

The animals belong to her son and daughter-in-law, Warren and Betty, who live in a brick house a hundred yards from her back door. Their three children are grown and gone off, and they both work, leaving behind a quiet panorama of peaceful mountains and fields during the day. Mother and children are close in more than geography, but Grace Lintz clearly values her independence and demonstrates a high degree of self-sufficiency.

"I am sort of a loner. I can't get along too good working with other people," she explains.

But when it comes to help, you don't have to convince her that it's better to give than receive. Seekers of help and advice on country cooking and mountain habits frequently appear at her door. One day she's teaching a young niece to dress chickens and the next she'll be giving out recipes on the phone.

"I've never in my life given anything away that I don't get back twofold," she says.

She leads the way outside into the 35 degree sunshine, putting on her sweater as an afterthought. "I'm used to being outside," she says as the door slams.

"Over here is the church," she gestures with the pride of a pastor. Grace takes care of that too, sweeping it up every week and turning on the heat for the Sunday services she attends without fail. And in the foreground is the fence post she put in, and over there's the garden plot.

Ah, the garden plot.

"I love a good garden just before I get anything out of it. I think that's the happiest time of my life . . . just to see what I can make that piece of ground yield."

And yield it does. "A vegetable is just like anybody else. If it gets the proper attention it will do good and if it don't it won't," she says. Her son plows the acre and she does the rest . . . the planting, cultivating, weeding, and picking. How does she do it?

"The hard way—by hand," she chuckles. "I've done this all my life."

That life began on May 9, 1896 in Hancock, W.Va., just half an hour or so from her present home. She was the seventh child of Catherine Hovermale and her husband Joseph, who died just 15 months later.

"Mother was a very strong person," Grace said, describing how she took over for her husband, selling butter and milk to trains passing through Hancock, Md., just across the Potomac as well as hotels and homes in Hancock and Berkeley Springs. "She never remarried. It might have been a better life if she did, but I am satisfied with the one I have."

"I was a tomboy with my brother Lawrence, and he and I worked on the fields," she reminisced. "Back then they had horses hitched to binders. He'd drive and I'd ride the binder to harvest the wheat. I began when I was very small. I had to. We didn't have everything on the shelves like you people do today," she added without scolding. "It was just our way of life . . . of existing . . . that's all I know about it."

And today? "More power to 'em today," she said. "They will like their way of life just like I liked mine."

She married Tracy Lintz, who worked for the B&O Railroad until the Depression, when "times got hard and he was bumped for older employes," she said. So they bought the land in Duckwall and moved there with son Warren in 1933.

They worked the place together until 1967 when Tracy died. He had been kicked by a horse and refused to go to the doctor, she said.

"You remember the dead but you can't keep them in your mind all the time after they are gone. You've got to have a dividing line in there somewhere.

"When he died I was just down to bare ground . . . no cash," she admitted. "People think I am funny now putting my money back into the property. But when you're old and it starts to go down, you feel bad. What's left will go to my son."

For six years she worked for National Fruit in Winchester preparing fruit for canning during the growing season. "I didn't much care for it, but I'm like anybody else . . . I've got to have money. They paid me for an hour and I gave them an hour's worth of work, that's the way it was," she said.

Hard work is all Grace Lintz has ever known. Even now, at 79, she gets only about four hours of sleep a night during the growing season because there's so much to do.

But she says, "I would hate to try to figure out what I do. I just do whatever a day brings up. I work on the installment plan. I am here and there and yonder and whenever I get tired of one place I go to another. See this horseradish sitting over here? Soon as I get it done I'll go to bedcovers . . ."

Economy and a life of hardship has also taught her to waste nothing Everything is used or recycled: corn cobs go to the dogs; seeds are saved for next year's planting. If there's something she can't use, she gives it away.

But she is aware that everything—including people—eventually wears out.

"Warren and Betty gave me that new set of cookware," she says, pointing to the kitchen. They gave it to her before Christmas, she says, because she needed it and hasn't got too long to be around. "To an old person, life's a gamble. We live from day to day. It don't matter how much money you have we all know we got to die . . .

when we're done we're done," she said matter of factly.

"But I aim to keep busy," she says. "I don't have any time to sit around worrying about aches and pains . . . worrying is worse than sickness."

CINCO DE MAYO

Mr. FANNIN. Mr. President, the 5th of May is a very important day for the people of Mexico and for Americans of Mexican heritage. Celebrations are held annually on this date in Mexico and in the Mexican-American communities north of the border. Many Arizona cities and towns take part in the festivities of this day.

It was on this day in 1862 that a small volunteer force of Mexican patriots under Gen. Ignacio Zaragoza defeated a superior French army at the town of Puebla. The victory did not have a great deal of military significance although it did delay the French capture of Mexico City. Even though the French were able eventually to establish a monarchy in Mexico the battle of Cinco de Mayo was significant because it provided the Mexican people with the inspiration which enabled them to carry on the struggle to reclaim independence.

Cinco de Mayo is important not only as a military victory, but as a victory of the human spirit over all military odds. I congratulate the Mexican people on this anniversary of a very significant day in their history.

JACK THE WRAPPER

Mr. GRIFFIN. Mr. President, after 40 years of service to the Senate, Jack Virnstein, affectionately referred to as Jack the Wrapper, retired last Friday, April 30.

Jack is a man who took great pride in his work. He distinguished himself with superior service to each senatorial office down through the years.

Another title—that of "Poet Laureate of Capitol Hill"—was bestowed on Jack by Senate staffers in recognition of the many poems he composed. Jack's creed for living is well expressed by a prolific writer, Edward Everett Hale, who said:

To look up and not down,
To look forward and not back,
To look out and not in, and
To lend a hand.

Jack has many friends among my colleagues, their wives and staff. We all wish him Godspeed in his well-deserved retirement years.

Mr. President, I ask that an article written by Barbara Bergston which appeared in the May 6 issue of Roll Call, be printed in the RECORD.

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

JACK WRAPS IT UP

(By Barbara S. Bengtson)

"Just lay it on the counter and I'll take care of it."

With those words, Jack "the Wrapper" Virnstein took care of requests from them all—Senators, Senators' wives, Senators' secretaries, interns, anybody else from the Senate who had a package to get wrapped. But no more! Jack is retiring on April 30. He left the building on Friday, March 12, in an ambulance. Now, his doctors do not want him to return.

To many, Jack never had a last name. When you are an institution you don't need a last name—just a place. Jack's last Wrapping Room was in the basement of the Dirksen Senate Office Building near the subway.

Signs all over the room bore examples of Jack's sense of humor: "Old Wrappers Never Die, they just get sick of their work", "Old bookkeepers never die, they just lose their balance", "It's not the ups and downs that bother me—it's the jerks", "Before you louse it up—THINK!", "Please don't make a fuss over me, just treat me exactly as you would any other brilliant person", "Alexander Graham Bell had hang ups", "I'm a Cracker Jack", "If no one claims me in 30 days, I'm yours", and "There are strings attached to my work".

The photos on the walls "speak" of days gone by—Senator Maurine Neuberger, the "Lovely Lil" (Lillian Menne Alvey) taken with Senator Richard Nixon, and many photos of Marie McDonald (the WWDC 1260 traffic helicopter girl who was killed in a crash on September 1, 1966). Photos of Senator James Allen, Senator William Proxmire, Senator Hubert Humphrey, and Senator Allen's wife, Maryon, hang side by side. Mrs. Allen inscribed, "To my dear friend, Jack the Wrapper, from a devoted fan". There is a photo of the late Senator Everett Dirksen and the late Chaplain of the Senate, Dr. Frederick Brown Harris which says, "To my good friend, Jack, a dedicated American, our Poet Laureate, who holds forth in his workshop in our Old Senate Office Building—and by his genial helpfulness has more friends than the packages he so skillfully wraps", written by Dr. Harris.

The Poet Laureate title was bestowed on Jack by his Senate colleagues after many of his poems appeared in print. "Miss Inspiration" was published in 1955 in Roll Call kicking off the beauty contest for "Miss Capitol Hill". Jack's poem's have appeared in magazines—"Trinity" and "Ideals" as well as local newspapers, including "The Washington Star". Jack has written some 80 poems. He dreamed of having them published in booklet form—but this ambition has not been realized. And Jack has been the subject of several articles written about Capitol Hill, with requests for many interviews which he declined.

On August 7, 1936, a very young Jack started to work in the Folding Room (now 140 to 148 Russell Senate Office Building—Senator John Tower's office). He inserted materials into envelopes by hand. It was called "piece work." The pay was $1 a thousand. Sometimes on a rush job, he worked all night long. Then he would trek back on foot the 55 blocks to his home that he had trod in the morning. (You probably know there are approximately ten city blocks to a mile.) There was not enough money to buy a car or ride a bus. Through the rain, the sleet, the heat of Washington, it was all the same. If it was a good year, he'd make $800—and that was more than any of the other fourteen employees in the Folding Room made. Jack worked harder and was a faster inserter. One month, he recalls, he only made 50 cents—no Senators had any work to send out. Sometimes he would get lucky and could hand-address envelopes at home at $2 per thousand. "But there weren't many of those jobs." Senator Estes Kefauver sent out 25,000 Christmas cards through Jack. "Those were good days when I got to do a job like that at home."

Jack has wrapped for three Senators who became President—Kennedy, Johnson and Nixon. Once he made a box with holes for Vice President Nixon to transport two kittens by air. On another occasion he wrapped the suit Nixon was wearing when he was spit upon in South America. Another famous personality utilizing Jack's services was an Inquiring Photographer named Jackie Bouvier who later married Senator John Kennedy, and then became First Lady. Rufus Emmisten (Senator Sam Ervin of North Carolina) now Attorney General of North Carolina was another habitue of Jack's Shop.

Lady Bird Johnson, while her husband was Vice President, was President of the Senate Wives Red Cross. She, personally, placed the orders with Jack for ceramic coffee cups which the Ladies used every Tuesday at their meetings. The cups bore an elephant or donkey and carried a first and last name and "Ladies of the Senate." They were done in red, white and blue. After a time the cups were no longer available for Jack to paint and decorate, so that enterprise came to an end.

Nice people do nice things for Jack. Senator Abe Ribicoff's wife baked him some chocolate chip cookies, Senator Allen's wife invited him to lunch with her and the Senator. At Christmas time he received beautiful thank you notes from Senators, and presents from a few regularly.

But Senator "Pete" Williams did the best deed of all. Some years back, the Architect's office was planting trees on the Senate grounds. At one particular spot at 1st and C, NE, next to the loading platform, a gardener began to dig a hole. Senator Williams chanced by just in time and told him, "You can't plant a tree there—that's where Jack the Wrapper sits to eat his lunch every day." So, no tree was planted in that spot—it was placed several feet away.

We all shall miss this kindly man who wrapped packages so beautifully that they arrived as far away as Switzerland in tip-top shape. He took pride in his work.

Jack performed deeds for people from the heart. The kind of deeds that money couldn't buy. You see. I know. One winter's day, it had snowed continuously. That evening after working very late, I made my way to the Senate parking lot, dreading the prospect of shoveling the snow off my car and scraping the ice from the windshield. But there stood my car on the empty lot, all cleaned off, and the temperature inside raised several degrees because some nice guy "ran the motor to take the chill off" and left a note on the car seat that said, "Hey, Kid—I knew you had to work late, so I cleaned your car."

We could all take lessons in kindness from Jack. And we also know wherever he was, the world was a better place because he happened along. Someone will fill your job, Jack, but nobody can ever take your place.

From the pen of the Senate's Poet Laureate came this paean to friendship.

"True friendship is a lovely jewel
Too beautiful to destroy;
"Yet an unkind word can shatter it
And crash life's greatest joy;
"So if there is misunderstanding,
Shake hands today, my friend;
"For friendship, love and kindness
Are all that matter in the end."

He lived it like he wrote it.

"So long, Kid . . . see you around."

LOCKS AND DAM NO. 26

Mr. NELSON. Mr. President, the February 1976 issue of Reader's Digest contains an excellent article on the Corps of Engineers' proposed replacement of locks and dam No. 26 at Alton, Ill.

The article entitled "Big Dam Decision at Alton," does a fine job in explaining a most complicated issue. At stake here, contrary to previous public statements by the corps, is a multibillion public works program whose adverse en-

vironmental and economic impacts could be considerable.

National economic, national transportation, and national environmental policies are all involved with this issue. I believe before the Congress authorizes the replacement on repair of the existing structure, additional economic and environmental studies that have been recommended by the U.S. Department of Transportation and the U.S. Fish and Wildlife Service should be performed.

Mr. President, I ask unanimous consent that the text of the Reader's Digest article, "Big Dam Decision at Alton," and an exchange of letters between the corps and the managing editor of the Digest be printed in the RECORD.

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

BIG DAM DECISION AT ALTON

(By James Nathon Miller)

A deceptively quite battle is now being waged over the building of a dam across the Mississippi River near St. Louis. On the surface, it seems a typical conservation fight between the pro-dam U.S. Army Corps of Engineers and the anti-dam Sierra Club and Izaak Walton League. Just below the surface, however, are two nationally significant issues that have nothing to do with conservation: an attempt by one of Washington's toughest lobbies to pull a *multibillion*-dollar ripoff of the U.S. taxpayer, and a far-reaching Congressional decision on the future of the U.S. transportation system.

Actually, it's not the dam itself that has aroused the conservationists, but the very peculiar design of its two barge locks. To understand why, first take a look at the U.S. barge industry—and, specifically, at how it meshes with the other main gears of the U.S. transportation industry.

The basic fact about these gears is that they do *not* mesh. Because each of our major modes of transportation came on the scene at a different time, Congress never managed to deal with them all as a whole. Instead, it simply took them in the order of their arrival and stuck each mode into whatever government pigeonhole seemed appropriate at the time.

First were the rivers, whose main need in the early days was for engineers who would keep them clear of snags; in 1824, Congress gave the snag-clearing job to the Army. Later, it created the Interstate Commerce Commission to keep watch over the railroads, the Bureau of Public Roads to supervise highway building, the Civil Aeronautics Board to regulate the airlines, and the Federal Power Commission to supervise the transportation of gas by pipeline.

THE SWEETEST DEAL

What it all finally added up to was not a transportation system but a non-system, a tangle of competitive industries governed by conflicting rates, routes and subsidies. In 1966, Congress tried to untangle the mess by putting the scattered executive agencies dealing with transportation into a single Department of Transportation, where they could all fight each other under the same umbrella. But even this mild structural reform had a gaping hole, caused by the refusal of one of the main transportation arms—the barges—to come in under the umbrella.

The reason the barge people refused was simple: they did not want to risk giving up one of the sweetest deals any U.S. industry has ever managed to squeeze out of the government. The deal was this:

In the Depression years of the 1930s, Congress decided to go into the canal-building business on a massive scale. Its aim was to create jobs and to develop competition for the railroads, which in those days were still much-feared giants of transportation. The Corps of Engineers was given the task of building the canals, and the result was one of the most monumental construction projects in history. Today that system covers 25,543 miles; built at today's prices, it would cost perhaps as much as $20 billion.

What makes this deal so sweet to the barge people is that the entire canal system—the building of it, the maintenance of it, the operation of its locks and signaling systems—is provided to them free as a gift of Congress. Barges are the only transportation mode whose right-of-way is 100-percent built and operated at taxpayer expense.

GIVERS AND TAKERS

For years economists have denounced this subsidy (which comes to more than $300 million a year), and every President since Franklin Roosevelt has tried to get Congress to force the barges to pay at least part of the canal costs. But each one has run into a stone wall: the waterway lobby, which exerts its influence through the powerful Corps of Engineers.

What makes the Corps so powerful is the power of the two groups it serves. On the one hand, it acts as adviser to Congress on the appropriations that are dearest to Congress's heart—its annual $2 billion in pork-barrel money. On the other hand, in its role as chief promoter and justifier of waterway projects, the Corps acts as the major pleader in Congress for a vast combine of heavy-construction companies, barge lines, barge-owning coal, oil and grain companies, and the chambers of commerce of hundreds of river-valley and coastal communities. It's this dual role—adviser to the givers and lobbyist for the takers—that makes the Corps a unique, virtually unassailable institution in Washington.

PECULIAR DISCOVERIES

Which brings us to the controversy over the dam on the Mississippi. In 1970, Congress approved a Corps request for $350,000 to draw up plans for repairing an old 1930s' dam at Alton, Ill., about 15 miles north of St. Louis. It was just an obscure item—a fraction of a percent of the Corps' 1970 budget—and at first nobody paid any attention to it. But then some outsiders began probing into the reason for the Corps' interest in Alton—and they discovered a fantastic scheme for sneaking a multibillion-dollar project through Congress without Congress's even knowing about it. Here is how they discovered the attempt:

During the canal-building splurge of the 1930s, one of the Corps' biggest jobs had been to convert the Upper Mississippi into a 29-step staircase of lakes that stretched some 670 miles from St. Louis to Minneapolis. Each lake was created by building a dam across the river, which backed up water and formed a long, shallow pool. Each pool had a nine-foot-deep channel running down its middle, and each dam was provided with a lock, or locks, for raising and lowering barges.

Although the system had been designed to last for 50 years, in the late 1960s the Corps decided that the 30-year-old dam at Alton should be scrapped and replaced by a new one two miles downstream, at a cost of about $400 million. At this point the conservationists began to get concerned. What worried them was the possibility that the new dams might increase the enormous damage that the old ones had already done to the Upper Mississippi.

In the 1930s, when the free-flowing river was converted into a series of lakes by the original dams, its current had slowed and the lakes had become great entrapment basins for millions of tons of sand that had previously washed downstream. To keep the channel from plugging up, each year Corps dredges sucked three million tons of sand from its bottom and dumped it along the channel's edges, forming levee-like mounds up to 30 feet high on either side of the mid-stream corridor. Slowly, these barriers began to block off the river's flow from the surrounding water, encouraging the growth in the sidewaters of thousands of acres of rooted aquatic plants.

Today, that growth is so thick in large areas that not even a canoe can penetrate it. Indeed, the Upper Mississippi is eutrophying—that is, starting the aging-and-dying process that eventually fills in and kills every lake in the world. At the present rate, according to Du Wayne Gebken, a Wisconsin State biologist, in 50 years the present open water will be marsh, and the present marsh will be land; the Mississippi will have become, literally, a barge canal.

How could such a massive process be affected by the mere replacement of an old dam by a new one at Alton? This brings us, finally, to the design of the locks. Investigating the Alton project, the conservationists made two very peculiar discoveries. First, where the present dam consists of one 600-foot lock and one 360-footer, the proposed new dam is to have two 1200-foot locks. Even more peculiar, the new locks are to be deep enough to take barges of 11½-foot draft—30-percent deeper than can be accommodated by the system's nine-foot channel. Yet the Engineers say they have no plans for dredging the channel any deeper. Then why, the conservationists asked, inject into a 29-dam system one freak set of locks that were twice as long and three feet deeper than all the ones upstream from it?

LEGAL LOOPHOLES

The Corps had answers. Why double-length locks? Delays at Dam 26 are so bad that they're already costing barge operators $165,000 a month in waiting time. Why a 12-foot-deep lock in a 9-foot-deep channel? Ice in the river; it can build up such a thick coating on barge hulls that the extra depth is needed to prevent them from scraping the lock bottoms.

But the conservationists were convinced the Engineers were hiding something. And, sure enough, in searching through the Corps' history they came across a most revealing document—a 20-year-old report about a Corps project on a different river, the Ohio. Here's what the report revealed:

In the early 1950s, at the urging of barge operators, the Corps had decided that it was time to start enlarging the already-existing Ohio River canal. But it faced a serious legal obstacle. When Congress originally authorized the Ohio Canal, it specified 600-foot locks and a nine-foot channel. There was nothing in the law saying the Corps could go beyond these dimensions.

But there was a loophole. Buried in an old 1909 Rivers and Harbors Act was a provision stating that, if a specific dam was in urgent need of repair to keep traffic flowing, the Corps could go ahead with the necessary work without special authorization from Congress. All it had to do was give Congress what a Corps document calls "an advisory-type letter," and Congress would give its approval. So, in the 1950s and '60s, using the ancient emergency-repair statute, the Engineers began replacing the dams on the Ohio—and in the process they equipped each new dam with a 1200-foot-long lock deep enough for 12-foot-draft barges. Today, with the Ohio lock enlargements still only 70 percent finished, the "repair" bill already totals an astronomical one-billion-plus dollars—even though Congress has never authorized a larger canal.

What bearing does all this have on the dam at Alton? That one, too, was proposed under the 1909 law. Despite its enormous

size and the fact that it's clearly a brand-new dam, with totally different locks, the Corps insisted that it was merely an urgently needed "reconstruction" of the old one. Not only that, but the Corps was planning to do the same thing on the dams upstream from Alton. This is indicated by another document the anti-dam lawyers turned up in their search through the Corps' records: a schedule showing that, starting in 1978, the next 12 dams upstream will, one by one, experience the same kind of congestion and come to need the same kind of "reconstruction."

"UNWORTHY OF BELIEF"

The whole thing seems almost too daring to believe. Could the Engineers actually be planning to build a 12-foot channel northward from St. Louis to Minneapolis, with almost four times the capacity of the old canal, at a cost of anywhere from $4 to $10 billion—all on the basis of "advisory-type letters," without any sign from Congress that the country wants a new canal? Both the bargemen and the Corps deny it. Says Corps Maj. Gen. J. W. Morris, "The construction of the locks and dam at Alton is not a commitment to a 12-foot channel on the Upper Mississippi."

But by mid-1974 the anti-dam lawyers were pretty sure they could prove otherwise. That August, when Congress voted to give the Corps $22 million to start construction at Alton, the conservationists joined forces with the canal-hating Western Railroad Association and brought suit in federal court to stop it. A month later, federal judge Charles Richey issued his decision. In acid language ("unworthy of belief," "not only unpalatable but also erroneous," "the record is replete with contrary indications"), he flatly rejected the Corps' explanation of the project. The decision to expand Alton's capacity, he said, "is, in essence, the decision to expand the capacity of the entire system." He enjoined the Corps from starting construction until it had applied for and received specific Congressional authorization to build the new dam.

As this article goes to press, the Engineers say they are making their own "independent review" of the project, preparatory to asking Congress for specific authorization. Assuming that this review does not disavow the Corps' own past claims about the crucial need for bigger locks, Congress will soon have to decide whether to spend $400 million to give the barge operators a new dam at Alton. Here are the vital questions it must answer before it votes:

Are larger locks really needed? Not according to a recent Department of Transportation study, which says the railroads, "given modest additional investment," can handle whatever freight the locks can't.

If the waterway is enlarged, who should pay for it? The taxpayers? The barge operators? Congress must soon begin serious debate on this question.

Would a larger canal be environmentally harmful? Given the harm the present one is causing, the answer seems to be obvious.

Why do Army generals have such a decisive voice in setting the nation's civilian transportation policies? This is the fundamental question raised by the uproar at Alton, and the answer is simple: Because in 1824 those snags in America's rivers needed clearing, and the Army got the job.

Clearly, the big decision at Alton involves more than the future of the Mississippi River. It involves as well the future of the central mechanism of the American economy—our national transportation network. That's why it's high time for Congress to take a thoughtful look back at the history of how this network developed—and at how it can be freed from the chaos caused by all those pigeonholes that were created along the way, like the Corps of Engineers.

DEPARTMENT OF THE ARMY,
Washington, D.C., February 17, 1976.

Mr. HOBART LEWIS,
Chairman and Editor-in-Chief,
Reader's Digest,
Pleasantville, N.Y.

DEAR MR. LEWIS: I am concerned that the article "Big Dam Decision at Alton" in the February issue of Reader's Digest misstates certain points and oversimplifies other features of a very complex issue to the point of leading your readers away from the fundamental problem which now exists at Alton, Illinois.

The accompanying fact sheet addresses the several inaccuracies relating to the public record. Much of the article's focus was on the procedural aspects of project approval. The processes by which we study and present our recommendations to the Congress are well established and well known. All phases of our programs and projects annually require Congressional approval and funding to proceed. The Corps of Engineers' use of the discretionary authority of the Secretary of the Army under the 1909 Rivers and Harbors Act to modernize the Ohio River navigation system and its proposal to use the same authority for the replacement of Locks and Dams 26 on the Mississippi was done publicly, in good faith and with the full knowledge and concurrence of the Congress. That this was accomplished "without Congress ever knowing about it" not only is incorrect, but impossible.

I believe the American public deserves a balanced view of the many issues involved in this complex case since the ultimate decision will have a major effect nationwide. Having been personally interviewed by the author, I had high hopes that his article would provide such a view. I feel that Mr. Miller acquired sufficient and accurate information to allow him to present not only the needs and problems the planners face but also full range of the alternatives considered and the comparative economic, environmental, engineering, and operational aspects of each. In fact, I suspect that many others will question the objectivity of the article when the only "opportunity for action" offered is to "readers who would like to see this project stopped."

The Corps of Engineers does not minimize the importance of clear statutory authority and full compliance with NEPA. I am confident that the deficiencies noted by the court will be resolved. However, the Reader's Digest article, soliciting opposition to the Locks and Dam 26 project primarily on the basis of these inadequacies, is asking its readers to reach a position on a critical matter with much less than a full and clear picture of the real issues. I feel quite acutely the readers will not understand the very serious physical problem at Alton; namely, the deteriorating condition of a 38-year-old structure and a very inefficient operation at a critical point in our inland waterways system. This problem must be solved and the public deserves the opportunity to evaluate the relative merits of alternate solutions.

The Corps will continue its efforts, through thorough examination of the environmental, economic, and sociological factors, to solve the problem of Alton. I am confident that the solution, when clearly authorized by the Congress, will represent the best possible investment in the public interest.

Sincerely,

J. W. MORRIS,
Major General, USA, Deputy Chief of Engineers.

FACTS ABOUT "BIG DAM DECISION AT ALTON"

READER'S DIGEST: "Are larger locks really needed? Not according to a recent Department of Transportation study, which says the railroads, "given modest additional investment, can handle whatever the locks can't."

FACT: The Department of Transportation (DOT) did not specify what this additional investment would be. The Corps estimated that this would require $5 billion in rolling stock alone. Neither the Corps nor DOT was able to quantify what track costs would be, although, both acknowledged the investment in track, switching and terminal facilities would likely be required. A very important and simplifying assumption was made by the Corps to facilitate its economic analysis that was—that the railroads had sufficient capacity to carry the commerce. By making this assumption, the Corps assumed that the railroads could carry additional tonnage at existing rates or that there would be no increase in rates to haul this incremental traffic. Even with this very conservative assumption, the Corps showed that replacement of Locks and Dam No. 26 was well justified.

READER'S DIGEST: "In 1970 the (Corps of) Engineers asked for, and got, a $350,000 appropriation from Congress to draw up plans for repairing a dam at Alton, Ill., built in the 1930's." "The Corps insisted that it was merely an urgently needed 'reconstruction' of the old one."

FACT: In 1968, the St. Louis District Engineer, Army Corps of Engineers, after a public hearing on May 28, 1968, recommended construction of a new dam and twin 1,200-foot locks approximately two miles downstream of the existing Locks and Dam No. 26, near Alton, Ill., in a report to the Chief of Engineers. In 1970, the Chief of Engineers, after wide distribution and review of the report, asked Congress for $350,000 to begin design of the new dam and twin locks to replace Locks and Dam No. 26.

READER'S DIGEST. ". . . the new locks are deep enough to take barges of 11½ foot draft . . . 30% deeper than can be accommodated by the system's nine-foot channel. Yet the Engineers say they have no plans for dredging the channel any deeper."

FACT. No twelve foot channel has been authorized on the Mississippi above Cairo, Ill., nor is it assumed to exist in the future. River traffic projections are based on a 9 foot, not a 12 foot channel. This includes the design of the sill depth of the replacement alternative. The sill is the concrete ledge that is the bottom of the opening through which tows must pass when entering or leaving the locks. Some have said that the 18 foot sill depth proposed allows 12 foot barges to physically negotiate the new locks and, therefore, the Corps is designing for a 12 foot channel along the entire length of the river without the authorization of the Congress. This is simply not the case. True, a 12 foot barge can physically negotiate the locks during much of the year during ice free conditions. It is also true that the opinions of Army engineers and engineers world-wide have been changing in relatively recent years as to the optimum depth of sills required for a particular depth of barge. The normal iterative process so common in all engineering design may have led to speculation that the Corps has tried to mislead the public. There has been gross failure to recognize that, as design proceeds from rough concept to detailed plans and specifications for construction, modifications are normal as more detailed knowledge and study results become available. Indeed, as late as early 1973 when the Corps was well into the design of Locks and Dam No. 26, the Delft Hydraulic Laboratories in the Netherlands reported on the results of their extensive studies that sill depths of approximately two times the depth of barges provide for greatly increased efficiency in locking. The results of these studies are compatible with the Corps of Engineers' analyses which showed that considerable space between the bottom of the

barges and the sill is required for displaced water to flow out as tows enter the locks. An 18 foot deep sill for 9 foot barges is correct for Locks and Dam No. 26, particularly given the ice build-up on barges that occurs in that reach of the Mississippi River. The depth of Locks No. 26 floor was the result of extensive model testing at the U.S. Army Engineer Waterways Experiment Station for 9 foot draft barges and was established at 25 feet in consideration of filling and emptying times without placing undue stress on barge mooring hawsers and rigging lines. The lock floor depth was later reduced to 21 feet as a cost/benefit trade-off between first costs and operating benefits. Sill and lock depths for 12 foot navigation at that location would be considerably greater. In summary, no 12 foot channel is contemplated and the normal dredging and other maintenance work requirements that have existed for almost 40 years to maintain a 9 foot channel in the upper river will be unchanged with the construction of a replacement for the existing Locks and Dam No. 26.

READER'S DIGEST. "They discovered a fantastic scheme for sneaking a multibillion-dollar project through Congress without Congress's ever knowing about it."

FACT. In June 1969, the Secretary of the Army approved the Locks and Dam No. 26 (Replacement) under the 1909 Act and advised the Public Works and Appropriations Committees Chairmen in both the House and Senate of his action. Congress was made fully aware of the cost of the replacement project through the annual budgetary process. In fact, in Fiscal Years 1970 through 1973, Congress appropriated funds for preconstruction planning for the replacement project and in Fiscal Years 1974 and 1975 funds were appropriated for initiation of construction. The legislative record of these appropriations makes it clear that the funding of Locks and Dam No. 26 in no way commits the Federal Government to improvement of other locks and dams on the Upper Mississippi River.

READER'S DIGEST. "The Corps was planning to do the same thing on the dams upstream. . . ."

FACT. The Corps fully disclosed that other locks in the system would reach capacity in the future. The documentation and analysis of Locks and Dam No. 26, however, clearly shows that replacing such locks is not a precondition for justifying the reconstruction of Locks and Dam No. 26. At the time that these other locks become constraint points and are considered for replacement, they will have to pass the same tests for economic and environmental feasibility as Locks and Dam No. 26.

READER'S DIGEST. "Would a larger canal be environmentally harmful?"

FACT. A larger channel is not at issue. Replacement of Locks and Dam No. 26 does not necessitate a larger canal. It will only require the same maintenance (9 foot channel 300 feet wide) that has gone on for the past forty years.

READER'S DIGEST. "But the conservationists were convinced the Engineers were hiding something. And, sure enough, in searching through the Corps' history they came across a most revealing document—a 20-year-old report about a Corps project on a different river, the Ohio."

FACT. On 1 June 1955, COL John U. Allen, Assistant Chief of Civil Works for Rivers and Harbors, Office, Chief of Engineers, testifying before the committee on appropriations of the U.S. Senate, stated that the Ohio River lock and dam improvement program involved replacement of the 46-dam system with 19 new structures.

Senator Ellender is quoted as saying, "and that program would do away with all of those 600-foot-long locks and have larger ones. . . ."

FACT. "Today we are commencing more than a single dam—we are commencing another in a series of high modern dams—New Cumberland Dam is a new unit of a great project which . . . will engage our energies . . . for the next two decades or so. New Cumberland Lock and Dam is the first of a series of 18 locks and dams to be built over the next twenty years or so. When the series is finished, instead of a 46-dam system we will have 21 large modern structures." (Lt. Gen. S. D. Sturgis, Jr.—Groundbreaking of New Cumberland Dam, Pittsburgh, Pa., 1 November 1955).

FACT. "One year ago, as you know, the breaking of ground for the New Cumberland Dam launched the beginning of a 20-year program for the modernization of the navigation facilities. Since then, Markland and Greenup have both been commenced. This year the Congress appropriated funds for commencement of work on Lock and Dam 41 at Louisville . . ." (Lt. Gen. E. C. Itschner—Ohio Valley Improvement Association, Cincinnati, Ohio, 7 November 1956).

FACT. "McAlpine Lock and Dam is more than half complete. It is one of six such units now being built under the one-billion-dollar program for replacing the original 46 lock-and-dam system on the Ohio with a series of 19 larger, modern structures." (Address by Lt. Gen. E. C. Itschner, Chief of Engineers, to the Mississippi Valley Association, St. Louis, Missouri, 6 February 1961).

READER'S DIGEST. "an attempt . . . to pull a multibillion-dollar ripoff of the U.S. taxpayer."

FACT. In 1974 prices, the estimated cost of Locks and Dam No. 26 was $425 million. As fully disclosed in the Corps' report, additional items in the system already authorized by the Congress totaled approximately $1 billion. The results of these investments is hardly a ripoff, since the alternative is to move the same kinds of commodities by an alternative mode, which would result in higher prices to consumers (for example, one utility company estimated, that without the waterway, electrical rates to their customers would increase 19 percent). Similarly, midwestern farmers would have reduced income because of higher transportation costs on grains which they sell and fertilizers which they import. The failure to maintain an efficient water transportation system on the Upper Mississippi would not be in the public interest.

READER'S DIGEST,
Pleasantville, N.Y., March 15, 1976.

J. W. MORRIS,
Major General, USA, Deputy Chief of Engineers, Department of the Army, Office of the Chief of Engineers, Washington, D.C.

DEAR GENERAL MORRIS: Hobart Lewis has passed on to me your courteous letter and memorandum of February 17, which outlined your criticisms of our article about the Alton dam. While some of your comments deal with matters that were not discussed in the article, I am glad to respond to these as well as to the others, since it gives me the opportunity to provide some additional facts about the controversy that we did not have space for in the article.

I will first deal in some detail with the two important questions to which your memorandum rightly gives the most emphasis: the sill depth of the Alton locks and the history of the Ohio River canal-enlargement project, and then, more briefly, with your other criticisms. (To facilitate reference, I have numbered the "facts" in your memo in the order in which you have presented them, and I have identified the statements in your letter by paragraph number.)

The question of the sill depth. The central question raised by our article is whether the Corps is planning to build a canal capable of taking 12-foot-draft barges on the Upper Mississippi. The reason the sill depth is critical to this question is that in any lock the sill depth is the main limiting factor determining the draft of the barges passing through. In the proposed Corps design of the Alton locks, the sill depth was set at 18 feet, which is far greater than is necessary to take barges designed for the existing nine-foot-deep channel. In 1971 (before there was any opposition to the project), a Corps engineer wrote a technical paper in a professional journal that explained the 18-foot depth as follows: "This will provide a sufficient depth for tows with a 12-foot draft, plus additional clearance for normal operation and for deposits of ice which frequently cling to the bottoms of barges."

In 1973, when the dam was beginning to become controversial, opponents of its construction pointed to this statement (among others) as proof that the Corps was making plans for a 12-foot channel on the Upper Mississippi. But on May 13, 1974, the Corps' St. Louis District office issued a press release that gave a new explanation of the 18-foot depth. "The locks have been designed specifically for a nine-foot-draft operation. . . . The 18-foot sill depth was selected to provide for the draft of the tows and for the accumulation of ice on the bottom of the tows. . . . A nine-foot buildup of ice on the bottom of tows is not unusual in severe winter operations."

However, the dam's opponents were quick to point out that this explanation involved a physical anomaly: the locks were being designed to handle barges of up to 17½ foot draft (8½ feet of barge plus nine feet of ice) while the Corps was claiming that the channel at either end of the locks was to remain only nine feet deep. (There was also a question of whether a barge encumbered by such a large block of ice would be navigable. The Corps has made public no documentation of the occurrence of this phenomenon.) In the last year or so, this anomaly has been widely publicized by opponents of the dam, and the Corps has not been able to come forward with an explanation of how a 17½-foot-draft barge would be able to get out of the locks into the nine-foot channel. (As you undoubtedly recall, this was one of the questions raised by our author in his three-hour interview with you.)

Now, in your present memorandum, you provide a third explanation. While the wording of this section ("Fact" 3) renders its precise meaning somewhat difficult to grasp, it is clear that it denies the 12-foot-channel thesis of the first explanation and drops the nine-foot-block-of-ice thesis of the second. I cannot help but regard as extremely significant and revealing the fact that, in a period of five years, the Corps has issued so many different and mutually contradictory explanations of a straightforward engineering decision.

The question of the Ohio River Canal. Our article said that the Corps has carried out the Ohio canal-enlargement program by using a loophole in a 1909 law that has allowed it to do the enlarging on a dam-by-dam basis without informing Congress that it was planning to build a larger canal, and without authorization from Congress to build one.

If any of these statements were incorrect, I would have expected that in your criticism either you would have denied that the Corps has been engaged in such a program, or you would have provided documents showing that the Corps had informed Congress of the program and had received Congress's authorization for it. Instead, you cite without explanation (other than the heading "FACT") four quotations ("Facts" 7, 8, 9, 10) that make no mention of a canal-enlargement program. One is a remark by a senator that indicates he was aware that the Corps intended to lengthen (but not deepen) the locks. The other three are references to

"modernizing" the locks and dams (nothing is said about lengthening or deepening) that were made by Corps generals at a dam-dedication ceremony in Pittsburgh and at meetings of waterway-lobby groups in St. Louis and Cincinnati.

I presume these quotes represent the strongest documentation of your case that your researchers have been able to find in the Corps' files. If so, I do not feel you have supported the contention in your letter that the Ohio Canal enlargement program has been carried out "with the full knowledge and concurrence of Congress." It seems to me that a passing remark by a single senator, plus three veiled references to an ill-defined project by Corps generals at obscure trade-association meetings far from Washington, constitute a most informal legislative history for a 20-year, $1-billion-plus project.

As to your other criticisms, they seem to me to fall into two main categories: apparent misreadings of our article, and disagreements of fact between the Corps and others who have voiced opinions about the Alton project.

Apparent misreadings. On several important points, you have misunderstood what our article said. For instance:

In your letter (paragraph four) you imply that the Digest misrepresented "the very serious physical problem at Alton." Actually the article accepted at face value the Corps' word for the physical problem and the need to replace the dam. The only question the article raised on this matter was whether, in replacing the dam, the locks should be enlarged.

You have misread the article if you believe (as "Facts" 4 and 11 seem to indicate) that the term "multibillion-dollar ripoff" referred only to the planned construction in the Alton area. I think the article was clear in stating that the Alton project's basic significance was that it represented the beginning of a much larger project on the dams upstream from it. Indeed, this was the basic thrust of the article. (It was also the basic thrust of Judge Richey's findings. As stated in the article, he found that the decision to expand the Alton locks "is, in essence, the decision to expand the entire system.")

A similar misreading of the article is the only possible explanation for your statement ("Fact" 5) that the Digest claimed that enlarging the locks upstream was a "precondition" to justify reconstruction of the Alton dam. This reverses the meaning of what both the article and Judge Richey said; they said that reconstructing the Alton dam was the precondition to justifying the enlargement of the locks upstream.

Disagreements of fact. In a number of your comments you state as fact matters that others have found contrary to fact. For instance:

You say ("Fact" 6) that, in environmental terms, "a larger canal is not at issue." Certainly the environmentalists, who took the Corps to court to prevent the building of a larger canal, would disagree with you on this. So would Judge Richey, who explicitly rejected your claim and ordered the Corps to draw up a new environmental impact statement to evaluate the possible damage that would be caused by an expanded canal system.

You contradict (in "Fact" 1) the Department of Transportation's report on the use of railroads as an alternative to increasing the river's barge capacity; but you give no indication of the basis for your statement that the railroads would have to purchase $5 billion worth of rolling stock. I know of no Corps study that contains this figure, and your public information office has declined to give us its source.

You say in your letter (paragraph 3) that the Corps considered "the full range of alternatives" to the dam, along with "the comparative economic, environmental, engineering and operational aspects of each." But Judge Richey found the opposite to be true: "The defendants have violated NEPA by failing to adequately consider alternatives."

Your letter (paragraph 2) says that it is "impossible" for the Corps to obtain funding for a project without Congressional approval of the project. This is contradicted by a statement by Sen. Mike Gravel, chairman of the Senate Public Works Subcommittee on Water Resources, who said at the subcommittee's February 9, 1976, hearing on the Corps budget: "The problem we have been running into with projects costing hundreds of millions of dollars, such as locks and dam 26, is that the Corps has been initiating such projects without specific Public Works Committee approval." It is also contradictory to Judge Richey's finding that: "The proposed dam has not been authorized by Congress even though Congress has authorized funds for the project."

In fact, Congress itself has given a strong indication that it had been unaware of what it was doing when it first voted, in 1974, to give the Corps the go-ahead on the dam. As you know, that first vote was not on the dam itself; it was on a $4-billion civil-works appropriation bill that contained a $22,000,000 item for the start of construction at Alton. It was this vote that Judge Richey said did not constitute proper authorization, and he ordered that Congress be gven the opportunity to vote on the merits of the dam itself. Nine months later, in May of 1975, Congress had its first chance to vote on whether to authorize the dam. The bill was defeated in the House, 179 to 168. This contrasts with the original "authorization" through the appropriation bill, which had been passed by a margin of 378 to 18. In your interview with our article's author, you said, referring to the 179–168 vote, "Apparently we were not doing what Congress wanted. . . . As soon as the whistle blew on it, we backed down and said we'd go back to Congress and get it straightened out."

Taking your criticism as a whole, I must be frank to tell you that in my opinion it does more to confirm than to refute the validity of our article. In your letter you said the article contained misstatements, oversimplifications and inaccuracies. I do not believe you have supported these charges. On the contrary, I think that what you have demonstrated is that we took an extremely complex subject—one that invites oversimplification, misstatement and obfuscation—and gave our readers a lucid, accurate and responsible account of the issues involved.

If you feel that any of the further facts presented in this letter are inaccurate, I would welcome hearing from you.

Yours truly,

EDWARD T. THOMPSON.

NATIONAL ANTINUCLEAR DAY COMING JUNE 5

Mr. GRAVEL. Mr. President, Albert Einstein once said:

To the village square we must carry the facts of atomic energy.
From there must come America's voice.

Saturday, June 5, is to be a day when that very thing will happen.

On that day, groups in as many as 200 cities throughout the Nation will hold press conferences, lectures, and demonstrations to make Americans aware of the threats that are posed by a nuclear powered economy.

They will demonstrate and explain their own opposition to atomic—fission—energy:

To the unethical accumulation of vast quantities of radioactive wastes, which must be guarded and isolated from the environment for thousands of years;

To the economic threat of ever-increasing centralization of power supplies and of the capital necessary to build nuclear facilities;

To the proliferation of nuclear weapons which will inevitably accompany a worldwide nuclear economy;

To the erosion of civil liberties which seems so likely in the event that plutonium, a deadly poison and a weapons-grade material, becomes a major fuel source.

They will show their fellow Americans that our only effective energy choice in the short run is conservation—and that the best choice in the long run, for economic as well as social reasons, is exploitation of the natural, renewable energy of our Earth, especially solar energy.

"Voices from the Village Square Day" is being organized by the National Intervenors, led by Robert E. Augustine and John M. Blatt.

Mr. President, I ask unanimous consent that the National Intervenors' press release concerning this nationwide event be printed in the RECORD following these remarks. I also ask unanimous consent that the testimony of Dr. John Gofman concerning the threat of low level radioactivity be printed in the RECORD.

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

(See exhibits 1 and 2.)

Mr. GRAVEL. Mr. President, Dr. Gofman, who is professor emeritus of medical physics at the University of California, shows in his testimony that keeping low level radioactive emissions to a satisfactory level would require a virtually perfect record, completely accident free, by the nuclear industry. This is, of course, too much to expect of any industry, and it is certainly not the kind of record the nuclear industry has established so far.

This testimony indicates the real need for a reassessment of the risks and alleged benefits of nuclear power.

My own bill, S. 1826, the Nuclear Power Reappraisal Act, would provide for just such a reassessment. It would require a 5-year study for the Congress by the Office of Technology Assessment. During that period, operating plants would continue to produce power, and plants under construction would continue to be built. But no new construction licenses would be issued. After Congress received the complete OTA study, it would decide whether to allow resumed licensing of nuclear plants.

A companion bill, H.R. 4971 by Representative HAMILTON FISH, is in the House of Representatives.

EXHIBIT 1

VOICES FROM THE VILLAGE SQUARE DAY

On Saturday, June 5, 1976, people all over the country will be gathering to voice their concern about the hazards of nuclear power.

This, the first "Voices From The Village Square Day", is being organized by the National Intervenors, a Washington D.C. based coalition of 156 environmental, health, labor, church, and student groups.

Citizens' groups across the country will be holding meetings, press conferences, and

demonstrations to show their opposition to the rash proliferation of nuclear power plants that is being forced on the American public.

John M. Blatt, the Executive Director of the group says "The people of this country are beginning to realize that they've been had, that their health and well-being are being sacrificed . . ."

As Albert Einstein said; "To the village square we must carry the facts of atomic energy. From there must come America's voice".

Citizens interested in participating in or organizing local activities are urged to contact National Intervenors.

EXHIBIT 2

RADIATION DOSES AND EFFECTS IN A NUCLEAR POWER ECONOMY: MYTHS VS. REALITIES

(By John W. Gofman)

INTRODUCTION

A very wide segment of the public still erroneously believes, after the controversy of the 1969–1972 period over permissible radiation doses, that constructive action has been taken to protect the public against unconscionably high radiation exposure from nuclear power. It is not accidental that the public should be thus deceived into thinking "permissible radiation doses have been lowered 100-fold." Nevertheless, "permissible" doses have not been lowered at all for public exposure from most aspects of the peaceful atom.

Largely for eyewash, the Atomic Energy Commission recommended a few years ago that the "permissible" dose at the fenceline of a "normally-operating" nuclear power plant be reduced from 500 millirems to 5 millirems, obviously a 100-fold reduction. The unsuspecting and unknowledgeable public assumed this meant a lowering overall of the radiation exposure which the developing nuclear industry would be permitted to deliver. Hardly! All other aspects of the industry, including those most likely to deliver appreciable doses of radiation, were not addressed at all by the AEC recommendation.

In 1975, the snoring giant, the Environmental Protection Agency, awoke long enough to make some noises about a broad new look at "permissible" radiation doses from the nuclear fuel cycle. The EPA would perform a Rulemaking on the issue. As of April 1976, the EPA has taken no final action.

If the EPA's Rulemaking document[1] is an indication of how this and future generations shall fare, protected by the EPA instead of the AEC or the defunct Federal Radiation Council, there is indeed small reason for celebration of our environmental protectors in Washington. In announcing its Rulemaking on "permissible" doses, EPA pompously stated:

"These standards [are] to limit radiation doses to the general public and quantities of long-lived radioactive materials in the general environment attributable to planned releases from operations contributing to the generation of electric power through the uranium fuel cycle. These standards are proposed to apply to all operations within the fuel cycle, including the operations of milling, conversion, enrichment, fuel fabrication, light-water cooled reactors, fuel reprocessing, and transportation of radioactive materials in connection with any of these operations."

"At last," thinks the poor unsuspecting member of the public, "some truly definitive action is being taken concerning the radiation exposure standards widely agreed to be unnecessarily high". The phrase "unnecessarily high" is taken from the BEIR Report of the National Academy of Sciences.[2]

But a closer examination of EPA's proposed methods for setting standards indicates that we are dealing with no more than eyewash again, and with an attempt to allay public concern over the safety of commerical nuclear power.

If EPA really intended to assure that some upper limit of potential public injury were to exist, it would have set some such limit as an objective of its Rulemaking procedure, and constructed its new proposed emission and exposure guidelines such that these limits in cancer deaths and genetic deformities and deaths would not be exceeded.

And indeed, the EPA says its goal is to limit "health effects" (in general, a euphemism for "premature death") from nuclear power to a total of 120 "effects" up to the year 2000. So far, so good. But the catch is that this is a limit for normal operations . . . and the entire thrust of the EPA's Rulemaking procedure is to set standards for nuclear power operations which will permit the nuclear industry to deliver to the public virtually any dose it finds convenient for its operations.

Properly, the skeptical person would insist that, "A government agency simply would not be party to such a procedure." Let us therefore examine the EPA proposal for standards.

The EPA proposes that its new standards shall address the normal operation of the uranium fuel cycle, with its planned releases of radioactive poisons. The definitions of "planned releases" and "normal operations" are purposely left vague. It becomes therefore totally doubtful that the expressed goal of limiting public exposure could ever be meaningfully implemented with the proposed EPA guidelines.

Through the simple, and possibly cynical, twisting of the word "planned", a vast loophole is left for the nuclear industry, a loophole which can render the entire Rulemaking a travesty upon its professed goal of limiting public exposure. Who will specify, in the real world, whether releases of radioactivity exceeding the goals are truly planned? If the releases are inconveniently large, one has only to label them "non-normal" or "unplanned", and then no violation of standards will have occurred. That EPA has every intention of permitting such excesses is evidenced by the following direct EPA statement:

"A variance is proposed to permit temporary operation in the presence of unusual operating conditions so as to assure the orderly delivery of power."

And further:

"The proposed standards are designed to govern regulation of the industry under normal operation, and therefore a variance is provided to be exercised by the regulatory agency, to accommodate unusual and temporary conditions of facility operations which deviate from such planned normal operation. This provision is important because the standards, although they can be satisfied with a wide margin at most facilities, are not intended to provide for operating flexibility under unusual operating situations. Unusual conditions have not been addressed by these considerations, which are intended to define currently acceptable levels of normal operation only, and not acceptable levels of unusual operation. It is anticipated that such unusual operation will occur, at some facilities more often than at others, and that every effort will be made to minimize such operation by the regulatory agency." (page 69).

Thus, in its finest hour of generating a masterpiece of bureaucratese-gobbledygook, the EPA has told us, after translation to English, that it proposes to permit the public to receive any dose of radiation the nuclear industry finds it convenient (for itself) to deliver.

And as a gesture on EPA's part that this freedom will not be sorely abused by the nuclear industry, EPA has bared its terrifying regulatory fangs with the statement that "Every effort will be made to minimize such operation by the regulatory agency." Fearsome, indeed, to the nuclear industry.

EPA endeavored to wriggle out of the embarrassment of this "gift" to the nuclear industry (and hazard to people) by saying that the Rulemaking document is not intended to address the "accident" situation. That is no answer at all, for there is a vast potential gap between the "planned release" and the "accident". In this vast gap, a loophole is created by EPA which can create great excesses of public exposure and radioactive contamination of the environment, while all the time the "standards" will have been met—all achieved by the simple definition (or re-definition when convenient) of the words "planned releases".

There is, of course, a fundamental reason for the grossly defective treatment of this issue in the EPA statement. It is clear, from a reading of the EPA document, that EPA has bought the inevitability of an increasingly large nuclear electricity industry. In fact, much of the EPA document on proposed standards-setting reads more like a prospectus for the sale of stock in a growing nuclear industry corporation.

(And the EPA does expect it to grow a lot; on page 8, the EPA states that the nuclear industry is projected to grow to 1,200 gigawatts—or 1,200 of the thousand-megawatt plants—by the year 2000.)

Whenever a regulatory agency begins to grant variances to industry, regulation becomes a meaningless facade. In time, virtually anything is permissible. It is doubtful, to say the least, that regulators can deal effectively with powerful interests whose real philosophy seems to be, "You can always make more people. We have too many now anyway. But dollars are hard to come by."

Certainly the EPA realizes that the long-term experience-base for the new huge (~ 1,000 MWe) nuclear plants is quite inadequate, particularly with respect to aging components, human errors, poor human judgments, and mechanical failures, so that no one really knows what the future operating experience will be. And EPA, clearly, is not about to embarrass the nuclear industry with a set of standards which experience may show to be unworkable.

Thus, a neat solution is achieved (of course having absolutely nothing to do with protection of the public from radiation injury) by preparing to label all untoward future experience as "unusual", "temporary", "not normal".

Besides, it will of course become arguable, once the die is cast, that shutting down nuclear facilities will cause even greater adverse health, economic, and social impacts than the human damage from extra radiation. Given the permission for "variances" plus the public-relations appeal of "not upsetting the health of the economy", it becomes clear that the new EPA standards are largely an exercise in futility with respect to limiting the public's exposure to ionizing radiation.

In summary, by omitting all the "unusual" and "non-normal" operating features, EPA is really saying, in effect, it hasn't the foggiest notion of what real-life radiation doses will occur, nor does it plan to set standards in any meaningful manner with the slightest possibility of inconveniencing the nuclear industry.

BENEFIT VERSUS RISK: THE E.P.A.'S ELASTIC EQUATION

The EPA presumably has done some thinking on the subject of what risks are tolerable for the public, both of this and future generations. At one point, the draft document states:

Footnotes at end of article.

"The standards for environmental burdens of specific long-lived radionuclides are expressed in terms of the quantity of electricity produced in order that society will be assured that the risk which is associated with any long-term environmental burden is incurred only in return for a beneficial product: electrical power."

This is the old benefit: risk balancing, which justifies premeditated random murder of some individuals for an ostensible benefit (electric power) to society.

Whatever the lack of morality of this procedure, it is of interest to examine what goes into the juggling act as the EPA attempts to balance the benefit: risk equation. The EPA document is quite reassuring that we know how to set standards which will make for the acceptable use of nuclear power on a large scale. The EPA is vanishingly thin on evidence for this claim, but it is made nonetheless.

Since EPA has reached that conclusion, it is implied:

(a) EPA can measure the benefit (power).

(b) EPA knows clearly the cost in fatalities (genetic or cancer) for specific permitted levels of radioactive releases.

The latter, however, is not possible. There are great uncertainties, presently beyond scientific resolution, about the real magnitude both of the somatic (cancer) effect and the genetic effect of ionizing radiation.

For example, with respect to fatal cancer production by ionizing radiation, it is known that a period exists, known as the latent period, before the radiation-induced cancers start to appear. This period is of the order of 10 years (maybe as much as 20 years for certain cancers). Thereafter, fatalities occur each year in exposed populations. What is not known is whether the cancers continue to occur for 20 years, 30 years, or for the entire remaining lifespan of members of the irradiated populations.

This uncertainty has very large implications for the total cost in human lives lost to radiation-induced cancer. Thus, by way of illustration, in 1972 the BEIR Committee of the National Academy of Sciences [2] rashly assumed (on no evidence whatever) that for irradiation of infants-in-utero, the cancer-producing effect is over when the child reaches the age of 10 years. In fact, the excess cancer risk may very well exist for such exposed infants for the entire lifespan, rather than for 10 years.

The uncertainty in this one factor, namely, how long the radiation effect lasts, can alter the numbers of expected radiation-induced cancer deaths by ten times.[3] Is it totally coincidental that the BEIR Committee chose to minimize the radiation-induced cancers? The U.S. National Academy of Sciences does not often embarrass government-favored programs.

Even with such major uncertainties on the risk side of the equation, the EPA seems to be assured it has the wisdom to set standards and to weigh benefit and risk. If the cancer effect does turn out to be ten times higher, how will the EPA handle the elastic benefit vs. risk equation? Will electric power suddenly become a "benefit" worth ten times as many cancers?

GENETIC INJURY AND THE RISK-BENEFIT EQUATIONS

There should exist very serious concern in a society about any increase in the genetic mutation burden of humans, either from ionizing radiation or from chemical mutagens. On this issue, the BEIR Subcommittee on Genetic Effects stated, "... the Subcommittee is convinced that any increase in the mutation rate will be harmful to future generations". (p. 49)

The BEIR Committee, in spite of this concern, apparently has bought soothing reassurances that nuclear power development could never provide a serious genetic hazard because the population dose will be so low. We may quote (p. 50, the Genetics Subcommittee BEIR report):

"It also appears to be technologically feasible to develop nuclear power, at least for the near future, with a genetic exposure that is a very small fraction of the natural background, and less than one percent of present radiation guides."

One percent of present guides would be 1.7 millirems per person per year.

The nuclear industry has done a very great deal of propagandizing that it will be fully capable, even with 1,000 huge reactors in operation, of keeping this genetically significant dose not only below a few millirems, but below ½ a millirem. Congressman Mike McCormack, one of the chief national salesmen for nuclear power, recently published an article with this statement: [4]

"Numerous scare stories have been circulated about the radiation impact of a nuclear industry on the general public. But if we assume a thousand nuclear power plants on the line (as may be possible by the year 2000), the average person in the United States will receive the following radiation: 102 millirem per year from natural background, 73 millirem per year from medica X-rays and therapeutic irradiation, *but only 0.4 millirem per year from the operation of all 1,000 nuclear power plants and their supporting activities.*" (Emphasis added).

Incidentally, Mr. McCormack's 0.4 millirem assurance is commonly noted in various governmental projections of the future genetic dose from a fully developed nuclear industry. Even scientists like Nobel Laureate Hans Bethe repeat that claim mindlessly.[5]

All we need to know now is whether there is any truth to these glowing promises to protect the human species from serious genetic degradation.

Reality is a tough master, and as we shall see, reality is already giving the lie to Mr. McCormack's 0.4 millirem projection by a large factor. And this is true even if everything goes perfectly with respect to "planned" or "unplanned" releases. To understand this, we must consider genetic injury a little more closely.

Because humans are in essence free to choose their mates for procreation, there are several ways we can arrive at the equivalent of an average exposure of 0.4 millirem annually. One way is for everyone, of potentially reproductive capability, to receive the average dose.

But the same final effect in genetic injury to the human species would be achieved if ½ the reproductive population received 0.8 millirem, and ½ received none. The average is still 0.4 millirem, and over a period of many generations, the defective genes would be just as widely distributed and would produce as many genetic cripples and deaths as if everyone received the average. The genetic effect is determined totally, for the human species, by the product of the average dose by the number of persons (of reproductive age).

Thus, let us estimate that 100 million persons are of reproductive age in the U.S. population, and let us take Mr. McCormack's estimate of 0.4 millirem per person: $100{,}000{,}000 \times 04 = 40{,}000{,}000$ person-millirems. We have introduced the key unit, "person-millirems".

Now, let us make the rash assumption that members of the public received no dose at all. There would still be a serious introduction of "person-millirems" from the occupational exposure of workers in the nuclear power industry itself, that is, considering only the workers of reproductive age. The genetic effect upon humans from such an introduction of "person-millirems" will be just the same as if everyone were exposed to a smaller dose leading to the same number of "person-millirems".

We have hard data available now concerning the radiation exposure of nuclear power workers, and they are not encouraging.

The Nuclear Regulatory Commission [6] has summarized the experience for all commercial nuclear plants over the period 1969–1974. For this period, the average value was 1,275 person-millirems for every megawatt-year of electric power produced (1 megawatt-year = 8,760,000 kilowatt-hours). The NRC noted that the exposure increased, generally, with age of the plant. This is not surprising since the exposures occur largely in such operations as routine maintenance, special maintenance, and refueling.

As the reactor ages, radioactivities build up in the structures, and hence deliver higher doses during such operations. If every 1,000 reactors are on line, many of them would be in their 15th to 30th year, and the doses pr megawatt-year might be even higher than for 1969–1974. But let us give the nuclear power industry the benefit of the doubt, and assume that our 1,000 plants would be giving just 1,275 person-millirems per megawatt-year per plant.

This means 1,275,000 person-millirems for 1,000 plants for each megawatt-year. But each 1,000-megawatt plant is expected to operate at about 700 megawatts (70% of capacity), and hence produce 700 megawatt-years each year. Therefore the expected occupational exposure is 890,000,000 person-millirems per year, or an average of 8.9 millirems to all 100,000,000 Americans in the productive pool.

The astonishing result is that we will be delivering from the occupational source alone 22 times as much genetically-significant radiation into the population as the 0.4 millirem which Mr. McCormack promises from all aspects of the nuclear power industry.

And as for the hope of the BEIR geneticists of limiting the total dose from nuclear power to 1.7 millirems per year, this one source alone (occupational exposure) would already be giving 5 times that dose.

There is one correction we should consider making. We can assume that only half the workers in the nuclar industry are of reproductive age. Then only half of their total exposure should be counted as genetically significant. That would mean reducing the 890,000,000 person-millirems to 445,000,000 person-millirems. In this case, Mr. McCormack's estimate is false only by 11 times instead of 22.

EPA is embarking upon standards recommendations while uttering assurance that a safe nuclear power industry can be managed. Yet before considering any releases of radioactivity at all, one source—occupational exposure—will deliver to the public at large a genetically significant does several times what is promised for the entire operation of the nuclear industry.

It is self-evident that any releases at all will aggravate these excessive genetically significant doses. Presumably EPA will have to raise again the benefit value of electric power, in its manifold elastic benefit: risk equation.

Professor Homer Ibser has elegantly described the "outcast" status of those exposed at Hiroshima-Nagasaki, with respect to desirability as marriage partners.[7] He may be giving us a preview of how the American public will view nuclear industry workers, when the full genetic implications of occupational exposure sink into the consciousness of the public at large. Nuclear workers could become the modern and future lepers of society.

CARBON-14: THE ARROGANCE OF IGNORANCE

The EPA received its authority for setting environmental radiation standards under the Atomic Energy Act of 1954 as amended, by

Footnotes at end of article.

the President's Reorganization Plan No. 3 (October, 1970). It can be presumed, therefore, that EPA's draft statement concerning plans for setting standards, first announced by Mr. Russell Train on May 10, 1974, reflects the four years of preparation for accepting its responsibility in this area.

EPA gave careful consideration to cost-effectiveness of various measures for reducing the health impacts of radiation, and finally arrived at its recommendations directed toward reduction of the health impact permitted by existing standards (the Federal Radiation Council Guides). The final summary of EPA's expectations for its Rule-making is presented in the following tabulation from the EPA document [1].

For short-lived radioactive materials plus "controllable" long-lived ones

Guidance basis	Health effects through year-2000
Fed. Rad. Council	35,040
Current AEC practice	1,210
EPA Generally Applicable Standards	180

Even without debating whether EPA's assessment of "health effect" is correct, it is obvious from the table that the Federal Radiation Council Guides were, as is now recognized by consensus, hopelessly inadequate.

Surprisingly, the table also reveals that all of EPA's recommendations are directed toward achieving a reduction from 1,210 "health effects" to 180 such effects. This means, in view of the elaborate discussions of cost-effectiveness of the implementation of the proposed EPA standards, that the EPA considered it necessary, for balancing the benefit: risk equation, to reduce the 1,210 "health effects" estimated (by EPA) to result from existing AEC practice. So by the time the Rulemaking was preliminarily announced on May 10, 1974, EPA had designed procedures expected to reduce the "health effects" from 1,210 to 180, as shown in the above table.

Meanwhile, the question of Carbon-14 production in nuclear power plants was under study independently. In August, 1974, Magno and co-workers [8] published their findings that Carbon-14 is an important radionuclide produced in nuclear power plants. Let's quote EPA on this:

"Carbon-14 has only recently been recognized as an effluent of potentially large impact from the fuel cycle, and control methods have not yet been extensively investigated."

Separately, EPA admits that in the first 100 years after the release of Carbon-14 to the environment, it would account for some 12,000 "health effects".

Thus during consideration and planning of what was required to make the nuclear fuel cycle "acceptable", EPA was dealing with effects that turn out to be small compared with those from Carbon-14, which wasn't even known to be a problem at all. How can the EPA now again re-balance the benefit-risk equation with a previously unappreciated hazard many times larger than all those it did consider? Will the benefit of electric power suddenly loom 10 or more fold larger?

Having committed itself to the position that a specified set of procedures (primarily addressed to radionuclides such as Krypton-85 and Tritium) would be required to correct the prior practices to an "acceptable" level, EPA is suddenly faced with Carbon-14, an oversight of the entire nuclear industry up to 1974, and Carbon-14 by itself promises more serious health effects than everything combined which EPA had considered.

How did EPA handle this? Instead of suggesting that possibly the benefit-risk equation can no longer be balanced, EPA simply suggests plowing forward, with the hope that further research might lead to the discovery of some suitable means of coping with the deaths to be caused inevitably by release of Carbon–14. The suggestion of rethinking nuclear power and choosing some other alternative is not even mentioned.

This Carbon–14 episode is a lesson in the arrogance of ignorance. If several years of preparation to cope with the standards-question leave EPA with a new problem larger in scope than all the problems combined which it did consider, what assurance is there that other similar problems do not remain unappreciated?

"NO RADIATION DEATHS CAUSED BY THE COMMERCIAL NUCLEAR POWER INDUSTRY"

A favorite cliché of the proponents of nuclear power is that there have been "no radiation deaths caused by the nuclear power industry". One wonders where the 100 lung-cancer deaths in uranium miners which had already occurred by 1967 fit? And where to fit another several hundred future lung cancers which are going to occur in the miners? No doubt the claim will be made that some of that uranium was used for the weapons program, not the commercial power program. Since something in the neighborhood of half the uranium mined was for the power program, at least a fraction, like half, of the miner deaths must be ascribed to the uranium fuel cycle.

But this is hardly the tip of the iceberg. It says nothing of the cancer deaths which are now inevitably being induced among those occupationally exposed in the nuclear power industry.

The cancers caused by radiation are sharply dependent upon the age of the worker at the time of exposure. Gofman [9] has estimated one cancer death for every 500,000 person-millirems of exposure if the people are exposed at age 25 years. For people irradiated at 45 years of age, the sensitivity is lower, and it would take about 2,000,000 person-millirems to produce one cancer death.

We have estimated above, for 1,000 nuclear power plants, an annual occupational exposure of 890,000,000 person-millirems.

Thus if the average worker were 25 years of age, 1,780 cancer fatalities per year would be caused (890,000,000/500,000=1,780).

If the average worker were 45 years of age, 445 cancer fatalities per year would be caused.

This number of cancer fatalities each year, for a fully developed nuclear power industry, would be occurring in a work force of between 500,000 and 1,000,000 workers.

Whether or not this rate of occupationally induced cancer deaths would be acceptable to the workers, this rate is a far cry from claims that the nuclear industry is so "safe" that no radiation deaths can be ascribed to it.

If pressed, the nuclear industry is likely to resort to a different cliché, restricting its claim to the statement that deaths among the public are not to be ascribed to radiation from nuclear power plant operation. We have already seen above how radiation delivered to occupational workers produces effects—serious genetic deformities, illnesses, and deaths—in the children (and their children) of the population at large.

In the case of cancer deaths in the workers themselves, it is also a dissimulation to claim the "public" is not involved. As nuclear plants age, they become progressively more radioactive due to neutron activation of structural materials. Regular and non-routine maintenance on some of these structures is necessary in radiation fields so intense that a worker, in some recorded instances, can perform his repair function for only a minute or a few minutes, since in that brief period he can accumulate the so-called "permissible" dose for 3 months.

A case in point is the situation where welding is required in a supremely "hot" area. Sometimes hundreds of outside welders (non-employees) have been brought into a nuclear facility to accomplish a single repair, each of them accumulating a "permissible" dose.

In this manner, the public is brought in to share the cancers with the regular employes. If the question is begged by saying these outside people are "workers", then there is no "public" at all, for who in the public at large does not have to work? The nuclear power industry simply could not operate without bringing in the outsiders to share the cancers, for otherwise the regular workers would be exposed grossly in violation of legal limits.

But it is far more than the legal requirements which are at issue. The nuclear industry can continue only by virtue of a massive public relations campaign denying its injurious effects upon humans. Thus, by delivering a sizable proportion of the occupational radiation dose to fresh bodies from outside, the nuclear utility can claim that its workers are receiving small doses on the average. To be fair, it must be stated that the exposure received by outsiders must be reported to the N.R.C. However, thanks to the fresh bodies, the industry can still claim its regular workers are receiving less than the legal dose.

It is of great consequence that an outsider is totally lost to record-keeping. If such an outsider later develops cancer, neither he nor anyone else is the wiser about the possible relationship of his fatal cancer and the radiation exposure received during "temporary employment" at the nuclear facility. And with, say, half or two-thirds of the radiation-induced cancers occurring in outsiders, the cancer fatality rate among the regular workers is half or one-third of what it would otherwise be—a help in preventing future worker rebellion or outright rejection of such employment.

The ever-hopeful citizen, looking to the government to protect him, asks, "How can they deliver this excessive radiation to a temporary worker above what is allowed for the public at large?" Here such agencies as EPA provide (as did the former regulatory agencies) a grand assist simply by definitions. The EPA's Rulemaking document states:

" 'Member of the public' means any individual that can receive a radiation dose in the general environment, whether he may or may not also be exposed to radiation in an occupation associated with the nuclear fuel cycle. However, an individual is not considered a member of the public during any period in which he is engaged in carrying out any operation which is part of a nuclear fuel cycle."

EPA is helpful, but to whom?

THE REAL DOSE THE PUBLIC CAN EXPECT IN A FULLY DEVELOPED NUCLEAR POWER ECONOMY

As stated above, nuclear proponents and governmental nuclear salesmen are free with their prediction that the entire nuclear fuel cycle—even with 1,000 or more 1-Gigawatt (1,000 megawatts=1 Gigawatt) plants in operation—won't deliver more than 0.4 millirem annually to the population at large on the average. The fraud involved in not counting the public's genetic injury via occupational exposure has been fully elaborated above and is not under consideration here. We are discussing now the direct dose delivered to the public itself.

If there were any truth to the claim that a nuclear powered economy could operate with a maximum of 0.4 millirem to members of the public annually, it would be indeed unreasonable to criticize this particular aspect of nuclear power.

However, where does this 0.4 millirem promise come from? Is there any reason to believe it? We shall consider it in detail below, and show that it is entirely reasonable to expect the true dose may be between 25

Footnotes at end of article.

and 2,500 times that high in a fully developed nuclear power economy.

Some of the more circumspect nuclear hawks modify the claim by saying that they mean 0.4 millirem will be the average annual dose delivered by "routine" or "normal" operations in the nuclear power industry. All the blunders, blurps, and spills, the careless burial of radioactive waste in surface earth trenches, the accidental leaks of hundreds of thousands of gallons of high-level radioactive wastes, the transportation spills—all these don't count. They are part of the "learning curve".

Unfortunately, the sensitivity of human cells to cancer development or to genetic injury in sperm and ova cells doesn't take into account whether the exposure was from a "routine" or "non-routine" release.

The nuclear advocate will respond that one need not worry, for a continuing surveillance of the environment, of foodstuffs, of air, will be performed, and if the levels of radioactivity begin to reach unacceptable values, we will know about it.

This is exactly how we should not solve our energy problem! If a fabulous investment (mostly rate-payers' money) is sunk into nuclear power, and then late along the path, we realize we are fouling the environment with radioactivity, there will be enormous pressure to continue in spite of unacceptable radiation doses, especially since the economy could by then be dependent upon the power output. The nuclear power pushers use the same scheme as the heroin pushers; get people hooked.

The time to estimate the probable radiation doses is before a major commitment to nuclear power. And this we can do within reasonable limits of uncertainty.

We shall restrict our considerations here to just two prominent radionuclides produced in nuclear power plants—Strontium-90 and Cesium-137, both of which are fission-products which became infamous during the weapons fallout debates. If we estimate the dose from these, we can be sure that the true dose, taking into account all the other radioactive fission-products, will be appreciably greater than the dose estimated.

We do have an experience-base with SR^{90} and Cs^{137}, since we know the dose received from these as a result of their fallout from the stratosphere after weapons testing. From that experience, we shall derive the expectations for a fully developed nuclear power economy. There is a bit of simple arithmetic involved—arithmetic which everyone should examine, for the health and genetic integrity of the human species can depend upon the decisions derivable from that arithmetic.

In order to compare the expected doses from nuclear power with those doses we did receive from weapons test fallout (including the contributions from Cesium-137, Strontium-90, and some of the major short-lived nuclides), we must note that in one year, a 1000-megawatt (electrical) nuclear fission power plant produces as much Strontium-90 and Cesium-137 as would be produced by 23 megatons of nuclear fission bombs.

For 1,000 plants, with each 1000-megawatt, plant operating at 70% capacity, we would have the equivalent of 700,000 megawatts operating steadily. This would therefore result in the production annually of 700 x 23, or as much Strontium-90 and Cesium-137 as would 16,100 megatons of fission bombs.

As a reference point, we shall use the data for the 1962 series of weapons tests of the USA plus the USSR. Dunning [10] reported the fission part of these tests to be some 76 mega tons. Of these 76 megatons, only a small fraction fell out upon the USA. A reasonable estimate, based upon the studies of plutonium fallout, is that about 7% of the 1962 global fission products fell out upon the United States. And 7% of 76 megatons amounts to 5.3 megatons.

Dunning's estimate is that each American received on the average a 30-year wholebody dose of some 36 millirems from the combination of Cesium-137 (internal plus external) and the shorter-lived fission-products. The bone and bone-marrow got this dose plus about 3–4 times more, as additional contributions from Strontium-89 and Strontium-90.

For the whole-body dose (which is the genetically-significant dose), the internally deposited Cesium-137 and the shorter-lived nuclides make their contribution within the first couple of years (indeed, most of this in the first year). So, to a good first approximation, it turns out that 23 millirems are received in the first year, and the remaining 13 millirems are received over a 30-year period, largely as a result of Cesium-137 persistence in the environment.

Thus if every year we should distribute upon the USA enough fission-products from nuclear power to be equal to the 1962 weapons test fallout upon the USA, namely 5.3 metatons, we would finally reach an equilibrium where the whole-body dose will be 36 millirems annually.

What part of the 16,100 megatons created annually by 1,000 nuclear power plants would get dispersed to the U.S. environment? 1%? 0.1%? 0.01%?

We can tabulate the expected doses for various degrees of containment perfection, utilizing our factor of 36 millirems annually per 5.3 megatons released to the environment. See table at bottom.

To be sure, it is not known that the environmental distribution of Cesium-137, Strontium-90, and shorter-lived fission products from nuclear power releases will be precisely the same as for those same radionuclides from weapons fallout. The doses delivered per unit of Cesium-137 or Strontium-90 could be higher than, equal to, or less than the doses per equivalent unit from weapons fallout, but comparability is the most reasonable estimate for now.

Indeed, this assumption is likely to underestimate the doses from nuclear power since it makes no allowance for the loss of short-lived fission-products during the stratospheric holdup of the weapons test radioactivity. Short-lived radionuclides released in the uranium fuel cycle are more likely, before they decay, to irradiate people.

What is the fraction of such fission-products which will get into the environment to deliver doses to humans? That really depends upon the fallibility of men and machines, upon Acts of God, upon guerrilas, upon psychotics, and upon social situations in the future fraught with unpredictability.

Nuclear power proponents would immediately claim it is preposterous to contemplate the release of 1% or even 0.01% of the annual production of fission products such as Cesium-137 or Strontium-90. But that claim means they are able to predict the course of human events which can so easily lead to the "unplanned" releases.

FOR 1,000 NUCLEAR PLANTS, EACH 1,000 MEGAWATTS (ELECTRICAL)

Contains	Releases (percent)	Megatons dispersed upon United States	Average annual whole-body dose (millions)
99 percent	1	161.0	1,094.0
99.9 percent	.1	16.1	109.0
99.99 percent	.01	1.6	10.9

Note: Superimposed upon these whole-body doses, the bone and bone marrow will receive a supplemental 3 to 4 fold higher dose due to strontium–89 and strontium–90.

When, in 1973, over 100,000 gallons of high-level radioactive waste leaked into the environment at Hanford (Washington) through sheer carelessness, all that the then AEC Chairperson, Dixy Lee Ray, could say was:

"It oughtn't to have happened in the way that it did."

The reader should make up his or her own mind whether 99% perfection or 99.99% perfection is likely to be achieved under all circumstances, planned and unplanned.

Generously giving the nuclear industry an expectation of 99.9% perfection, we still see the average annual whole-body dose to everyone in the USA might be 109 millirems, a dose about equal to the natural background radiation does.

Since there exists a serious uncertainty about how much of our genetically-caused misery and illness comes from natural background radiation, it would represent extreme irresponsibility, in our ignorance, to risk adding an additional source of genetic insult of the same size.

It should also be of great public concern that part of mankind (the U.S.) has recently started to abuse its genes with a genetically-significant dose of about 50 millirems per year from medical irradiation.

As for the cancer consequences from subjecting 300,000 Americans to a whole-body dose of 109 millirems per year, we would have to contemplate about 31,000 extra cancer fatalities per year as the price. (If the population, instead of growing to 300,000,000, were to fall to 200,000,000, the cancer toll might be around 20,500 extra deaths per year).

The particularly irresponsible nuclear advocates even suggest that no one need worry about radioactivity because we might develop a cure for cancer and defective genes. As Friends of the Earth has pointed out so well, we'd consider individuals to be LUNATICS if they swallowed lethal but slow-acting poisons on the theory that an antidote might be develop in time to save their lives. Nonetheless, a "leading" geneticist once suggested a tax on nuclear power plants to finance research in genetic engineering. That may be regarded as the "You break 'em. We fix 'em" attitude toward human rights.

It must, finally, be pointed out that 109 millirems per year would be a bit higher (273 times higher) than the 0.4 millirem promised by the nuclear promoters. Of course, their promises apply only to the "planned" releases.

THE HANDLING OF PLUTONIUM: A FAR-FETCHED PROMISE

There is little doubt that Plutonium produced in power reactors is a uniquely potent agent for the development of lung cancer, if the Plutonium gets into fine particles which can be inhaled.

Recently, Gofman [11] has estimated that in a full Plutonium breeder economy, perfection of Plutonium containment to 99.99% would still permit enough Plutonium to escape into the environment to cause lung cancer fatalities in numbers like 500,000 annually in the USA alone.

"Nonsense," say the nuclear promoters, "We will contain the Plutonium we handle to one part in a billion, not one part in 10,000!" And with this, they scoff at the prospect of 500,000 extra lung cancer deaths each year as part of our nuclear future.

Indeed, in its Rulemaking document for new radiation guidelines, the EPA estimates that release of only one part in one billion of the inventory of transuranics (including Plutonium) is achievable with "continuation of presently used best practicable control of release of transurancis".

Inasmuch as EPA is referring to "presently used best practicable control", we must presume that somewhere, somehow, EPA can produce the basis for its assurances. But a little arithmetic here can show the absurdity, the massive absurdity, of the EPA statement.

Footnotes at end of article.

At the present time we have a nuclear industry of about 30 Gigawatts. The EPA's proposed guidelines would suggest that the annual release of Plutonium and other transuranics for 30 Gigawatts would be about 0.25 grams. The EPA claims that "presently used best practicable control" achieves this.

The weapons testing in the atmosphere deposited some 700 pounds of Plutonium on the lower 48 states of the USA. Since there are 454 grams in a pound, this represents 318,000 grams of Plutonium in the U.S. environment. Therefore, the EPA, to prove its contention, needs an ability to measure 0.25 grams against a background of 318,000 grams—a background about 1,270,000 times greater.

Anyone familiar with measurement realizes what an excruciatingly difficult problem it is to measure something meaningfully when that something is 1/10 of the background. Yet EPA is providing assurances, in effect, that it knows how to do something which requires a hundred thousand fold better measurement ability than that which is excruciatingly difficult.

It would appear that EPA simply doesn't know within a factor of 100,000 what containment of Plutonium and other transuranics can be credibly planned, even without addressing the question of unplanned releases.

Nor can the EPA possibly turn to the military experience with Plutonium in order to show that containment to one part per billion is achievable.

But there is a fallacious technique commonly used to make soothing estimates. An air monitor is placed outside a specific industrial exhaust. If a low activity is found in that monitor, the entire industry is given a clean bill of health with respect to its releases. At the same time, leaky barrels or leaky tanks elsewhere on that industrial site can be releasing Plutonium into the uncontrolled environment. But these leaks don't register on that one monitor, and hence a false optimism occurs. Precisely this situation occurred at the Rocky Flats Plutonium Plant. Stack monitors will also overlook Plutonium tracked out of plants on shoes—which has also happened.

The bottom line in such matters is careful and widespread environmental monitoring. And for the reasons cited above, EPA can not possibly even approach by a large factor the capability required to support its extravagant, dangerous, and misleading claims.

It is important to note that under President Ford's new Fiscal 1977 budget, the EPA is reducing its manpower and program for monitoring ionizing radiation in the environment. The responsibility for monitoring nuclear power pollution is to be left mostly with the Nuclear Regulatory Commission and ERDA. We have the mouse guarding the cheese again.

IN SUMMARY

Perhaps the best way to describe the promises and reassurances of both governmental agencies and other nuclear promoters concerning likely future radiation doses, fatal cancers, and genetic damage, is with one idiotic statement which summarizes their whole pro-nuclear case:

"If everything goes perfectly, then everything will go perfectly."

FOOTNOTES

[1] U.S. Environmental Protection Agency. *Draft Environmental Statement for a Proposed Rule-Making Action Concerning Environmental Radiation Protection Requirements for Normal Operations of Activities in the Uranium Fuel Cycle.* Office of Radiation Programs, EPA, Washington, DC 20460, May, 1975.

Note: This is the document, one year old, which proposes 25 millirems as the maximum permissible annual whole-body dose to an individual member of the public from the uranium fuel cycle (not just fence-line dose at a power plant).

[2] Advisory Committee on the Biological Effects of Ionizing Radiations. *The Effects on Populations of Exposure to Low Levels of Ionizing Radiation* (the B.E.I.R. Report). Division of Medical Sciences, National Academy of Sciences, National Research Council, Washington, DC 20006, November, 1972. (Page 2).

Note: The BIER Committee was formed at the request of the Secretary of H.E.W. because of the controversy over potential cancer fatalities from exposure of the public to the "permissible" dose of radiation.

[3] Gofman, J. W. and A. R. Tamplin. "Epidemiologic Studies of Carcinogenesis by Ionizing Radiation", in *Proceedings of the Sixth Berkeley Symposium on Mathematical Statistics and Probability,* Statistical Laboratory, University of California, U.C. Press, Berkeley, CA 94720; paper presented July 20, 1971.

Note: This paper shows why chronic population exposure to the (still) permissible radiation dose of 170 millirems could provoke between 9,700 and 104,000 (a 10-fold difference) extra cancer deaths per year in the USA, with an average loss of life expectancy of 13.5 years per case.

[4] McCormack, Congressman Mike. "Nuclear Power: The Nation's Salvation", in *The New Engineer* journal, October, 1975, pp. 29–31.

[5] Bethe, Hans. "The Necessity of Fission Power", in *The Scientific American* magazine, January, 1976.

[6] U.S. Nuclear Regulatory Commission. *Occupational Radiation Exposure at Light Water Cooled Power Reactors 1969–1974,* Radiation Protection Section, Radiological Assessment Branch, Office of Nuclear Reactor Regulation, NUREG–75/032, June, 1975.

[7] Ibser, Homer W. "The Nuclear Energy Game: Genetic Roulette", in *The Progressive* magazine, January, 1976, pp 15–18.

Note: Dr. Ibser is Professor of Physics at the University of California at Sacramento, CA 95819.

[8] Magno, P. J. and C. B. Nelson, W. H. Elett, "A Consideration of the Significance of Carbon-14 Discharges from the Nuclear Power Industry", 13th A.E.C. Air Cleaning Conference, August 12–15, 1974, in San Francisco.

[9] Gofman, John W. "The Cancer and Leukemia Consequences of Medical X-Rays", in *Osteopathic Annals,* Vol. 3: No. 11, p. 24, November, 1975. Reprints available from CNR.

[10] Dunning, Gordon M. "Estimates of Radiation Doses", in *Fallout, Radiation Standards, and Countermeasures.* Hearings before the Joint Committee on Atomic Energy, 88th Congress, Part I, June 3, 4, 6, 1963, pp 231–259.

NOTE.—Dunning was Deputy Director, Division of Operational Safety. U.S. A.E.C.

[11] Gofman, John W. *Estimated Production of Human Lung Cancer by Plutonium from Worldwide Fallout,* CNR Report 1975–2, Committee for Nuclear Responsibility, POB 332, Yachats, OR 97498, July 10, 1975.

PHILIP H. GOODMAN

Mr. MATHIAS. Mr. President, a 6-year-old boy from Poland who grew up to become mayor of Baltimore made a unique contribution to his adopted city. I do not speak of some specific public work or legislative act of his devising, but rather of the example he set in treating people as individual human beings whose needs should be served with sensitivity, feeling, and compassion. The man of whom I speak—Philip H. Goodman—died in Baltimore last Saturday at the age of 60.

Phil Goodman was my friend. In 1968 he volunteered to serve as chairman of Democrats for MATHIAS and played a major role in the senatorial campaign for that year. But beyond his political help, he offered invaluable advice and practical suggestions for how to do a more effective job of helping people. I shall always be grateful for his interest and his assistance.

As Phil Goodman was sensitive to people's needs, he resented the failure of others to perceive what people needed in the way of human response. He was impatient of those who did not accord him the degree of human dignity that he recognized as inherent in all men.

Phil Goodman was a very human man. His speech, when he relaxed, could be colorful and vivid. His descriptions of people were evocative word pictures. They invariably revealed the subject preceptively and with humor. I once asked him how he had acquired the habit of speaking in this kind of metaphor. He replied that his father had been a painter who used language for his canvas and had taught him the craft.

I first knew Phil Goodman when we served together in the General Assembly of Maryland, he is in the State senate and I in the house of delegates. He fought hard for the people who had sent him to Annapolis and he never forgot why he was there when faced with a test of judgment.

Like most of us in public life, Phil Goodman had his critics and his detractors. But even were they right in all particulars, which is not the case, they could not diminish the humanity of the man and of his life as he designed it. His protean human dimension made him an unusually warm and responsive friend. I ask unanimous consent that the attached articles from the Washington Post and the Baltimore Sun be printed in the RECORD.

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

[From the Baltimore Sun, May 2, 1976]

GOODMAN EX-MAYOR, DIES AT 60

Philip H. Goodman, former Baltimore mayor, City Council president and state senator, died yesterday at the age of 60.

Mr. Goodman, who served as mayor for the last five months of the term of J. Harold Grady, collapsed yesterday afternoon in the 2900 block St. Paul street while on the way to visit his doctor. He was pronounced dead at Union Memorial Hospital.

Services will be held at 2 P.M. today at the Levinson funeral establishment, 6010 Reisterstown road.

His contributions in public life began some 30 years ago when he was appointed a police court magistrate.

In 1950, Mr. Goodman ran unsuccessfully for the state Senate, but the next year was elected to a Fifth district seat on the City Council.

He left the council after a successful run for the state Senate in 1954, and was re-elected in 1958.

Mr. Goodman resigned from the Senate in 1959, when he was swept into office as president of the City Council on the "Three G" ticket with Mr. Grady and R. Walter Graham, Jr., as comptroller.

When Mr. Grady resigned as mayor in December, 1959, to take a seat on the Supreme Bench, Mr. Goodman completed the mayoral term. However, in seeking re-election, Mr. Goodman was defeated in 1963 by the late Theodore R. McKeldin.

In the 1960 presidential campaign, Mr. Goodman was an early supporter of John F. Kennedy.

For several of those politically active years, Mr. Goodman and Irvin Kovens controlled an influential political organization in the Fifth councilmanic district, and was at odds with the long-powerful organization of James H. (Jack) Pollack.

During the years as Council president, Mr. Goodman showed a love for the give-and-take of political infighting. He took his relish for hard work to the mayor's office and put in long days there.

He had been criticized by councilmen and other politicians as being an "opportunist," with claims that he sponsored bills during his political career and called hearings to get publicity but seldom followed through.

Criticism seemed to bother him little, though, and he candidly had admitted an interest in gaining attention.

Mr. Goodman was born in Kolk, Poland. His family emigrated to the United States and settled in Baltimore when he was 6 years old.

He graduated from City College in 1931 and earned his law degree at the University of Baltimore.

An accomplished wrestler in his school days, Mr. Goodman participated in Olympic games in Palestine around 1930, according to his brother-in-law; Milton Albert. He also coached wrestling from 1946 to 1948 at Loyola College.

Mr. Albert said Mr. Goodman was selected to represent the United States in his weight class at the World Olympics in Berlin in 1936. But, protesting the treatment of Jews in Hitler's Germany, Mr. Goodman declined to participate.

This protest was typical of his manner, Mr. Albert said, noting that Mr. Goodman matched his actions with his beliefs as a Jew and an American.

In later years, Mr. Goodman served as chairman of the Civic Center Commission to which he was named by former Mayor Thomas J. D'Alesandro 3d. The Civic Center was opened during Mr. Goodman's brief term as interim mayor. Mr. Goodman left the commission post about two years ago.

Mr. Goodman made his home in recent years in Parkton. A practicing lawyer, Mr. Goodman founded the firm of Goodman, Meagher and Enoch.

A member of Har Sinai congregation, Mr. Goodman was a former president of the Baltimore chapter of the American Jewish Congress.

As chairman of the area's Israel Histadrut campaign and president of the Histadrut council, he was honored with his name being given to a wing of the Dr. Herman Seidel Medical Clinic in Jaffa, Israel.

Mr. Goodman is survived by his wife, the former Dickee Howard; a son, Gilbert Goodman; a sister, Mrs. Fay Albert; his mother, Mrs. Sarah Goodman, and two grandsons, all of the Baltimore area.

[From the Washington Post, May 3, 1976]

(By P. H. Goodman)

BALTIMORE EX-MAYOR, CENTER HEAD

BALTIMORE.—Philip H. Goodman, mayor of Baltimore in 1962, died Saturday afternoon after collapsing with an apparent heart attack while walking into his doctor's office.

Mr. Goodman served as chairman of the Baltimore Civic Center Commission after a bid for election as Mayor.

He was going to the doctor's office for a scheduled appointment when he collapsed while walking away from his car. He was rushed to nearby Union Memorial Hospital, where he was reported dead on arrival at 2:30 p.m.

Mr. Goodman was elected City Council president in 1959, running with Mayor J. Harold Grady, on the Three-G ticket. Grady was appointed to the Baltimore Supreme Bench in 1962 and Mr. Goodman served the final five months of his term.

The late Theodore R. McKeldin defeated Mr. Goodman in the 1963 mayoral election.

REPORT ON SPAIN

Mr. EAGLETON. Mr. President, the Senate may soon be called upon to consider the Treaty of Friendship and Cooperation between the United States and Spain. Many Senators, myself included, have been concerned over the possible impact ratification might have on the efforts being made to democratize the Spanish governmental system. Despite the good intentions of our State Department negotiators, we have worried that ratification now might be looked upon with disfavor by future, more democratic, Spanish governments.

Because of my concern about this possibility, I asked my legislative assistant, Brian Atwood, to visit Spain for the purpose of doing a report on the political situation. Mr. Atwood is a former Foreign Service officer who served in our Embassy in Madrid, so he did bring some background to the assignment I asked him to undertake. He was able to discuss the situation with individuals from all parts of the political spectrum, in Spain, and I feel that his timely report will be of interest to the Senate.

This comprehnsive report presents a picture of a changing Spain. For many years we knew little about the institutions which are now playing a key role in the Spanish body politic. Francisco Franco so controlled the political process in his country that more casual observers considered Spain to be monolithic. Franco's death has raised the curtain, however, and modern Spain appears to be a rather volatile and unpredictable scene.

Nonetheless, a careful analysis shows that distinct parameters exist within which the democratization process will take place. As Mr. Atwood's report makes clear, Spain is a modern industrial state with a new middle class that is not going to allow political activism to destroy what has already been gained.

Were I Secretary of State I may not have chosen this delicate time to have initialed a new treaty with Spain. Certainly I would not have consummated an agreement with Franco in the last days of his regime. This is easy to say with hindsight, however. The Senate must deal with today's reality. And now that we have this treaty before us, I feel that we must assure ourselves that it will advance the long-term interests of the United States.

I am now more confident, after reading this report, that the Senate can and should proceed to ratify the treaty. I recognize that a serious issue has been raised with respect to the possibility that the treaty is worded in such a way as to circumvent the authorization process. I am hopeful that we can resolve this matter in a way that will preserve the integrity of Congress' authorization process while not throwing open the treaty for further negotiation.

This report also reaffirms the need to send a strong message to Spain that the Senate hopes and expects democratization to proceed apace. In that regard I am hopeful that the "declaration" I introduced with Senator CLARK will be adopted by the Foreign Relations Committee.

Mr. President, I ask unanimous consent that Mr. Atwood's report on Spain be printed in the RECORD.

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

REPORT ON SPAIN

(By Brian Atwood)

As you requested, I visited Spain during the week April 20–27, following our Middle East trip, to look into the Spanish political situation as it relates to the impending Senate action on the Treaty of Friendship and Cooperation. The report of my findings is herein transmitted.

My visit came at a difficult and interesting time in Spain, as the country moves toward constitutional reform and, hopefully, increased political freedom. I was able to discuss the situation thoroughly with a variety of individuals, including Ambassador Wells Stabler, his staff, and the Defense Attache, all of whom were extremely helpful; two cabinet ministers (Foreign Minister Areilza and Interior Minister Fraga-Iribarne); two members of the Spanish Parliament (the Cortes); government officials (including the Director of the Prime Minister's Cabinet and the Undersecretary of the Ministry of Foreign Affairs); American and Spanish journalists; a prominent member of the hierarchy of the Catholic Church; a representative of the Workers Commissions; and representatives of the opposition parties, including the Reforma Social Espanola, a legal political association in the social democratic category; the Izquierda Democratica (ID), and the Federacion Popular Democratica (FPD), both Christian Democratic parties; the Socialist Workers' Party (PSOE); ANEPA, a legal political association of the right; and the Spanish Communist Party (PCE). I met with some of these individuals in the company of embassy officers, and some, including the representatives of the PCE and the Workers Commissions, on my own.

Despite fairly complete exposure to the Spanish political spectrum, the changing situation makes definitive analysis difficult. As an example, just before we departed the United States on April 11, the situation appeared polarized, almost beyond repair. In two weeks, however, the actors had backed off ever so slightly and options began to reappear.

In addition, much of my week was spent considering speculation over the Prime Minister's speech, to be given on April 28, a day after my departure. Obviously, that speech has affected attitudes, though its real impact will not be known for weeks. I did receive a summary of the speech and was able to incorporate the contents in this report.

To gain complete and candid assessments of the situation from individuals directly involved it was necessary to agree to present the information contained herein without attribution. A report entitled "Spain in the Post-Franco Era" by Mr. Stanley R. Sloan of the Congressional Research Service provided excellent background information.

I trust that this report, though a snapshot of an ongoing drama, will serve to provide you with information on the impact the treaty might have on Spanish progress to-

ward democracy and on long-term U.S. Spanish relations.

SPAIN, APRIL 1976—AN OVERVIEW

The creation of a new governmental system could be a traumatic experience for a country with the long and troubled history of Spain. Barely 40 years removed from the ravages of civil war, the institutional and societal legacies of the victor, Francisco Franco, present serious obstacles for a people reaching, simultaneously, for reconciliation and democracy. Yet many Spaniards share the sentiment expressed by former President of the Republican Government in exile, Claudio Sanchez-Albornoz, upon his return to Madrid April 24, "We have killed each other too much already. We have to make a new Spain among all Spaniards."

Unlike the Spain of 1936, or even the Portugal of 1974, contemporary Spain has much to lose if reconciliation is not achieved, and much to gain if it is. Spain today is a modern industrial state, though it remains largely outside the European marketplace, penalized for its 40 years of Francoism. To continue its recent pattern of economic growth and relative prosperity, Spain has been told that it must democratize its political system. Yet there are clearly established parameters within which the architects of the new Spain must operate, for those who comprise Spain's new middle class are not eager to forego their newfound status for political alternatives which often mystify them.

If Franco brought little to the Spanish polity, he did bring tranquility. Coming in the aftermath of fratracidal war, the vast majority of non-political Spaniards consider this gift to be the real legacy of the Franco era.

But Franco has left the Spanish government with some of the same structural and political contradictions his victory was supposed to subdue, and did for 40 years. He shaped the institutions of government to serve his stewardship and now they stand as roadblocks in the path of democracy. The Cortes . . . the Council of the Real . . . the National Movement—these unrepresentative institutions, to which Franco himself paid little or no attention, can now be easily used to serve the obstructionist goals of the anachronistic "bunker" (the name Spanish newspapers have given to the entrenched right). They were workable mechanisms when Franco was both Head of State and Head of Government, but now they stand between the two men who hold the major responsibilities under the current system, King Juan Carlos and Prime Minister Carlos Arias Navarro.

Evidence abounds in Madrid that the relationship between these two men is strained. The King is reportedly impatient for reform but must be cautious about using his carefully circumscribed constitutional position to press for change. And the Prime Minister is either unwilling or unable to provide effective leadership for the reform proposals he dutifully advances.

Arias is a product of the Franco era, a man described in one censored editorial as "seeking to move toward the future without removing his feet from the past." He has vacillated at key moments and the government's reform initiative has frequently appeared disingenuous. Apparently unwilling to acquiesce completely to the King and other reformers, Arias has wrapped his government's somewhat modest proposals in the rhetoric of the past. Thus, the government not only must contend with charges of footdragging, it must now tolerate the less accurate charge of deviousness.

This is a particularly painful burden for those cabinet ministers who perceive the necessities of a modern democratic state and who understand the importance of public opinion in reaching that end. Foreign Minister Jose Maria Areilza, Interior Minister Manuel Fraga Iribarne, and Justice Minister Antonio Garrigues are men of good will and foresight who may well resign if the light at the end of the tunnel grows dim.

Despite this dedicated reformist group, the government had become isolated just prior to the Prime Minister's important April 28 speech. There was a growing frustration in political and intellectual circles and previously tolerant groups were actively seeking ways to apply pressure. Even the word "reform" had fallen into general disrepute. But the most obvious, and most troubling, manifestation was the growing tendency to take sides: Francoist or democrat, reform or rupture, evolution or rapid change.

The government's deliberative pace has created deep cynicism among opposition parties, impatient after 40 years of clandestinity. In some cases grassroots constituencies have pushed more responsible leaders into a strongly anti-government, provocative posture that they might otherwise have wanted to avoid.

The Prime Minister's announcement of a timetable for the reform changes will have helped the government's cause somewhat, but many remain disappointed over the slow pace and the government's refusal to sever Spain's ties with the Franco era. Not surprisingly, the opposition quickly voiced its displeasure over the Arias speech.

A coalition, the "Coordinacion Democratica", was formed in March from the two major opposition groups, the Platforma Democratics and the Junta Democratica. Popularly known as the "Plata-Junta" and comprised of some Christian Democrats, some Socialists and the Spanish Communists Party, the uneasy alliance is more important as a symbol of impatience than as a vehicle for political activism. In fact, the opposition, while in apparent agreement on some broad fundamental issues—a clean break (or rupture) with Francoism, universal suffrage, free participation for all political parties (including the communists) and amnesty for political prisoners—is far from the monolithic threat to tranquility the "bunker" would like the Spanish people to believe.

Two strong pillars of Spanish society, the military and the Catholic Church are now more important for their potential rather than their actual influence over the political process. In this sense the Army looms largest in the minds of those who understand that the absence of tranquility is the bottom line. The Army, because of internal problems of its own (related primarily to a generational and attitudinal gap over organization and role) will be highly reluctant to interfere unless there is a complete breakdown of public order. It is, however, convenient for those who urge a cautious approach to raise the spectre of an Army mobilized and ready to act. The general acceptance of this impression seems to give the military more political leverage than it deserves within the councils of government.

The Church, having been in the forefront of the attack on the old regime's more repressive policies, is now playing a more passive role. Through moral sausion and even political activism, the Church can take much of the credit for the consensus that exists today in favor of democracy. But the hierarchy is now seeking its proper place in the secular democratic society it hopes will emerge. The Church will not intercede as a body (though a small percentage of radicalized priests will continue to be active) unless it appears that reform toward an open and free society has clearly gone off the tracks.

The most positive sign in Spain today is that all but the extremes within the body politic seem to appreciate the need for avoiding the choice between anarchy and tryanny. It does not appear that the government's loss of initiative will be permanent, although some future cabinet crises, instigated primarily by resignations may well be required to shake those who are influenced by the entrenched right into the real world. Some members of the present cabinet will undoubtedly be hurt politically as their credibility suffers, but that is the foreseeable extent of it. Democracy as we know it may not come quickly in such an environment, but there are persuasive indications that it will one day arrive.

In the context of this transition phase, ratification of the Treaty of Friendship and Cooperation is a delicate matter. The politically aware Spaniard sees a special meaning in the ratification process. The Senate, after all, is a freely elected body and thus, in the view of many, its approval of a formal relationship with Spain has added significance.

There is a somewhat tentative consensus that the U.S./Spanish relationship must survive, even if it means continuing an arrangement of convenience which spanned most of the Franco era. Timing is relatively important, though, in that positive perceptions of progress in the reform program would make the Senate's action more palatable. Nonetheless, ratification of the treaty will be controversial no matter when the deed is done.

It is clear that the military bases for which we will contract under the treaty are not locally popular, as is usually the case when foreign bases reside on native soil. In addition, many feel that the agreement is heavily weighted toward the American side. There is a growing sensitivity that Spain has acquired a "colonial" status and, undoubtedly, nascent politicians on both sides of the spectrum will yield one day to the chauvinistic appeal of this issue.

What is important in the minds of many is that a clear message be sent that the American people will not tolerate backtracking on democracy. While the international legal implications are unclear, the implied threat of future abrogation should not be foresworn.

There is a general awareness—even among opposition leaders who feel delay adds pressure to the government—that delaying ratification beyond the King's June 3 visit would have unpredictable consequences. The King would be made to appear as though he is crawling to the Congress on his knees, as one observer put it, and the entire nation would experience a loss of face.

The only institution of Spanish government that is now likely to emerge from this transition intact is the monarchy. The King, who wears his Captain General's uniform more often nowadays, badly needs the prestige vis-a-vis the military that ratification of the treaty lends. More importantly in the long run, if the King is going to redirect his tradition-bound and isolation-prone military and modernize their equipment and organization, he must have the treaty. The treaty's provisions have been fashioned, both by the American and Spanish sides (not always with the support of the military), to phase out the bilateral relationship and move Spain into NATO. There is no guarantee of that happening, but the architects on both sides seem to understand that the future viability of Spanish democracy could well be dependent on broadening the perspective of the powerful military sector.

The potential for disaster is omnipresent in a country which has so recently experienced civil war, but, conversely, memory of that tragedy now seems to be the most beneficial palliative. The coming year will be traumatic in Spain but there seems today to be some leeway, some tolerance for trial and error. The process will undoubtedly result in periodic crisis when the nation will be plunged perilously close to anarchy or tyranny. But the Spain of 1976 seems to possess a residual fear that it might again be forced to choose between the two. And the politicians on all sides seem to understand that.

THE CONSTITUTIONAL STRUGGLE

Demonstrations and political statements may be more newsworthy, but the real struggle in Spain today is over who controls the system of government. As the reform process proceeds it becomes obvious that those who dominate the institutions of the current system are able to exert inordinate influence. These officials are inclined to yield power only begrudgingly as they seek to retain the trappings of Francoism, if not the substance. Nonetheless, reformers in key governmental positions are using a perceived public mandate to effectuate meaningful change.

Many have grown restless over the slow pace. As one Spaniard put it, "Everyone wants to know what we will be as a country." In a nation with an increasingly free press speculation abounds even while very little accurate information exists. Government officials, deprived of the quiet isolation of an Independence Hall, chafe under charges that democracy can be more rapidly conceived.

In a major address before the Cortes on January 28, Prime Minister Arias initiated the reform movement. In that speech, he recommended a bicameral legislature declaring, "One way or another, we should proceed to constitute two chambers, both with colegislative powers."

The "one way or another" to which Arias referred has become a central issue. The government has chosen to build the new system from the old. At the same time, refusing to concede the legitimacy of Franco's rule, the opposition wants a clean break with the past. Still, these irreconcilable positions are not likely to survive the emerging political debate.

Whether or not Franco is accepted by all the participants, it seems inevitable that the institutions he left behind will have to be used to bring about the change. To believe otherwise is to believe that a modern, industrialized state will voluntarily exist in a type of extended limbo. Opposition leaders who see a temporary, provisional government as possible—while they seem to make such proposals with good will—are assuming a degree of cooperation with adversary forces that is highly unrealistic.

As one left-of-center party leader and government critic put it, "If you do away with all institutions, who will have the authority to convoke the peoples' government?" This man, whose party is not in the Plata-Junta coalition, suggested that a clean break, or "rupture," would result in a "violent surge for power."

The problem then is to use the current institutions of government to create new ones, a difficult task under any circumstances. To tackle the problem a "mixed commission" was formed of cabinet and Cortes members and other prominent Spaniards. Their study was finalized just before Prime Minister Arias' April 28 speech, and he was able to announce the broad outlines of their recommendations.

Arias used his television address to announce a "calendar" for the government's reform program. First, he asked the Cortes to enact before May 15 three key laws already submitted. These involve the right of political association, freedom of assembly and a revision of the penal code to allow for a freer expression of ideas. A new electoral law calling for, among other things, the election by universal suffrage of a lower house of parliament will be submitted by July 15. The national referendum on the succession to the monarchy and the change to a bicameral legislature will be held in October, with parliamentary elections scheduled for early 1977, to be followed later by municipal elections.

Arias also described, in scant detail, the recommendations of the "mixed commission" for the bicameral legislature. The lower house would be elected by universal suffrage, while the upper house, or Senate, would be a corporate body retaining much of the current Cortes structure Senate membership would consist of the 40 permanent councillors of the National Movement, 25 deputies chosen by the King and representatives of the "corporate system" and the Syndicates elected within their own organizations and professions.

What Arias has called "Spanish democracy" is really a clever attempt to shift the power center away from Franco's National Movement and his Cortes to a strong lower house elected by universal suffrage, while retaining the facade of the old structure. The idea, according to one of the architects, is to move the "organic" structure, comprised of the deputies of the National Movement, the Syndicates, the professions and the "families" to a large upper house. The "organic" block would be replaced over time by royal appointment and election.

All this is to move the current Cortes aside to make room for a freely elected lower house of the traditional European model, probably following either the British or German system (this will be decided by July 15 when the electoral reform law will be submitted). The lower house would initiate action on the government's budgetary requests and, the theory goes, would eventually acquire a position of primacy (in tandem with a prime minister and cabinet which would hopefully reflect majority party views).

Many are concerned about these proposals because excessive power in the upper house could easily be used to block the current opposition and to perpetuate the power of the Francoists. The exact wording of each reform will be studied by the opposition with that prospect in mind.

Why are the legitimate reformers in the cabinet resorting to the use of such "devices" to move Spain into democracy? Aside from their obvious reluctance to make a clean break with the past, a look at the institution that will be asked to participate in the process provides a clue.

Of the 583 deputies in the current Cortes, around 10 lean toward reform (only 30–40 of that group are dedicated activists). Another 100 are from the "bunker", and are completely opposed to giving up the Franco system. The remainder, while not particularly enthusiastic about voting themselves out of a job, will probably go along with the government. It is felt that public pressures in favor of reform would be great on this group, many of whom will want to run for elective office.

To expedite consideration of the reform proposals, the government, through the President of the Cortes, recently adopted a special procedure for the expeditious consideration of bills designated "urgent" by the Council of Ministers. This procedure limits dbate and forces a vote on a measure within 10 days. The reaction to this change has been strong in the Cortes. One conservative deputy charged that the government was seeking to "achieve democracy by undemocratic means." It is possible that a large number of deputies may boycott Cortes sessions when and if the procedure is used, thereby blocking legislation by failing to make quorum. If such action is considered likely, the government may be reluctant to use the new procedure.

The important first step in the Arias timetable is the enactment of the three laws allowing for free political activity. These measures have been bogged down in the Cortes and both the opposition parties and those center-right associations which support the cabinet reformers have grown restless as a result. Without the rights guaranteed by these changes, political action is stifled unless arbitrarily tolerated by the government.

If the three basic laws are not changed quickly, efforts could be made to sabotage the entire process. The opposition argues that if they do not have sufficient time to "make propaganda", they will either urge their supporters to vote no on the referendum or to abstain.

The referendum, it is felt, is necessary to change the fundamental law and to accomplish two goals: (1) to legitimize the monarchy; and (2) to give the government a mandate to create the bicameral legislature. The exact wording of the referendum questions is crucial.

In the case of the monarchy, for instance, the government wants to cautiously avoid a direct up or down vote on the King. As one cabinet minister put it, "We don't want to put the crown in the ballot box and see whether or not it comes out." The people will be asked a question involving the process of succession, and their approval of the process will be read as an endorsement of the monarchy itself.

As should now be obvious, the constitutional struggle is a complex one that defies easy analysis. The issues are emotionally charged because (1) the opposition finds it hard to accept the legitimacy of current institutions, (2) the "bunker" wants no change, and (3) the government "reformers" see no legitimacy in change unless the current institutions are utilized to effect it.

It is easy to be pessimistic about the prospects for democracy when considering these apparent contradictions. But there seems to be a widespread awareness of the need to create a viable political system, encompassing parties of the right, center and left. There is also an understanding of the danger of placing the pro-Franco factions in the upper house and steps are being taken to neutralize and gradually diminish their power. If this scheme succeeds, Spain will be well on its way toward an historically elusive goal—democracy.

THE MILITARY

The military is a traditional pillar of Spanish society and will be a factor during the transition period. Internal dissent and an aging leadership diminish the military influence, however, and many feel that the armed forces are most important as an arbiter of last resort.

The Army is the principal military service in Spain. Over 200,000 strong, the Spanish Army has traditionally seen its primary mission as guarantor of internal security. Its training doctrine still advances this "holy" mission while emphasizing strict obedience and patriotism. Defense against the external threat has been treated as secondary.

Despite this ominous calling, the Spanish Army has not intervened in its nation's internal affairs since 1936, when the Civil War divided its ranks. Today, the Army leadership has grown old and the structure creaks under the weight of anachronistic procedures. While the vast majority of officers and enlisted are apolitical, the grievances many have suffered have politicized a sizable minority, though primarily on military questions.

The best-known manifestation of internal dissent was the emergence of a clandestine organization of young Army officers called the Democratic Military Union (UMD). The UMD, an acronym that strikes fear in the minds of senior Army officers, was originally nothing more than a coffee-klatch discussion group. Young officers, upset about salary and the promotion system and unhappy about their service's antiquated methods, met to discuss ways to improve their lot.

When these discussions moved into the political sphere, individual members chose to correspond with the various political parties which might succeed to power in the post-Franco era. During this process of inquiry, a small portion became activists and some of their literature even adopted such

phrases as "unity with the workers". At this point the government cracked down and, almost simultaneously, the Spanish Communist Party embraced the cause as their very own.

These two factors have virtually eliminated the UMD as an identifiable organization but the point had been made and the dissenters remain. A year ago the UMD numbered approximately 300 members and had a mailing list of 800–1,000. Today there are few mailings, but on matters of military professionalism, if not politics, the number of sympathizers has probably grown.

Another factor worrying the military leadership, and the government as well, is the return of the force which fought in the Spanish Sahara. The Spanish Government, just after raising the hopes of its fighting men during a visit to the Spanish Sahara by the then-Prince Juan Carlos in November 1975, appeared to reverse its field and gave up the fight. There was really little choice, the decision was undoubtedly made even before Juan Carlos' trip. Spain was conducting a colonial war it had little chance of winning in the long run and the threat of an Arab oil boycott was persuasion enough to terminate the adventure.

But years of service to the Spanish Sahara had created a corps of professional desert officers and troops. For this group the colonial relationship and the affinity for the Saharan people was strong. They did not believe that Spain should back down to Morocco's threats. And today they feel betrayed. Although only about 18,000-strong, this group represents another worry for an Army command that fears internal division more than any external threat.

Perhaps the most important need of today's Army, according to both Spanish and American observers, is that of strong governmental leadership. Military commanders are uneasy during this transition, not so much because they fear they will have to act, but because they want to be given a definitive role and no one seems in command.

In this regard, the monarchy takes on added importance as the only institution of government likely to survive the transition phase. Unless his authority and his popularity are severely eroded, Juan Carlos can exert much influence over the military. While he cannot expect them to endorse a particular plan for reform, he can depend on them to support him in carrying out the law.

This is not to say that the military is devoid of influence. On the contrary, their influence is great precisely because their potential for action has been widely exaggerated and their internal weaknesses ignored. With four cabinet-level positions they can themselves play a political role as obstructionists. Their potential power is constantly invoked by the "bunker" to slow down reform.

Short of a breakdown of public order, there are few issues which could spur the military to action. One might be legalization of the communist party. Nonetheless, it is widely felt that even the most obvious red flags can be finessed so long as the King and the Government establish a forceful command relationship.

The King has already taken steps to move the military into the modern era by naming "progressive" generals to key positions. One appointment, General Jose Vega-Rodriguez to the Madrid district, virtually broke the hardliners' control of the Madrid "triangle." The three commands surrounding the capital city—the military region, the armored division and the Civil Guard—were previously headed by people loyal to the bunker. Now two sides of the triangle, the military region and the armored division, are in Vega's control. The possibility then, of action against the King has been diminished even further, though it has yet to be more than a remote threat.

The treaty with the United States is an integral part of the plan to modernize the Spanish Army and to entice it away from its "holy" mission. The treaty is essential if the Army is going to modernize its antiquated equipment. But more importantly, the five-year plan is designed to broaden the military's perspective. The joint planning mechanism, originally opposed by the Spanish, will expose the military to more modern doctrine and to regional concepts of security. It may even lead to NATO membership, although many on the right in Spain are not enthusiastic about this prospect because of what is perceived as "continuing interference" from European nations in Spanish affairs. In short, the treaty is designed to work against traditional isolationist tendencies in a Spain which can no longer afford that luxury.

THE CATHOLIC CHURCH

In 1953 the Catholic Church legitimized a Franco regime that had been looked upon as an outcast by most of the Western World (except for the United States which the year before had signed its first bases agreement with Spain). The Vatican and Spain formalized its relationship with a Concordat which confirmed Catholicism as Spain's official religion. The Church was granted control over Spanish education and was given a special place in the governmental system. In exchange for this, Franco was granted the right to veto the appointment and assignment of bishops.

The relationship was severely strained in the latter years of Franco's rule as the Church became the cutting edge for democratic reform. To avoid Franco's veto over bishoprics, the Church refused to name new bishops and instead allowed auxiliary bishops to run many dioceses. In addition, a new breed of politically active priests used their churches to mobilize the populace against the regime.

Over the past few years the Vatican and the Spanish Government have been negotiating changes in the Concordat. Franco's death quickened the pace of those negotiations and in December 1975, a month after Juan Carlos was installed as King, Cardinal Vicente Enrique Tarancon told the 23rd Conference of Spanish bishops that it might no longer be useful to continue the totally interdependent Church-State relationship.

Many in the Spanish opposition (which includes some activist priests) would like to see the Church hierarchy play a part in pressuring the government toward reform. But there is a great reluctance to interfere with the process. The Church is clearly preparing to assume a more subdued role in a secular Spanish society.

For this reason there will be no dramatic announcement from the Vatican that the Church and Spain are "at peace," as Foreign Minister Areilza hoped to obtain during his visit to Rome last month. The Concordat will be revised, but it will be a drawn-out process with changes being negotiated on some 32 major points.

The Church seeks independence in the future secular state, but it seeks to preserve some legal privileges normally accorded to religious institutions in other western democracies. The State wil obviously have to renounce its power to veto Church appointments, a central principle in the separation of Church and State. This should prove no problem, but other matters involving taxation, the application of certain laws and the Church's role in civil affairs will be subjected to long negotiation. In fact, many of these items cannot be worked out until after Spain devises its new constitutional sytem.

As one highly-placed priest put it, "The Church wants to become an institution of the conscience, we do not want to participate directly in politics." The Church understands, however, that democracy is very much a matter of conscience and that it may again have to speak its mind in the public arena.

The Church's effort to recede into the background is pronounced, but qualified. It will obviously not want to forego its right to put forth views on such moral questions as abortion and divorce. Yet, at the same time, it worries over the use of the word "Christian" to describe a political party. "We don't want anyone to get the impression we support a particular program."

A profoundly difficult question for the Church is the apparent philosophical contradiction between communism and Christianity. The Spanish Church, like the Italian Church, carefully avoids the contradiction by observing that Marxism is a temporal philosophy and not a religious one. The Church clearly does not want a "frontal battle" with the PCE, and its refuge is its refusal to take a position on any political party in Spain.

One of the phenomena of modern Spain is the radicalized "worker priest", some of whom are reportedly advocates of Marxism. The hierarchy is particularly pained over this, but sees it as a natural reaction to the Church's long support of Franco. This, in the words of one priest, is the "penance we pay as an institution for the role we have played."

Statements made by the Spanish Church will be rare over the coming year. But it is precisely because relative silence will make its pronouncements more dramatic that the Church retains a potentially influential position in Spanish society. If reform clearly goes off the track, the Church will once again remind its flock that democracy is a matter of conscience.

THE ECONOMY

Spain today is a highly industrialized state with a growing middle class. It is also a country which has been in the economic doldrums since the energy crisis of 1973. Spain's ability to improve economic conditions could well be a crucial factor in the democratization process.

After experiencing almost miraculous growth over the previous decade, the oil boycott of 1973 and the resultant downturn in the world economy hit Spain hard. Its GNP grew only 4% in 1974, after being in the 7–8% range previously. In 1975 GNP growth fell to 1%, and indications are that the same will be true in 1976. At the same time inflation has hovered around the 15% range and great pressures have been placed on Spain's foreign reserves which total approximately $6 billion. Efforts to stave off inflation and the loss of foreign jobs because of the Europe-wide recession have caused unprecedented unemployment in Spain—the government estimates that 5% of the work force is affected, but some allege that the percentage is higher.

These conditions have had a direct impact on the political environment, though the order of the cause and effect relationship is unclear. This past winter and spring, labor unrest was widespread and the government was forced to take strong action. Management has generally tended to accede to labor demands, thus driving the inflationary spiral.

Recently, the government devalued the peseta and recommended compensatory measures to the Cortes. These measures then became bogged down over procedural questions, further undermining confidence in the government's ability to control the destiny of its own proposals.

Because of political presures and the delicate requirements of the transition, the government is constrained in making the hard decisions that will hasten recovery. In-

stead of slowing down the enonomy to control inflation, or raising tariffs to correct trade imbalances, or recomending austerity measures, the government is simply hoping that an upswing in the world economy will trickle down and save the day. In this vein, Spain has resisted the pressure to draw down its reserves and has instead borrowed from foreign souces. The government feels that any draw-down from the $6 billion reserve deposit would damage Spain's credit worthiness.

Perhaps the most impressive rationale the conservative side of Spain's political spectrum has for moving toward democracy is the need to break into European markets in a big way. This means eventual membership in the Common Market, but EC nations have insisted that Spain become more democratic and have adopted a wait-and-see posture. Spain does have a preferential trade agreement with the six original EC member-states. However, negotiations to expand those preferences to encompass the other three EC states were broken off last year when the Spanish government decided to execute five Basque terrorists. Recently, the Common Market nations sent a message to Prime Minister Arias expressing concern at the slow pace of the reform program.

There is some concern that this type of pressure could backfire and that the reaction could spill over to the question of NATO membership. The Spanish are resentful of outside interference in their affairs and are not beyond sacrificing advantage to satisfy wounded pride.

But over the past two decades Spain has extended its system of economic privilege. The land-owning gentry has been joined by modern technocrats who readily comprehend the dynamic of growth. This group has become highly influential and is now covering its bets by preparing to spread largesse over the entire political spectrum. To these entrepreneurs, democratization may be money in the bank.

Prime Minister Arias acknowledged a growing alienation among middle class Spaniards when he recommended a tax reform program in his April 28 speech. The Franco banking system may also fall victim to reform after democracy is in place. The small businessman may then come to realize that his expectations are frustrated and that some in Spain have more privileged access to loans than others.

The government's expectation is that Spain will become a full-fledged EC member in five-years time. But this may be optimistic if reform of the governmental system bogs down, or if the EC pressures too hard and evokes an emotional response. Even if all went well, some sectors of the Spanish economy will resent the competition Common Market goods will bring and, when EC membership is actually proposed, the appeal to protectionism will be strong.

An upswing in the Spanish economy could well give the reformers the cushion they need to move through the transition period. For, if the workers are relatively happy, labor tension will be diminished.

No one seems to know whether economic conditions are causing political unrest or vice versa, and to those in power it matters little. In the meantime, the government's answer to Spain's economic ills seems to be to wait until the worldwide recovery finds its way to their country.

LABOR

The labor movement was the first to challenge the Franco system and is still in the forefront as a protagonist for change. Long ago having outgrown Franco's contrived "Sindicato" (or Syndical System), an official labor-management structure designed originally to control union activity, the labor movement has become a major preoccupation of the government. In his April 28 speech, Prime Minister Arias claimed that strikes had caused the loss of 50 million work hours in the first 2 months of 1976, and declared this a "serious blow to the national economy." Yet Arias failed to announce any modification to the current law which prohibits free trade union activity.

According to some Spanish observers, Arias' omission was the direct result of strong "bunker" reaction to an international socialist trade union convention held in Madrid with tacit government approval during the week of April 12. Convention delegates voted down a number of strong anti-government resolutions, but speeches denouncing Franco and a decision to sing the "Internationale" were sufficient to evoke a strong right-wing reaction. Thus it appears that Arias was pressured to withhold his labor reforms and restrict his government's concessions to a tax reform proposal only indirectly important to the labor sector.

The unchanging position on labor may be a result of government awareness that it long ago lost the initiative in this area. In 1975, when elections were held for shop stewards under the auspices of the Sindicato, 77 percent of the key positions were taken by communist and socialist organizers of the outlawed Workers Commissions. It is precisely because the government knows that the Workers' Commissions dominate labor that reforms in this sector will be cautiously considered. (It should be noted that the vast majority of Spanish workers are not unionized, and that the Workers Commissions are estimated to comprise about 50 percent of the unionized workers. They do dominate among the activists, however, since the other union groups are factionalized.)

Some thought has been given to creating a completely pluralist labor sector with unions permitted to organize only at the company level. It is felt that breaking the movement down to its lowest common denominator would strengthen the more moderate unions while diminishing the influence of the Workers Commissions. It is hoped that the Sindicato will be able to effect its own reforms along these lines at a convention to be held this summer. The labor sector will hopefully be separated out by mutual agreement and various craft unions formed with the Workers Commissions absorbed therein.

Speculation before Arias' speech was that the government would ask the Cortes to ratify the two conventions of the International Labor Organization (ILO) dealing with concept of free trade unions. There were also indications that some European governments were urging this step. One high-level government official indicated that the ratification of these conventions would represent, ipso facto, a change in Spanish law and that further action would be unnecessary at the governmental level.

Arias' failure to announce labor reforms was also probably a reflection of the government's confidence that it could control May 1 demonstrations and an indication of its reluctance to appear to be giving in to those threatening to strike. In addition, there is a feeling that the worst of labor unrest is behind. It is estimated that 60 percent of all wage contracts came up for renewal during the first two months of the post Franco era. Thus, the government may now feel that reform proposals can be considered more cautiously by the Sindicato structure itself.

Most feel confident that a free trade union system will come to Spain even before the parliamentary elections to be held in early 1977. The Workers Commissions will undoubtedly be absorbed into the process under some other, less provocative, name. But so long as economic conditions are poor, labor unrest will be a major problem. The injustices of the current structure will be all the more pronounced during the economic downturn.

THE OPPOSITION

Though still not legally permitted to do so, political parties are forming today in Spain and various coalitions are currently being contemplated. The laws limiting associations are a hindrance, however, and political activity takes place, in a twilight zone of strained tolerance. In this somewhat tentative environment, it is difficult to get beyond the central issue of democratization to the political programs the various groups will espouse.

There now is a common ground for dissent over the pace and nature of reform in Spain which will disappear when a democratic system is established. The most recent manifestation of this dissent was the formation of the "Plata-Junta" (or Democratic Coordination). When the agreement to form this coalition was announced in March, it evoked a strong right-wing reaction. Blas-Pinar, leader of the large veterans organization, denounced the coalition and claimed it resembled the infamous "Popular Front" of Civil War days.

However inaccurate this charge, some of the more moderate parties in the coalition were surprised at the reaction and disappointed over the government's acquiescence to it. The situation was becoming too polarized for comfort and some began to back off. The Christian Democratic factions of the old Plataforma Democratica held conventions over the weekend of April 3–4 to discuss the coordination effort. The parties decided that various conditions would have to be met before they would agree to enter the Coordination. These included: the receipt of assurances that regional and other opposition parties could join the coalition; the requirement that all members renounce the use of violence; the need for unanimity in decision-making; and the agreement to dissolve the coalition immediately when free elections are allowed.

There were indications that some of these conditions may have been proposed with the notion that they would not be acceptable to the communists and the more radical elements. It seems likely, however, that the PCE, badly needing the legitimacy the Plata-Junta offers, will accede to all demands. Nonetheless, if these conditions are met, the Plata-Junta will be far from the action-oriented, monolithic coalition it initially appeared to be.

The coordination issue has been a painful experience for the emerging body politic. At the April 3–4 convention of Christian Democrats, the moderate faction of the Izquierda Democratica, headed by Fernando Alvarez de Miranda, walked out, in opposition to Plata-Junta membership. Alvarez de Miranda then formed the Izquierda Democratic Christiana (IDC), and hopes for a unified Christian Democratic Party were temporarily set back.

The Socialist Workers Party (PSOE), headed by Filipe Gonzales, was also reluctant to join the coalition at first, but finally succumbed to its grassroots constituency and, reportedly, to pressure from foreign socialist parties. The membership of Gonzales' party in the Plata-Junta is not firm, however, and it is clear that the socialists will be carefully watching the course of future events.

The Plata-Junta is more a symbol of impatience with the government's progress toward democracy than it is a viable political-action organization. Many of the parties were forced by dissent within their own ranks to join the coalition. Some, such as the Federation Popular Democratica headed by Jose Maria Gil-Robles, may never actually join. The coalition is one of convenience and, when democracy comes to Spain, it will have served its only purpose.

It is probably an exaggeration to claim that the Plata-Junta "plays into the hands of the

extremists." The announcement of its creation was purposefully designed to precipitate a crisis of sorts that would move the government to action. While some within the Plata-Junta were obviously concerned that they might have gone too far, it is now clear that the government did respond to the pressure. Arias referred in his April 28 speech to the existence of a "generalized state of anxiety," which he said was promoted by interested parties. But he went on to say that he intended to be "responsive to the peoples' disquiet."

Now that a timetable has been announced, it would seem that efforts will be made to start a "dialogue" between cabinet reformers and the opposition. Considerable contact has already taken place, but both sides now seem to feel that ongoing discussions are essential. Even the Communist Party, which prefers a complete rupture, would probably negotiate with some in the cabinet, were it possible to accomplish their goal.

Frustration and impatience is not the exclusive province of Plata-Junta members. Those parties of the center and center-right are also critical of the government's pace (though they will be more pleased than the others over Aria's recent speech). Since the leaders of this part of the spectrum may well be current cabinet ministers, the government's general distrust of *all* political activity is seen as self-defeating.

One leader of a legal political association that may later fall into the "social democratic" category expressed a common complaint when he said, "The government has to understand that its fear of political activity is preempting the formation of centrist groups. All we want is some time on television." These attitudes are shared by some cabinet ministers who feel that the govern ment's program must be more actively "sold" by use of the available media.

The Communist Party (PCE) is well attuned to the requirements of the political process and will lean over backwards to accommodate its ideology to public opinion. Disavowing any relationship with Moscow and bitterly opposed to Cunhal in Portugal, the PCE calls itself a nationalist party. The PCE program calls for unity of all opposition forces, a negotiated "constituency period" with a provisional government to "guarantee the transition," a constitutional assembly for creation of a democratic state and free elections. Interestingly, the PCE states that it would be willing to negotiate this sequence "with the sectors now in power, including the armed forces."

PCE comments about the two ultra-leftist Maoist factions are revealing: "These groups look to the past, to the revolutionary option. They believe that it is still possible to put the sword to the Winter Palace. But that cannot be done in a highly industrialized state. We must let our ideology compete in free elections."

The PCE has little support in Spain, but it has been creative in exercising influence through the workers and the intellectual community. In addition, the formation of the Plata-Junta has aided the PCE more than it has the other participating parties. Yet the PCE fears that the coalition will collapse as soon as the other parties smell the bait of free elections. Acknowledging this prospect, the PCE may well be forced to negotiate for far less than a provisional government. They may well have to negotiate for the right to exist when democracy comes. Whether they find someone with whom to negotiate is a central question.

LEGALIZATION OF THE SPANISH COMMUNIST PARTY

Though the Spanish Communist Party (PCE) headed by Santiago Corrillo is generally thought to be the most anti-Soviet communist party in Western Europe, it retains its Stalinist image in Spain. One moderate Cortes deputy said that the two greatest allies of the communists in Spain were Stalin and Franco. Stalin, because his arms-supply policy gave the Party inordinate influence over republican forces during the Spanish Civil War, and Franco, because he found it expedient to exaggerate the communist threat to Spain in order to rationalize his own repressive measures. Today, the Spanish Communist Party is still being mythologized by the right while, because of its poor image, its ability to draw votes continues negligible.

Many in the opposition worry that failure to legalize the PCE would force the party to use its available resources, primarily in the labor and intellectual sectors, to "blackmail the system." In effect, these people feel that PCE members would infiltrate the political process by taking positions in journalism, labor unions and in political parties without identifying their true affiliation. As one politician said, "I much prefer to have a communist periodical in Spain, than to have communists writing in other periodicals. And the same principle applies to political parties."

Whether the communists would actually forego the clandestine tactic of infiltration were they allowed to participate in elections is an open question. Nonetheless, many thoughtful people in Spain today argue strongly that their actual political weakness should be exposed. Most polls indicate that the PCE would appeal to only 5–10 percent of the Spanish electorate (even the PCE estimates it would receive only 15–20 percent of the vote.)

The legalization question has also taken on a symbolic importance as both foreign and domestic observers set criteria by which they can measure Spain's progress toward democracy. Many feel that Spain must have a completely open political system and that even the PCE should be allowed. Non-communist members of the Plata-Junta are traditionally and strongly anti-communist, yet they feel that Franco's treatment of the PCE differed little from the treatment they themselves received during his reign. They feel that legalization is to some extent an act of contrition and, more importantly, it is a fair indicator of democracy in Spain.

The right, on the other hand, has a long memory. Franco loyalists recall too well that they fought and died during the Spanish Civil War to repel the communists. And for 40 years, Franco fostered a deep hatred of communism. The Army, in particular, would find outright legalization difficult to accept. Such a direct proposal, made in the ambience of today's Spain, would be downright provocative.

But the government has not closed the door completely. In his January 28 speech and in legislation sent to the Cortes, Prime Minister Arias recommended that three types of political parties be excluded: those advocating terrorism, separatism and totalitarianism. The Government has made it clear that the PCE falls into the latter category. Yet, if the law does not actually exclude the PCE by name, some future accommodation could be reached.

Once the law regarding free political association is adopted by the Cortes, the PCE could apply to participate, stating that it is not a totalitarian party. The government would then reject its application and an appeal process would begin that could last a year or more.

Such a scenario might satisfy the concern of those who feel that a "decent interval" must pass before the PCE is allowed to participate so that parties of the political center can organize. These people feel that, once the more moderate parties learn the techniques of political propaganda in a modern state, the PCE will lose even more ground.

Whatever the outcome of this question, there is considerable regret expressed in Spain today that the legalization of the PCE has become such an emotional issue. Government officials, obviously frustrated and chagrined over the formation of the Plata-Junta, point out that West Germany kept the communist party illegal for 20 years and "no one called them undemocratic." Some opposition leaders are also feeling uncomfortable over the importance that has become attached to the issue. Such attitudes may make the ground fertile for compromise.

While the United States has not made any direct overtures one way or the other, Secretary of State Kissinger's statements with respect to communist influence in Western European nations are read, probably not incorrectly, as the U.S. position an legalization. Some anti-communist Spaniards see these statements as strengthening the PCE. While that may be difficult to prove, it does seem apparent that further U.S. rhetoric on the issue will harden positions and make compromise difficult. The United States will unintentionally strengthen the resolve of the bunker, while alienating the legitimate anti-communist opposition.

An appeal for common sense made by a Cortes deputy is repeated often in Spain today: "We hope that when the showdown comes on this issue, the United States will think first of the Spanish people rather than the balance of forces in Southern Europe. This has been one of Kissinger's greatest tactical errors."

The U.S. position is contradictory and puzzling to many. The world's largest democracy should have more confidence that the communists will not do well in a pluralist system, it is argued. "Not every communist party had the initial advantage which accrued to the Italian party as a result of their World War II contribution to the resistance. U.S. policy is creating martyrs of the communists in Europe for reasons unrelated to the cause of democracy."

UNITED STATES POLICY

The implementation of U.S. policy during this transition period in Spain requires the delicate balance of a high-wire walker. The United States fully supports a constant advance toward democracy in Spain. When the two foreign ministers initialed the Treaty of Friendship and Cooperation on January 24, 1976, Secretary Kissinger expressed his support for Spain's political evolution and expressed hope that the achievement of democracy would "link Spain to the human and political values on which the West relies."

Nonetheless, it is clear that the United States supports a cautious approach that presents a minimum risk of instability. Secretary Kissinger has said that the Spanish will know best how to set the "rhythm" for change, and the United States clearly is not desirous of "getting out front" of the Spanish Government.

This "correct" approach to diplomacy may be warranted in a nation which has a tendency to be offended by foreign pressures and which has grown sensitive to charges that it has acquired a "colonial" status, subjugated by its major patron, the United States. Yet in constrast to European nations which have adopted an arms-length policy until democracy is achieved, the U.S. is perceived by many in Spain as more concerned over stability than democracy. The strain this perception causes becomes particularly pronounced when the Spanish Government seems to lose the initiative, as it clearly did prior to Prime Minister Arias' April 28 speech (whether the Prime Minister's issuance of a timetable has helped the government to regain its position is yet to be seen).

Stories appearing in the Spanish press about a telegram Secretary Kissinger purportedly sent to U.S. Ambassadors in Europe concerning eventual Spanish membership in

NATO did nothing to enhance the U.S. image. According to these reports, Secretary Kissinger pointed out that democracy would not come quickly to Spain and stated that the Spanish people had a history of not handling democracy well. The Embassy has charged that these stories are gross misrepresentations of what the Secretary actually said, but still the damage had been done.

The negative perception that Spanish democrats of all persuasions have of the U.S. role was also exacerbated by the rush to initial a treaty with Franco during the last weeks of his regime last October. In addition, President Ford visited Spain a year ago further confirming the insensitivity of U.S. policy in the minds of many. With this background, it is exceedingly difficult to sell the notion that the United States stands for sure but steady progress toward democracy. Nonetheless, there is no evidence available to the contrary.

We cannot totally erase the years we sustained the Franco regime, but the subtleties of our relationship with Spain are important. The Embassy now has contacts with a broad range of opposition leaders, and, while our relations with the sitting government are paramount, there is no detectable indication of favoritism among the various parties which will compete in parliamentary elections in early 1977. The Embassy is also running a very effective "leader grant" program wherein future leaders of all persuasions are invited to visit the United States. These initiatives contrast greatly with our posture during the Franco era.

To steer the proper course in a changing Spain judgments must be made on an almost daily basis as to the appropriate nuance given to diplomatic representations. We are fortunate at this difficult time to have an exceptional American Ambassador in Madrid, Wells Stabler, who has the good judgment necessary to avoid the pitfalls. Yet the "showdown" has yet to come. If and when the Spanish Government regresses on reform, many in Spain will be waiting to see whether the United States chooses military bases over democracy as the more important policy consideration.

If we do not have to choose between these two, we will still be challenged by a possible desire to nudge Spain toward NATO over the next five years. This may take a major effort because many conservative Spaniards remain offended by current European pressures and by Europe's past antipathy toward Franco. One Cortes member, when asked about the prospects of Spain joining NATO, said, "If Europe becomes reconstituted politically, then fine, but at the moment the time is not ripe."

Anti-Americanism in Spain cannot be dismissed as a factor and, when the political campaigns begin, we will hear strong criticism of the role we have played. Nonetheless, it should not rise to the levels at which it exists today in Greece, unless there is a marked shift in U.S. policy. The bitterness over past actions might be ameliorated to some degree were we to admit our mistakes rather than trying, tortuously at times, to explain them away.

THE TREATY

It is easy to exaggerate the impact ratification of the Treaty of Friendship and Cooperation between the United States and Spain will have on the prospects for democratization. Opposition leaders say that delaying the act puts pressure on the government. Some in the government argue that quick ratification will represent a vote of confidence for the King and the reformist ministers. President Ford states that ratification will reflect U.S. support for and encouragement of the Spanish evolution toward democracy.

Each of these assertions is true in part, but when compared to other factors in play during this transition period they probably exaggerate the treaty's impact. Despite the arguments of those who have a vested interest in the ratification process, the treaty is simply not a subject of daily interest when compared to the myriad of issues confronting contemporary Spain. This is of course not to downgrade its importance. The treaty is, after all, the most important formal representation of relations between our two countries. Nonetheless, other American policy statements and initiatives, of a less formal nature, could well have a more significant impact on the democratization process (see "United States Policy").

While there are a variety of views with respect to the treaty, virtually no one expects the United States to give up its bases and, more importantly, to endanger its relationship with the current Spanish government by rejecting the treaty. The question is really one of timing. Many in the opposition see delay as beneficial, just as some government officials see it as undermining their credibility. In the midst of such conflicting Spanish interests, most Spaniards expect the United States simply to pursue its own.

The United States remains interested in moving Spain into the NATO alliance. The treaty has been designed by both sides to accomplish that end. Yet it is not at all sure that a democratic Spain will vote to follow that course, attitudes toward Europe being what they are.

The Spanish people remain sensitive to the possibility that their country may be targeted in a nuclear confrontation and to the benefits an unappreciative NATO will derive from the bases. While the elevation of the old agreement to the treaty level provided some initial good will, Administration assurances to Congress that the U.S. has no obligation to defend Spain have diminished enthusiasm.

Critics and supporters of the treaty are watching the Senate's actions closely. There is some confusion over the multi-year authorization issue, and the government is particularly concerned about efforts to make material changes in the treaty's provisions. A cabinet minister warned that critics in the Cortes will be strengthened if changes are made.

The Cortes printed the treaty publicly on April 19, thus opening it for amendment—in the form of "interpretations"—over a 20 day period. While the Cortes is not technically allowed to amend a treaty, these interpretations can potentially change the treaty's provisions in a material way. At the completion of this 20-day period a 5-member ad hoc committee will be appointed by the President of the Cortes to "study" the proposals and make recommendations within 20 calendar days or 10 working days. The treaty is then sent to a foreign affairs committee for hearings.

While this process would seem to be as deliberative as the U.S. Senate's own procedures, the government is pretty much in control of the timing. The ad hoc committee of five, for example, is appointed by the King's protege, President of the Cortes, Fernandez Miranda. It is clear that the government will await the Senate's ratification and then move quickly to follow suit.

The process could lend itself to some anti-treaty sniping, however, and one conservative member of the Cortes said that some deputies will use the hearings to closely question the government's intentions. He expressed dissatisfaction over the government's failure to receive "commissions" from European nations which, he said, indirectly benefit from the U.S. bases in Spain. "We don't want those countries in Europe who have adopted policies contrary to our interests to benefit from this treaty," the deputy said.

This of course is a minority view, but it could become more prevalent if there is some cause to focus attention on the treaty. The government ministers who support the treaty are therefore concerned about efforts to modify the treaty in the U.S. Senate. They do, however, understand the difference between non-binding "declarations" and "reservations" which could send the negotiators back to the table.

Interestingly, there are many on the right and in the military who see the treaty as a threat to some traditional practices. They see the joint planning board, for example, as forcing the Army to broaden its perspective and to consider more modern military doctrine. In the words of one observer, "The treaty works against the concept of isolation by making the military more an external rather than internal security force."

It is clear that the Spanish government is counting on Senate ratification of the treaty before King Juan Carlos' visit to the United States on June 3. While no direct representation has been made, reaction to suggestions that Senate action might be delayed beyond June 3 are strong. Even opposition leaders (who see delay as aiding their cause) are understanding when the pressures to act before June 3 are described. The King is so closely identified with the treaty, it is felt that the entire nation would lose face if he comes to the United States before ratification. "He would be made to appear as though he were crawling to Congress on his knees," one observer said.

Ratification of the treaty will undoubtedly be controversial in Spain, but there is every indication that it will have only passing significance. That is not to say that the United States can afford to lose interest in the democratization process, for if Spain regresses, our more narrowly conceived military interests will suffer right along with the democrats.

JENNIE M. MELHAM MEMORIAL MEDICAL CENTER

Mr. CURTIS. Mr. President, next Sunday is Mother's Day, and I would like to call to your attention a most touching tribute to a Nebraska mother from a wealthy industrialist son who values more than anything the selfless devotion of the woman who raised him in Broken Bow, Nebr.

Leo L. Mellam, a New York businessman, is the son of a Nebraska pioneer woman and a Syrian immigrant. Raised in Nebraska, young Mellam tried to go to college, but could not afford it. So he left Broken Bow over 50 years ago, and somewhere along the line, became an industrialist whose corporate wealth is estimated at more than $200,000,000.

Mellam is the man who, in 1956, developed the piggyback system of hauling truckloads on railroad flat cars. That idea worked, and so he applied the concept to ships. Eventually, he formed his own corporation, Flexi-Van, which operates 170 offices in 31 countries.

Mellam's parents are both dead now. One might think his ties to Nebraska are pretty much in the past. But that is the remarkable part of the story. Because of devotion to his mother and to the value of a wholesome Nebraska upbringing Mellam is a beloved benefactor to his childhood community of Broken Bow.

Because his mother had been stricken with crippling arthritis and bedridden in Broken Bow's old Community Hospital, Mellam became acutely aware of the community's need for a modern medical facility. After her death in 1970, he im-

mediately offered 10 acres of the family homestead as a site for a new hospital. Soon afterward, he provided the funds to start construction.

In 1972, 2 years after its launching, the medical center was opened and dedicated in memory of Leo Mellam's mother, Jennie M. Melham. Years ago, Leon Mellam adapted the spelling of his name from Melham. The medical center is an ultra-modern facility costing almost $2 million and built entirely without government assistance.

Since that time, Mellam has funded additional medical facilities and, just this year, announced plans to donate a 51-acre parcel of land in Broken Bow for recreational use, a strip of land near the medical center to be leased to continue financing for the medical center, and the land needed for the town's new swimming pool.

The love of 69-year-old Leo Mellam for his mother and for his community is indeed heartwarming. Recalling his youth in Broken Bow in the early part of this century, Mellam says:

Our parents were strict and understanding, and life then was simple and satisfying. They established values for us at a young age—such things as respect for our fellowmen, civic responsibility and devotion to family. These basic ideals, they said, would carry us through life. They were so right!

And how proud they would be if they could see what their son has returned to the soil from whence he came.

No finer Mother's Day tribute could be found than Leo Mellam's own words on the dedication plaque in the lobby of the Jennie M. Melham Memorial Medical Center in Broken Bow:

To the people of Broken Bow and all of Custer County, let this medical center stand and grow in perpetuity as a living memorial, not only to my Mother but to all of the indomitable mothers who selflessly gave their strength and their courage, their tears and their very lives in the taming of this vast wilderness.

Let all of us, and those who follow us, never forget our humble origins in the soil of this land, and never cease being proud of our forebears who willingly sacrificed so much in building this great Nation.

Let us hold especially dear those every-day principles by which those first settlers lived their lives, and let us strive to practice them to the end of our own days: loyalty and devotion to family, charity and brotherhood with our neighbors, and service to our community. . . .

Mr. President, because I feel this man's response to the needs of his community is so extraordinary, I ask unanimous consent that two articles appearing in the April 12, 1976, issue of the Custer County Chief be printed in the RECORD to document the story of Leo Mellam and his living devotion to his mother, Jennie.

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

LEO MELLAM AND JENNIE M. MELHAM MEMORIAL MEDICAL CENTER

When looked at in sequence, the events of Leo Mellam's life show a man who is both humane and practical.

Born shortly after the turn of the century, the son of a Nebraska pioneer woman who grew up in sodhouse and a Syrian immigrant who worked his way to Nebraska from the East coast peddling patent medicines, Leo Mellam at 69 is the "father of containerization" and founder of a corporation—Flexi-Van—which operates 170 offices in 31 countries and is worth approximately $200,000,000.

His fame and fortune, like his life, started out in seemingly simple circumstances.

Mellam, who graduated from Broken Bow High School in 1924, tried college a couple of times, but gave it up for lack of money.

When asked about this by a World-Herald reporter, he replied:

"I had a lot of ideas, but they all took money to develop. So, I decided the first order of business was to make some money. I was looking for something to latch onto."

To make money, Mellam did a variety of things. He worked as an oil-station supervisor in Des Moines, Iowa, sold pianos in Detroit, and oversaw merchandise close-out sales in Chicago.

He was in the oil station and truck business with his brother Ralph for awhile. Together they formed The Arrow Motor Freight Lines, Inc. Ralph died in an auto accident in 1935, and Leo sold out in 1938. From there he became a manager for the Watson Brothers Transportation Company, Inc., in Omaha.

He resigned from Watson Brothers in 1956, and become president and director of The New York Central Transport, a newly-formed trucking company and subsidiary of The New York Central Railroad.

The subsidiary was new, and needed a lot of work and innovation. Mellam had an idea that would eliminate the problem of hauling truck loads on railroad flatcars. The problem that Mellam confronted was how to move truckloads on railroad cars when flatcar mounted and semi-trailers were too high for the low clearances.

To solve the problem, he came up with the idea of a "piggyback."

He explained this once to a reporter:

"I thought there ought to be a better way to do it than pull a trailer with its running gear attached onto the flatcar.

To demonstrate what he meant by a piggyback to his bosses at The New York Central Transport, he used a toy truck.

"I used glue to fix the undercarriage so it could be re-attached to the trailer body and made an aluminum turntable on the railcar. I figured you could push the trailer body onto the car by hand if you reduced the friction enough . . ."

And that was the beginning. From railroad flatcars, Mellam went on to apply his ideas to ships, and it worked. He patented his idea, and formed the Flexi-Van Corporation.

In the years between the time Leo Mellam left Broken Bow to make a place for himself in the business world, events show that he never forgot where he came from. Broken Bow residents say they remember seeing him in Broken Bow often, sometimes every two weeks or so, especially during the last years of his mother's life.

It was during these last few years of his mother's life that he said he became increasingly concerned over Broken Bow's lack of a good medical facility. And, true to past performance, his concern did not end with a statement. After his mother's death in 1970, he made a deal with Broken Bow civic leaders. If they would raise local funds, he would give them 10 acres and $500,000 to build a medical center. Eventually his donation for the medical center's construction totaled somewhere around one million dollars. At present his total donation to Broken Bow—the medical center and the land he's given—amounts to "well over $2 million," according to city administrator Jim Peister.

The plans for the medical center, which he played a large part in developing, are an excellent example of the imagination and creativity which undoubtedly contributed much to Mellam's financial success.

The facilities which Mellam included in the medical center—a chapel, a barber-beauty shop, as well as the most modern medical equipment available—show him to be a humane man in the truest sense of the word.

"I wanted it to be a place where a person didn't feel institutionalized," Mellam said.

Today Mellam has shown that he is a practical man as well as a humane one. At a time when hospitals all across the country are finding themselves in difficult financial binds, Leo Mellam has provided the Jennie M. Mellam Memorial Medical Center with the means to take care of itself financially in the years to come.

In addition, he has given 50 acres of land to the city of Broken Bow to be used as a park with the agreement that, if the land is ever used for anything other than a park, it will be returned to its original owner.

The memorials which Leo L. Mellam has given Broken Bow to be used by all the people of Custer County are a constant and pleasant reminder of the kindness and resourcefulness of a man who hasn't forgotten to "hold dear those every-day principles by which those first settlers lived their lives . . . and to practice those principles."

MELLAM DEEDS LOTS, LAND

New York industrialist Leo L. Mellam has announced that he has instructed his Broken Bow counsel, Carlos E. Schaper, to deed the City of Broken Bow a 51-acre parcel of land for recreational use. The area, which borders on Fifth Avenue, consists of the original Mellham homestead, portions of which were previously donated to the Jennie M. Melham Memorial Medical Center.

Simultaneously, Mr. Mellam announced plans to give the Medical Center a strip of land 380 feet wide and extending 1,728 feet from the northeast corner of the former Melham property to the edge of the land surrounding the hospital. The Medical Center will divide this additional acreage into 24 homesites. Mr. Mellam stressed that he and his wife, Laural, were making gifts jointly on behalf of their entire family—both the living members and the deceased.

PARK PROPERTY

Recently, Mr. Mellam made known his intention to donate the land for the town's new swimming pool, whose construction was approved by city residents in a bond vote on January 27. Mr. Mellam's gift will include the pool site, and also provide ample space for other recreation areas such as ball parks, bike paths, hiking trails and tennis courts.

The 51-acre tract was originally subdivided into lots, and the plat for this purpose was approved by the city last year. City Administrator Jim Peister and others discussed with Mr. Mellam the possibility of his providing the site for a new pool. The Mellams decided that the community would benefit most from the development of a major recreation area for all ages with a pool as just one part of it.

Mr. Mellam stated that the only conditions attached to his gift were that the area be used in perpetuity as a park and that simple acknowledgment of its donation by his family be noted. Accordingly, the park will be known as the Melham Park and Recreation Area.

NEW HOMESITES

Robert Carey, Administrator of the Jennie M. Melham Memorial Medical Center, stated that he had recently been advised of the possible gift by the Mellam family of 24 homesites adjacent to the hospital property. These will be divided into two groups of 12 each, separated by a thoroughfare to be known as Laural Parkway Drive. The name was selected to honor Laural Mellam who, like her husband of 50 years, is a native Nebraskan. One group of 12 homesites will consist of properties each 150 feet by 144 feet; the other 12 will be properties 150 feet by 130 feet.

"I am certain that the homesites will constitute the most desirable location for new home construction within Broken Bow. Adjacent to the park and Medical Center, this land is an exceptional area for residential development," Mr. Mellam said.

He also stated that he hoped the individual sale or leaseholds of the homesites would provide continual income for the Medical Center. Mr. Carey indicated that the income from the gift would be used as part of a planned $1-million expansion program that includes an apartment complex for the retired and additional dining facilities in the existing Medical Center.

NATIVE SON

In an interview with the Chief, Leo Mellam said he was pleased that this property could be given for such useful purposes.

"It is, however," he admitted, "a bittersweet occasion. The homestead means much to me, for it recalls life in Broken Bow years ago.

"I remember moving, as a boy of 15, into the new frame house on Fifth Avenue with my parents and two brothers. As I recall that was 1921. My father, Charles, had been an emigrant peddler, and later became a farmer and merchant after marrying my mother, Jennie M. Reynolds, a member of a family of early Nebraska pioneers. Both my parents, greatly valuing education, decided to move closer to town schools and to the advantages of a less isolated rural existence would afford their sons.

"They were strict and understanding, and life then was simple and satisfying," Mr. Mellam said. "Our parents established values for us at a young age—such things as respect for our fellowmen, civic responsibility and devotion to family. These basic ideals, they said, would carry us through life. They were so right!"

SEES NEED

Because his mother had been stricken with crippling arthritis and bedridden in the old Community Hospital, Mr. Mellam became acutely aware of the community's need for a modern medical facility. After her death in 1970, he immediately offered 10 acres of the family homestead as a site for a new hospital. Soon afterward, he provided the funds to start building. When the people of Broken Bow and the surrounding Custer County area responded enthusiastically, Mr. Mellam became instrumental in providing the leadership and financial assistance to start the project.

In 1972, two years after its launching, the Medical Center was opened and dedicated by Leo Mellam in memory of his mother, Jennie M. Melham. The Medical Center is an ultra-modern facility costing almost $2 million and built entirely without government assistance. Since that time, Mr. Mellam has continued to add cash contributions and additional property for the Medical Center. Later, Mr. Mellam and his family funded the entire construction cost of an adjacent Medical Building with offices and clinic for local doctors.

Leo Mellam's contributions and sustaining interest in the betterment of the community have long been a source of pride to local residents. His efforts have been praised in newspapers and on radio and television throughout the state and in other parts of the country as well. The University of Nebraska bestowed on him its Distinguished Service to Medicine Award during commencement exercises at the Medical School in 1974.

WHY

With some trepidation, we asked this distinguished gentleman who left Broken Bow over 50 years ago to find success in the business and financial world why he did what he did.

His answer was somewhat oblique. He spoke for a moment about his parents—their role as early pioneer settlers, their hardships on a prairie farm, their goals in seeking a better life, both for themselves and their neighbors.

Then he spoke of pride—the pride they felt in working the very land that he had donated.

"And I'm proud to," he said, "to be able to do something that benefits all people of Broken Bow and the Custer County community."

ALASKA OIL GLUT FEARED IN WEST

Mr. BAYH. Mr. President, last week the Washington Post reported that officials of the Federal Energy Administration and the oil industry have become concerned that there will be inadequate demand and storage facilities on the west coast for the oil arriving there from North Slope oilfields in Alaska via the trans-Alaskan pipeline and tanker routes.

Only last month we first learned something that many of us anticipated years ago: The west coast will not be able to use the 2 million barrels of oil that can be produced on the North Slope. Now, almost 3 years after construction began on the trans-Alaska pipeline, and with less than a year remaining before the first Alaska oil reaches California, we are informed by the FEA that there will be no place to store the excess crude oil.

This example of mismanagement is compounded by the fact that the FEA began to study this problem a mere 6 weeks ago. The FEA official responsible for the study is quoted in the Washington Post as saying that:

A lot of those decisions should have been made several years ago and we're just getting around to them now.

The official went on to state that the impression was that:

The big problem was getting the oil out of Alaska, but now we're beginning to see there's more to it.

Mr. President, this type of retrospective policy analysis is not going to solve the problem that we face with regard to storage of Alaskan oil on the west coast. The fact is that two-thirds of the country could become increasingly dependent on Middle Eastern oil, while the west coast is glutted with oil and possibly even hopeful of selling it to Japan to relieve the surplus.

Those of us who led the fight for the trans-Canada alternative to the Alaska pipeline can take little pleasure from the knowledge that we were right. What we should do instead is learn an important lesson from the errors and misrepresentations of the oil industry and the Nixon administration in their successful effort to rush the Alaskan pipeline legislation through the 93d Congress.

That lesson is that a responsible national energy policy places the interests of the entire country above those of a small group of multinational oil giants whose only allegiance is to profit. In concrete terms that lesson should be reflected in a decision to break up the major, vertically integrated oil companies by passing S. 2387, the Petroleum Industry Competition Act. One important reason that the wrong decision was made on the Alaskan pipeline was that the same companies that were going to produce North Slope oil controlled the delivery system for the oil, and thus sought the pipeline that would provide them with the greatest flexibility and greatest profit.

One of the traditional ways vertically integrated companies have perpetuated their anticompetitive practices has been through swapping and exchange agreements. By setting up a transportation system for North Slope oil that involved using tankers between the port of Valdez and California, the major oil companies will have an opportunity to engage in swapping arrangements. Such arrangements have traditionally been used to deny supplies of crude oil to nonmajor oil companies.

An independent pipeline company would not have had the same incentive to build a pipeline that would transport North Slope oil to the west coast. The major oil companies wanted to set up a distribution system that they would control completely with maximum flexibility. They will have that system, but the cost to the American people will be a glut of crude oil in California at a time when the need for U.S. oil in other parts of the country has never been greater.

Mr. President, so that my colleagues may benefit from the lessons to be learned from the experience of the Alaskan pipeline. I ask unanimous consent that the article from 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, Apr. 28, 1976]

ALASKA OIL GLUT FEARED IN WEST

(By Bill Richards)

SEATTLE.—With vast quantities of crude oil scheduled to begin flowing into the Alaskan pipeline next year, top industry officials are becoming increasingly worried that there may be no place to put much of the oil once it arrives.

A daily surplus of as much as 400,000 barrels—a third of the pipeline's daily capacity—could pile up here on the West Coast if no way is found of moving the Alaskan oil inland where it will be needed, federal and industry officials are warning.

Ironically a situation could develop, officials said, where two-thirds of the country would be desperately seeking sources of oil other than the Middle East while the West Coast would be glutted with oil and possibly even selling it to Japan to relieve the surplus.

Federal officials in interviews here Monday discounted the possibility of a surplus sellout to Japan, but that prospect was raised by one senior industry official here last week. Under federal law, a sale of Alaskan oil outside the United States would require both presidential and congressional approval.

One senior Federal Energy Administration official said today that an additional $1 billion atop the estimated $7 billion pipeline investment might be needed to transport the Alaskan oil to the Midwest.

Robert Boldt, a deputy FEA regional administrator who heads a federal study of the potential West Coast surplus, said the study began only six weeks ago. "A lot of these decisions should have been made several years ago and we're just getting around to them now," Boldt said.

He said many decisions were postponed because of uncertainty over a national energy policy. Moreover, "A lot of people were under

the impression that the big problem was getting the oil out of Alaska, but now we're beginning to see there's more to it," Boldt said.

For example, Boldt said, federal officials are just now attempting to determine how much the flow of Alaskan oil will be augmented by oil from offshore California leases granted to private companies by the government last December. Sales of those leases yielded only about 40 per cent of what the Interior Department had expected, and officials are still trying to calculate how much oil will actually be produced.

Oil industry officials are also awaiting a decision on where a potential 250,000-barrel daily output from the federal Elk Hills field in California will be stored. Federal officials have proposed that the oil be placed in underground chambers along the Gulf Coast. If that storage area is not used, the Elk Hills oil could further tax West Coast facilities.

Also unclear is the extent of opposition to a proposed west-to-east oil pipeline from Long Beach, Calif., to the Midwest. Officials speculate that under the best of conditions that pipeline—which both federal and private oilmen currently favor to carry the Alaskan oil—would take two to three years to complete. The Alaskan pipeline is now scheduled to begin operation in October, 1977.

The Long Beach pipeline would move the Alaskan oil first to Texas and then to the Midwest. One section has already been constructed and is in use as a natural gas pipeline. The owner, El Paso Natural Gas, has applied to the Federal Power Commission for permission to convert the line to oil. Last month the FEA intervened to seek a speedup to the commission's deliberations because of the urgency of the Alaskan oil situation.

Standard Oil of Ohio, which has proposed building the segment of the Alaska line from the California border to Long Beach, owns the largest portion of the Alaskan oil. The company has no refineries or terminals on the West Coast.

Whether the Long Beach line can be made operational depends on California's willingness to grant permission for coastal terminal and storage facilities. The facilities would face a certain fight from California environmental groups.

There is little likelihood that existing refinery and storage capacities on the West Coast could be immediately equipped to handle high-sulfur Alaskan oil. Industry officials said that about 40 per cent of the West Coast refinery capacity can now handle only low-sulfur oil and that any changeover would take two or three years.

Ames Smith, marine department manager for Exxon, which will own about a fifth of the pipeline oil, told reporters last week that his company is preparing for a surplus and in considering several alternatives.

One alternative that both federal and private officials said they would like to avoid is reducing production at the Alaska end of the pipeline. Full production is needed, they said, both to pay off the huge capital expenditures of the Alaskan pipeline and to reduce the national dependence on Arab oil.

A second alternative, Smith told reporters, is selling Exxon's surplus oil to Japan if no way could be found to move it to the Midwest.

In a telephone interview from Exxon's Houston headquarters Monday, Charles R. Sitter, senior vice president, said the most likely option at this time is to send the surplus oil by tanker to Gulf of Mexico ports.

If the daily surplus does reach 400,000 barrels, Sitter said, it would require three or four medium sized tankers per day to move the oil through the Panama Canal.

President Ford's Energy Resources Council is now considering how much of the cost of the Midwest transport would be borne by the government, Sitter said.

CHARLES P. STALEY

Mr. MATHIAS. Mr. President, the city of Frederick, Md., lost one of its most distinguished citizens with the death on April 22 of Charles Paul Staley. In business, local government, politics, civic and fraternal organizations, and other activities, Mr. Staley contributed richly to the life of his community. All who knew him in Frederick mourn his passing. Mr. President, the Frederick News-Post, in its April 24 editions, reported Mr. Staley's death and paid tribute to him in an editorial. I ask unanimous consent that the editorial and an article from the News-Post be printed in the RECORD.

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

[From the Frederick (Md.) News-Post, Apr. 24, 1976]

CHARLES PAUL STALEY

Mr. Charles Paul Staley was one of those rare individuals who really didn't expect anything in return for some of the great and wonderful things he did for his community.

He served Frederick well; he was a rugged individual with a keen sense of humor and his concern for Frederick is reflected in his beneficent gifts to the people.

Staley Park, Staley Field House and Staley Field which is the home of the National Little League Park—all in North Frederick—are the result of his philanthropy.

He was a painting contractor, a farmer, a veteran of World War I, headed the veterans groups he belonged to—American Legion, Veterans of Foreign Wars, Veterans of World War I, and the Forty & Eight. But the World War I machine-gunner with the 112th in Europe, was also heavily involved in other community endeavors—Grange, Farm Bureau, Odd Fellows, Rebekahs, Elks, Eagles, Optimists and Frederick Optimist Boys' Foundation, Junior Fire Company, Order of United American Mechanics, and Frederick County Agricultural Society of which he was a life member.

He was an active Mason of Lynch Lodge No. 163, was prominent in both the Scottish Rite and York Rite bodies of Freemasonry, as well as the Shrine and Tall Cedars.

Mr. Staley twice served the people of Frederick as a member of the Board of Aldermen and his examples of community spirit made him an effective leader. He was a past president and a founder of the North End Civic Association—oldest such group in the city and still active.

He had a way of making a point that seldom left anyone in doubt as to his stand on matters large or small. This column was campaigning a few years back to have certain houses in the center city either razed or fixed up. He called and in a most serious tone of voice said that he was deeding some of these properties to the editor and that the editor should proceed at his own expense to "practice what he was preaching."

It was a short time later at a Farm Bureau meeting that the editor was introduced to Mr. Staley by Austin Pierpont Renn. Mr. Staley asked, without cracking a smile, "I'm glad to meet you, and how are you doing with those properties?"

Obviously caught in a perfectly delayed double squelch, the editor stammered (now not so sure Mr. Staley was joshing) and said, "Well, sir, I thought you were pulling my leg."

"Well, I wasn't . . . and I sure wasn't going to let you pull mine any longer with those editorials. I sold the property . . ."

Thus began a warm friendship that lasted for too few years.

Charles Paul Staley died Thursday, April 22, 1976. He was nearly 79, born July 3, 1897, near Bloomfield in Tuscarora District, a son of the late Charles Ezra and Edith Smith Staley.

He leaves his wife, Letitia Brown Staley; three children, Paul R. Staley and Charles J. Staley, both of Frederick and Mrs. Al B. (Ann) Smith, Ijamsville; eight grandchildren, four great-grandchildren and the following brothers and sisters, Mrs. Marie Cutsail of Frederick, Mehrle E. Staley of Woodfield, Mrs. Roberta Harris of Shookstown, Mrs. Viola Baker of Jefferson, Mrs. Monroe Stup of Walkersville, Mrs. Beatrice Gastley and Harold M. Staley of Frederick, and Mrs. June Dinterman, Walkersville.

Mr. Staley made his mark. He leaves more than the memory of a generous and friendly man. He leaves something tangible for future generations. And we're glad these facilities bear his name because people will ask, "Who was this Staley?" And people who know will say, "he was Charles Paul Staley, and he was a wonderful man."

CHARLES P. STALEY DIES, FORMER ALDERMAN

Mr. Charles Paul Staley, well-known businessman and property owner of 103 West 13th St., died Thursday, April 22 at the Frederick Memorial Hospital.

Mr. Staley was for many years a painting contractor in Frederick County and twice served on the Frederick Board of Aldermen. He was first elected to the board in 1943, the last of the three year terms. His second term was from 1954–58.

Born July 3, 1897, near Bloomfield in Tuscarora District, he was a son of the late Charles Ezra and Edith Smith Staley. Long active in politics, civic and fraternal organizations, Mr. Staley gave the land for the National Little League Park and the land for Staley Park which is named for him. He was past president of the NECA and served on its Board of Directors since its founding.

He was a member of All Saints Episcopal Church. Mr. Staley was a veteran of World War I when he saw service in Europe with the 112th Machine Gun Battalion. He was an active member and past commander of the Veterans of World War I, a charter member of the Francis Scott Key Post 11 American Legion, the Forty and Eight Post 155, and the Veterans of Foreign Wars.

Interested in farming all his life, he owned a farm near Jefferson and was a member of the Farm Bureau and the Ballenger Grange.

Fraternally he was a member of the Independent Order of Odd Fellows, Samaritan Rebekah Lodge 51, Elks, Eagles, Optimist Club, president of the Frederick Optimist Boys Foundation Inc., the Junior Fire Co. No. 2, Jr. OUAM, and a life member of the Frederick County Agricultural Society.

Mr. Staley was also an active Mason and was a member of the Lynch Lodge 163 AF&A Masons, Enoch Council No. 10 R&S Masters, Enoch Chapter No. 23 RAM, Scottish Rite of Free Masonry SJ Chesapeake Consistory, Jacques DeMolay Commandery No. 4, Knights Templar, Hagerstown Shrine Club and Ali Ghan Temple, and was a past Tall Grand of the Tall Cedars of Lebanon.

Surviving are his wife, the former Letitia Brown, three children, Paul R. Staley and Charles J. Staley, both of Frederick and Mrs. Al B. (Ann) Smith, Ijamsville; eight grandchildren and four great-grandchildren. Mr. Staley is also survived by the following brothers and sisters, Mrs. Marie Cutsail, Frederick; Mehrle E. Staley, Woodfield; Mrs. Roberta Harris, Shookstown; Mrs. Viola Baker, Jefferson; Mrs. Monroe Stup, Walkersville; Mrs. Beatrice Gastley, Frederick; Harold M. Staley, Frederick, and Mrs. June Dinterman, Walkersville.

The family will receive friends at the Smith, Fadeley, Keeney and Basford Funeral

Home, (formerly Etchison's), 106 E. Church St., on Saturday from 7 to 9 p.m. and on Sunday from 2 to 4 and 7 to 9 p.m. Funeral services will be conducted from the All Saints Episcopal Church on Monday, April 26 at 11 a.m. by the Rev. A. D. Salmon, rector of the church. Interment will be in Mount Olivet Cemetery.

In lieu of flowers, the family requests that memorial donations in Mr. Staley's name be made to the All Saints Episcopal Church Building Fund.

RESPONSE TO SENATOR GARN ON GENOCIDE

Mr. PROXMIRE. Mr. President, on Tuesday, Senator GARN stated six reasons for his opposition to the Senate ratification of the Genocide Convention. Since his objections reflect many of those raised by others, I would like to comment on each of these statements.

First, it is stated that—

The International Court of Justice has decided that each nation is free to decide for itself what the treaty means and that no country's decision is binding on any other nation.

This is merely an affirmation of the existing power of sovereign nations to interpret individually and independently treaties to which they are parties. The Genocide Convention does not change that. It is certainly as straightforward as any treaty to which the United States is presently a party.

Second, it is contended that—

If another nation adopts definitions under the treaty and we do not like their definitions, we can consider them nonsignatory, even though they have, in fact, signed the treaty.

This statement oversimplifies and confuses a very complex process of objecting to treaty reservations or modifications. Under the Genocide Convention parties have the power, if exercised within a reasonable time, to decide whether a reservation clause adopted by a newly ratifying nation will be accepted by the existing parties. If the reservation is not found by another party to the convention to change the legal effect of the treaty, the treaty is then in force between those two nations. While the Senate Foreign Relations Committee has recommended that several understandings be included in the U.S. ratification, it has recommended no reservations.

Third, the Senator raises the point grave threats to American citizens of extradition. This is a point with which all Senators have a rightful concern.

But I believe the assertion is groundless.

The Senate Foreign Relations Committee gave this matter careful review during their hearings and concluded that this does not pose a threat to Americans. Here is why:

First, the treaty is not self-implementing. It merely commits the United States to grant extradition in accordance with its laws and treaties in force, and neither U.S. law, nor any extradition treaty to which we are a party, includes genocide at this time.

The committee points in pages 11 and 12 of its report to the implementing legislation which has been introduced by the minority leader, HUGH SCOTT. Section 3 of that legislation declares that—

It is the sense of Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national. . . .".

Moreover, should the Secretary of State not carry out this mandate, the U.S. Senate, through its right of advice and consent of treaties, can refuse to approve such a treaty. These votes require two-thirds approval of the Senate so there will be no precipitous action in this area.

Fourth, it is argued that the treaty would greatly endanger Americans abroad by subjecting them to groundless charges of genocide by nations who adopt sweeping definitions of the crime.

Mr. President, I think this charge is baseless. At the present time any American who is traveling abroad is subject to the laws of the land in which they travel. Right now Americans are subject to such laws, regardless of how capricious they may be.

Thus, this treaty does not change international law on this point by one iota.

In fact, Americans may well be better protected through the ratification of the Genocide Convention since we will have established our right to try our own citizens.

Fifth, it is contended that the treaty does not apply in times of war. This is false. Article I of the treaty states:

The Contracting States confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

It is true that the treaty does not apply against governments, but only against individuals, whether as public officials or private citizens. This is simply a recognition that under present international law that there exists no means of punishing a government in power. And I suspect that most Members of this Chamber would be opposed to giving any international authority such power.

Sixth, the Senator raises the possibility that the Genocide Convention will become a propagandistic device against the United States.

This turns the current state of affairs on its head. Former U.N. Ambassador Charles Yost testified in hearings before the Senate Foreign Relations Committee several years ago that it is our failure to ratify the treaty which has been a propaganda point against the United States.

Many observers also felt that our protests against the genocide of the Biafran people during the Nigerian civil war would have been far stronger had the United States ratified the treaty.

Thus, it is our failure to act that has been a propaganda point in international forums.

There is one further point here. Others have raised the specter of charges of genocide in an international forum regarding the actions of the U.S. Government in Vietnam or with respect to the mistreatment of the American Indians during the days of frontier expansion.

These are not valid possibilities since the treaty is not retroactive.

Mr. President, I can well appreciate the genuine concern expressed by Senator GARN yesterday regarding the Genocide Convention. Both he and I would not want the United States to become a party to any international agreement that would undermine U.S. sovereignty or endanger American citizens.

Certainly, Senator GARN is not alone in his concerns and I know that his opinions carry weight with our colleagues. It is for this reason that I have taken this time today. I hope that I have raised some points with which he and our colleagues may not be familiar and that they will reconsider their objections to this important human rights treaty.

NEW MEDICAL CLEARANCE POLICY PROMISES AID TO THE HEARING HANDICAPPED

Mr. PERCY. Mr. President, on April 1 and 2, the Senate permanent Subcommittee on Investigations held hearings into problems in the hearing aid delivery system. During those hearings, we heard of serious abuses by some hearing aid dealers who failed to notify their clients that surgery or other medical procedure could correct a hearing loss, and that the mere dispensing of a hearing aid would not.

During those hearings, the subcommittee took testimony from prominent medical ear specialists who criticized the present delivery system, since most persons go to a hearing aid dealer before visiting a medical ear specialist.

The American Council of Otolaryngology, which represents the ear specialists medical profession, had previously taken the position that a person should probably see a physician before going to a hearing aid dealer, but the organization declined to urge the Federal Government to mandate such a procedure. Unfortunately, the Food and Drug Administration adopted that position in its recent draft regulations which contain a significant loophole in terms of an open ended waiver provision.

However, during our hearings Dr. Jack R. Anderson, the president of the council, advised the subcommittee by telegram that the council's position was being reevaluated.

Today, I have learned that the council's board of directors, meeting in Palm Beach, Fla., last week, adopted a new policy with regard to medical clearance for hearing aid purchasers that is loophole-free.

The statement reads as follows:

Good health practice requires that persons with a hearing loss have a medical evaluation by an otolaryngologist prior to hearing aid provision.

I want to thank the American Council for reviewing its previous position and coming out with a forthright and unambiguous policy of medical clearance.

I know that both the Federal Trade Commission and the Food and Drug Administration, which are presently contemplating the promulgation of effective regulations governing the proper fitting and sale of hearing aids, will be interested in the revised position of the American Council.

ENDORSEMENT OF SENATOR MOSS' AMENDMENTS TO THE CLEAN AIR ACT

Mr. MOSS. Mr. President, I ask unanimous consent that the attached letter, which I have just received from the American Society of Mechanical Engineers, and its attachment be printed in the RECORD.

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

THE AMERICAN SOCIETY OF
OF MECHANICAL ENGINEERS,
New York, N.Y.

ENDORSEMENT OF SENATOR MOSS' AMENDMENTS TO SENATE BILL S. 3219, PROPOSED 1976 REVISION OF THE CLEAN AIR ACT

During the mark-up sessions of the Staff Working Print No. 5 of the proposed Clean Air Amendment, we transmitted to the Senate Public Works Committee the attached list of technical areas which we believed needed further study before the proposed non-deterioration amendments were acted upon.

We are still deeply concerned about the effects these provisions will have on the average citizen and industrial facility.

Because these technical issues have been raised in Senator Frank Moss' amendments to Senate Bill S. 3219, we endorse his amendments.

The ASME Committee on Environment believes that the formation of a National Air Quality Commission is essential for clarifying the impact of such far-reaching legislation.

Very truly yours,

F. B. KAYLOR,
Chairman, Committee on Environment.

ATTACHMENT A—TECHNICAL ASPECTS OF THE PROPOSED CLEAN AIR ACT AMENDMENT OF 1975

1. Dispersion Modeling Capabilities and assumptions in Deriving the Mathematical Models.—Dispersion models are useful tools for predicting in a limited manner ambient air concentrations resulting from contaminant emissions. Models are limited in their ability to predict by the assumptions inherent in the theory. Missapplication of any model will provide false information, which can lead to improper decision making. We believe the committee should understand the limitations of the models used by their technical advisers in determining the effect of the proposed amendments and establishing ambient air standards.

2. Meteorological Probabilities.—Associated with dispersion modeling is the assumption that the meteorological conditions contributing to high air contaminant levels will occur and then persist. Correct interpretation of these conditions is necessary so that confidence is predicted pollutant levels is maintained. When an assumption such as, for example, a particular atmospheric stability condition persisting for 24 hr without change is made, the conclusions of the study would be erroneous. Many similar examples could be presented.

3. Transport of Contaminants.—It is now common within EPA to talk in terms of transport phenomenon. However, inadequate consideration is being given to change which naturally occurs to the contaminant during transport. Dispersion, chemical change, and physical change occur during long range transport. We believe these phenomenon must be considered, or transport theory is only an idea and not a workable predictive tool.

4. Economy of Scale—Economic advantages are the direct consequence of good engineering. Further, economics are based on selecting the optimum size facility appropriate to the need, market, and projected sales. Legislated size limitations on facilities will place the U.S. at an economic disadvantage in world trade. Although cost is not directly proportional to the size of the facility, several small facilities are usually much more costly than one large facility. If this fact is not recognized, the proposed legislation will result in a proliferation of small, inefficient, high cost facilities. This can often result in a greater environmental impact than the equivalent in large facilities.

5. Alternate Control Strategic.—Sound engineering is based on considering all of the alternate solutions available and selecting the one which optimizes performance and minimizes cost. This philosophy has made the U.S. a great industrial nation. The same philosophy should be applied to control stragey. Tall stacks, scrubbing, and low sulfur fuel are possible alternatives. Environmental controls should not be specified by legislation but tailored to the site requirements associated with each facility.

6. Energy Requirements.—Industry's conservation efforts may be offset with increasing energy intensive environmental controls. We believe "best available control technology" should be applied with restraint in light of our energy crisis.

S. 3317—PRODUCT LIABILITY

Mr. TAFT. Mr. President, on April 14 of this year, I introduced S. 3317, the Industrial Safety Encouragement Act of 1976, which, if enacted, would avoid in the industrial field the kind of crisis the Nation is experiencing in the medical malpractice field. The crisis situation relates to the product liability exposure of the manufacturers of industrial equipment, which is enormous.

Under existing State workers' compensation laws, an injured employee who receives an award cannot recover any additional compensation from his employer—the theory being that the employer has provided for the limits of his liability through workers' compensation. In practice, however, the manufacturers of industrial equipment are being sued for product liability at an alarming rate resulting in an astronomical cost of product liability insurance coverage and in some situations, an inability to secure coverage. This is a real disaster for both insurers, since they cannot continue to assume this kind of risk, and for manufacturers, who cannot continue to operate without adequate and affordable insurance.

As an example of increased cost trends in insurance coverage because of this dire product liability situation, I refer you to the experience of a Cincinnati machine tool manufacturer who recently wrote to me saying:

For your information, and for the record, in 1972 our basic coverage for $500,000 limit on product liability cost us 84¢ per $1,000 of shipments. The rate has now gone to $9.44 per one thousand. We are still urgently attempting to conclude an "umbrella policy," and at this time it looks like the total premium cost for that portion of our coverage may total $150,000, compared to $6,000 last year. Our total product liability coverage has, thus, increased by 625% over last year."

I submit that this manufacturer's experience is fairly representative of the situation which prevails for capital goods producers in other States. Federal action must be taken now to alleviate this problem before the costs of the products involved are driven up to staggering levels or smaller businesses are forced to cease doing business because of the increased costs which they cannot absorb.

Mr. President, Mr. Robert K. Burroughs, executive vice president and manager of Day Mixing Co. of Cincinnati, Ohio, has recently sent to my office an extremely thoughtful and analytical report he prepared on the product liability situation in Ohio. I believe Mr. Burroughs correctly concludes that something must be done to correct the gross distortions which have existed in regard to product liability, and which operate at cross-purposes to the national goal of safe work places. S. 3317 is my answer to correct the gross distortions referred to in his report.

I ask unanimous consent that the text of Mr. Burroughs' report be printed in the RECORD as well as some excerpts from recent technical and trade publications which bear upon this product liability problem.

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

PRODUCT LIABILITY AND OHIO'S INDUSTRIAL ECONOMY

(By Robert K. Burroughs)

The recent wave of "consumerism" which has swept the nation has had important implications for manufacturers of goods utilized by consumers. The less-well-publicized, but parallel, trends in product liability law (not legislation) have had far greater impact upon manufacturers of industrial equipment, and more importantly upon their ability to compete and survive, domestically and in world markets, and thereby to continue to provide jobs and a stable source of supply supporting U.S. industry.

Ohio has a large number of companies engaged in the manufacture of capital goods. Most of them are small. The largest are not "large" by contemporary corporate standards. The entire U.S. machine tool industry, for example, has annual sales smaller than the leading manufacturer of cleaning products! These companies, employing tens of thousands of Ohioans, face the clear and present danger, real and immediate, of financial destruction as a result of the current situation in product liability law, a situation that is patently unjust, and totally distorted. A situation that has been constructed wholly by courts, not by legislatures, and which does great harm to the public interest by fostering inflation and ultimately reducing employment.

Also, ironically, the present state of affairs actually militates *against* the cause of worker safety by transferring all responsibility from the party best able to contribute to that end, the employer, to the party less effective in assuring a safe workplace, the equipment manufacturer. In addition, the added financial burden imposed on U.S. manufacturers inevitably reflects in price increases and thereby allows foreign builders to place equipment in American factories. The foreign builder, relatively immune, as a practical matter, to attack by an injured U.S. worker, is far less likely to be responsive to his safety.

The "present situation" referred to is the result of a long and complex history of excess and counter-excess. The following summarizes the factors which have brought it about:

In most states (including Ohio), the employer is insulated to liability toward an injured worker by Workmen's Compensation

laws. Workmen's Compensation benefits are unrealistically small. Result: the worker can turn only to the equipment manufacturer, whether or not he is truly at fault.

The courts in most jurisdictions have struck down the traditional defenses, including proof of defect, proof of negligence, and even contributory negligence. Result: The equipment manufacturer, to suffer a large award, need not have been provably negligent, nor the machine provably defective, and the injured party may have even negligently contributed to his own injury!

Courts have, by self-admission, employed the "deep pocket" theory—that is, the manufacturer is the only defendant available and can "afford" to pay. Therefore, there has been little restraint upon award size.

Juries, emotionally sympathetic to the injured worker, and faced, often, with very complex, highly technical evidence and testimony, have naturally tended to favor the plaintiff. Result: The manufacturers' true cupability is often not at issue at all.

Plaintiff's counsels, sensing easy targets, accept liability cases on a contingency basis. Result: The plaintiff can cause the builder of equipment great expense in defending groundless cases at no risk to himself. The plaintiff's counsel, on the other hand, can well afford to risk the effort, since his share of just one settlement may equal the lifetime earnings of an average person. Result: The manufacturer faces skyrocketing costs of defense, even though he may have done no wrong whatever.

The products of U.S. capital goods manufacturers enjoy a well-known and worldwide reputation for long life. Ironically, the better the quality of a builder's goods, the greater his exposure to liability, since there are, in most states, no statutes of limitation. Result: the fifty-year-old machine, badly worn, but still faithfully performing, perhaps in the hands of its fifth or sixth owner, is judged in litigation by current safety standards.

Attached are some typical excerpts from recent issues of the trade and technical press illustrating:

(1) The seriousness of the current situation.

(2) Legislative remedies being suggested.

Product liability affects manufacturers in somewhat the same way as malpractice affects the medical profession, except that manufacturers have no weapons of defense, and the economic hardships imposed upon society in the long run will be far more serious. Unike doctors, capita goods manufacturers cannot "pressure" the public by withholding their services. Nor do they enjoy media support. They are, except for the jobs they provide, remote from the "man on the street".

The insurance industry has, of necessity, responded to these recent trends in the courts by either refusing to insure builders of industrial equipment against liability, or, where coverage is available, by raising premiums by factors of 50 to 100 since 1970, while reducing effective coverage. In the cases of all but the largest companies, these premiums are financially disastrous. So, many have been forced to risk incomplete coverage, exposing themselves to possible extinction.

Ohio has worked long and hard to create for its citizens a climate favorable to economic growth. A broad base of diverse industries contributes to its stability and strength. Ohio's many small capital goods companies, serving all sorts of industries, are an important part of this framework. This lopsided victimization of these manufacturers, whose factories, incidentally, are inherently environmentally harmless, must be remedied by legislation. Otherwise, the very survival of many such companies is at stake.

These manufacturers certainly do not desire legislation that excuses them from their misdeeds. Equipment which is truly defective, or negligently designed or manufactured should of course constitute liability exposure. But justice demands that liability should be applied to all parties—supplier, employer and worker—in proportion to their true culpability.

Ohio, and all other states, immediately need legislation with the following features:

(1) Workmen's Compensation benefits must be raised to realistic levels.

(2) Employers, who have by far the best opportunity to improve the safety of the workplace, must be given the incentive to do so by removing their immunity to employee suit when they have behaved negligently. (This would also help encourage the truly safety conscious equipment supplier by making his product more attractive to the user).

(3) The time period over which product liability exposure exists must be limited to reasonable technology change, say 10 to 15 years after original shipment.

(4) A schedule of maximum awards must be established by law, just as it is under Workmen's Compensation laws. This would help to end the abuses brought about by contingency fee practice.

(5) Plaintiff's counsels' fees must be regulated so as to provide for a nominal minimum fee, to reflect work actually performed, and/or limited in maximum amount, to remove the incentives to seek unreasonably high awards and to pursue cases without substantial merit.

Such legislation would have the following benefits:

(1) Encourage employers to provide the safest possible workplace and practices;

(2) Encourage equipment builders to produce the safest possible products by creating customer demand for safety improvements;

(3) Increase industrial efficiency and productivity by encouraging replacement of obsolescent equipment;

(4) Provide injured workers with adequate benefits;

(5) End the abuses of baseless suits and unconscionable award demands;

(6) Help prevent the destruction of the domestic capital equipment industries.

Such legislation could expect the support of both business and labor. The worker has lost no rights to seek recovery from the equipment manufacturer, has gained the right to pursue an irresponsible employer, and has gained adequate injury benefits without recourse to litigation. Responsible businessmen already are striving to provide safer workplaces. Opposition could come only from businessmen having no regard for worker safety and, of course, from lawyers who could lose a lucrative market.

When key industrial states like Ohio enact such legislation, others will follow. And when the major states of American industry have acted to end the inequities of current product liability law, the problem, as a practical matter, will be solved for the nation.

[From the American Metal Market/Metalworking news, Jan. 19, 1976]

HAVIR, IN MIDST OF LIQUIDATION, SEEKING BUYER FOR TOOLING, SPARE PARTS BUSINESS

ST. PAUL, MINN.—Havir Manufacturing Co., the small press builder now in midst of liquidation procedures, has not as yet found a buyer for its manufacturing rights, tooling and spare parts business.

As previously reported, Havir's management decided to liquidate the company because of difficulty in finding affordable product liability insurance coverage (AMM/MN, Oct. 6).

John Lenz, president, said in a telephone interview last week that the firm is now being operated as a liquidation trust. "We're still negotiating on the sale of the product lines and inventory," he said, "but nothing is definite."

Some press builders have expressed an interest in the Havir line of small open back inclinable and straight side presses, Lenz noted, but they quite often are interested in only one or two models to round out their own lines.

"We're trying to sell the thing as a package," he said. "What we're very concerned about is that someone will be available to handle spare parts and service for our customers."

Lenz said that prospective buyers of the manufacturing rights would not, under law, assume responsibility for product liability on Havir presses now in the field.

Lenz said Havir is now operating with a crew of "four or five assemblers and a couple other people to finish shipping orders on the books."

The machine shop, he explained, has already been liquidated and the production equipment auctioned.

The decision to liquidate the $2-million to $3-million-a-year press builder was made last year after its product liability insurance premiums doubled in March, and when Havir's policy was subsequently cancelled in July on 30 days' notice.

At that point, said Lenz, the firm was quoted premiums from other underwriters as much as 50 times what they had paid previously.

"It just got beyond the realm of reason," he said. In confirming the liquidation last fall, Lenz had noted that aside from the product liability problem. Havir was a liquid and healthy company. He said that 1974 was the firm's best earnings year ever.

[From the Modern Plastics, January 1976]

LETTERS TO THE EDITOR

ON THIRD-PARTY LIABILITY

As with medical malpractice suits, the growth of third-party liability suits in industry is increasing alarmingly as lawyers, many of whom are making this field a specialty, have become more and more adept at winning large damage awards from sympathetic juries. Also like medicine, the cost of liability insurance has risen drastically—nearly 500% in the last five years. Reed-Prentice is now spending $300,000 a year for liability insurance plus staggering litigation costs, win or lose. If this trend continues many OEMs will be forced out of business. (See also Editorial, p. 33.)

If this sounds like legal trivia with no bearing on responsible equipment users, you're wrong. The rising costs of damage suits against manufactures now are being loaded onto the cost of new equipment, and the amount is not insignificant.

Here's what we are facing: Third-party liability is the practice of holding the OEM liable for accidents that occur while operating his machinery, even though the machine is 20 or 30 years old and has undergone modifications that make it unsafe. Suppose, for example, that an injection molding shop buys a 20-year-old machine from an equipment rebuilder—a machine that has seen the inside of several shops and is without most modern operating safeguards; in fact, it has been rewired to render a safety switch inoperative. Now suppose an employee loses a hand (or worse) on that machine.

Current legal practice, far-fetched though it may seem, assigns liability for that faulty rewiring *not* to a careless employee, *not* to the employer, *not* with the equipment rebuilder, and *not* with the former owners of the machine—but to the original manufacturer. Employers cannot be sued, under workmen's compensation, unless gross negligence can be proved clearly. For some reason, suits are rarely, if ever, brought against the used

equipment dealer. So, the suits encouraged by low compensation payments are directed at the OEM, who's is probably the party farthest removed from the cause of the accident.

In our experience, there are five major causes of such accidents: 1) operator misdeed; 2) insufficient maintenance; 3) setup errors, mold design; 4) component failures, and 5) improperly rebuilt equipment. Another contributing cause, related to operator misdeeds, is the owner who fails to provide the operator with safe operating instruction.

What needs to be done? The first thing is to place the burden of damage suits on the negligent parties. Shop owners must recognize that they are ultimately responsible for safety. Used equipment dealers should be held accountable for negligence on their part. Also badly needed is a law limiting OEM responsibility to a reasonable life expectancy of machinery.

OEMs also can help by making it easier for users to provide operator training and equipment upkeep. For example, Reed sponsors workshops to teach correct, safe operation of our machines. Recently we initiated a program to conduct operation and safety inspections for less than the normal service charge; minor repairs are made on the spot.

Meanwhile, however, the OEM continues to be a sitting duck for third-party liability suits, and the cost continues to be passed along to the new equipment buyer.

The Fault May Not Lie Necessarily With the Machine

Processors and other users of process machinery are fairly well protected under the umbrella of workmen's compensation from liability litigation due to employee injuries involving process machinery. No such protective umbrella exists for the manufacturer of the process machinery, and he has become the target of an increasing number of lawsuits based on the Consumer Product Safety Act. This act has accelerated the lawsuit rush by an already active product safety litigation conscious work force into an unprecedented stampede to the courts for the anticipated pot of gold in damage judgments.

This activity has reached the crisis level for many machinery manufacturers. While product liability insurance carried by the machinery builders assures monetary backup and legal assistance, the startling increase in law suits and the current tendency by the courts to award high settlements have resulted in the rocketing of insurance rates, reportedly to levels 5000% higher than just seven years ago. The results: many companies simply cannot afford liability insurance at the current rates (and stay in business) and many insurance companies are refusing to issue this type of insurance. If this situation continues, it eventually will lead to the demise of some of the important machinery manufacturers.

Some companies already have closed their doors. Others ponder their future. The dilemma is illustrated by these excerpts from a letter we received from a reader:

"As a machinery manufacturer, I find articles pertaining to product liability sobering and frightening, especially after my attorney explained that I always will be responsible for all of the machines I have ever made. This is a great many machines, dating back 25 years to when safety was not popular and could only be given away. My attorney also informed me that if I choose to go out of business, which I do not, the liability will still be with me for as long as I live . . .

"The question is how do we stop or minimize lawsuits which cost thousands of dollars in attorneys' fees plus much time and anxiety?"

Is there a way out? Numerous actions taking numerous directions have been suggested to alleviate the problem facing all machine builders. These include pending legislation (Senate bill S. 2018) which would switch control of workmen's compensation from the states to the already lenient and liberal federal government; no-fault insurance similar to that available in some states for automobiles; insurance similar to that available in some states for automobiles; insurance pools; repeal of the Consumer Product Safety Act; legislation allowing manufacturers of machinery the opportunity to sue machinery users (under specific conditions) to recover some of the losses awarded to user employees; plus sundry other slants to a solution.

We feel that each of these proposals deserves further discussion on this page because of the effect they may have on the processor. Rather than cut short our commentary, we will continue this subject next month when we will evaluate the proposals and voice our opinions.

The Concept of Strict Liability

The sharp rise in the cost of malpractice insurance comes home to some people when they learn that their family doctor has decided to shut up shop and retire rather than pay the stiffly increased premiums required.

There is a good deal of indignation at the increase in rates. The reasons for the increase are becoming clearer as the reports of insurance companies appear. In 1969, St. Paul Fire & Marine had one claim for each 23 doctors insured—last year it was 1 in 10. During the five-year period, the average claim increased from $6,705 to $12,534. Combine the two developments, and you discover that St. Paul's claim cost per insured doctor has increased 4.3 times.

At Teledyne, whose Argonaut subsidiary handles malpractice insurance, there was a sharp drop in profits last year because Argonaut had a net loss of $104-million as a result of the increase in frequency of claims and size of awards. Argonaut is trying to discontinue malpractice insurance and is, of course, being sued by those who think it should stay in the business at a loss.

Are doctors more careless than they used to be? Are patients more particular? Do the courts take a different view of the liability of doctors? Are the patients getting better legal advice?

Among the machine-tool builders we talked with at their recent meeting in Washington, the medical-malpractice problem was often mentioned, and there wasn't much doubt in the minds of most of them that it was the lawyers who inspired the activity.

Malpractice is frequently mentioned because it seems to provide a preview of the liability hazards that machine-tool builders face in future years and the difficulty of providing insurance against those hazards.

At one session an OSHA noise expert, Floyd Van Atta, discussed the current requirements and the new emphasis that OSHA puts on "engineering controls." The concern of most of the people present was that the OSHA regulations could provide the basis for liability for hearing damage caused by machines that were built many years ago.

In another session, in which John Proctor of OSHA described the probable switch from specification standards to performance standards, there was the concern that these standards would relieve the users of liability at the expense of machine builders.

There was frequent mention of a recent case in which a machine-tool builder was sued because of injuries from a 20-year-old machine that was in the hands of its fifth user. And the builder lost.

The popular explanation is that the automobile brought with it the problems of personal liability. Firms of lawyers began to specialize in liability cases. As delays developed and more and more money went to legal expenses instead of to accident victims, the no-fault insurance concept developed. No-fault is creating a lot of under-utilized attorneys, who are now turning their attention to malpractice and product-liability cases.

In the process, the courts seem to be developing a concept of strict liability in which a company may be forever liable for injuries caused by a product it produces. When Van Atta was told that the OSHA noise regulations might make extra problems, he replied that "the only way to avoid that is to get legislation abandoning the concept of strict liability."

The natural reaction is that such legislation is impossible. Yet that is precisely what the no-fault insurance laws adopted in many states have begun to do.

We do not believe that any capital-equipment producer should be relieved of all liability for injury caused by his products. But tools and other capital equipment need to be viewed in a different legal light from consumer products. Is the hammer maker responsible when the carpenter hits his thumb?

A tripartite relationship exists between the builder of a machine, the company that uses the machine, and the employee who works with or near it. If they could, the builders would like to make the company that uses the machine the one that is liable. On the other hand, the user would like to put all the liability on the machine builder. In some states, worker-compensation laws specify compensation to the injured worker but also provide that, in accepting this compensation, the workman gives up any claim for additional liability against his employer. No such protection exists for the machine builder.

What is called for is the kind of fresh thinking that seems to have reduced the automobile litigation problem by creating no-fault insurance. Some formula must be developed for protecting, and also balancing, the rights of the injured, his employer, and the equipment producer. Unless we do, it will be the lawyers who will inherit the earth.

Liability Insurance

It's ironic that as recently as the mid-to-late 60's insurers regarded General Liability insurance as pretty much of a "throw away" line . . . a loss leader, if you will . . . for large accounts. Liability—other than Auto, of course—had been rather consistently profitable, and insurers thought nothing of discounting premiums to absurd levels if the buyer threw in his Compensation, Property, etc., business. It is ironic because in the last five years, miscellaneous Liability coverages—particularly Product and various types of Malpractice and Errors and Omissions—have become a disaster . . . with underwriting losses exceeding $2.5 billion.

During the latter half of 1975, bureau companies—using a combination of pure manual rate increases and new (and substantially higher) increased limits tables were asking for premium increases which often exceeded 100%. In many cases. Product rates have gone nearly out of sight. One leading trade paper reported that a Minnesota machine tool builder was being liquidated because it could not afford Product Liability insurance or defend itself against a rash of lawsuits. The firm's erstwhile $4,000 a year premium was increased this past March to $10,000. When the insurer cancelled in August, bids for replacement of coverage were in the vicinity of $150,000 a year . . . with a minimum deductible of $5,000 per occurrence!

Umbrella premiums are also climbing, and underwriters are coupling premium hikes with a demand for decidedly higher primary limits . . . a demand, by the way, which primary underwriters are increasingly reluctant to meet. If your primary insurers are not willing to write the limits demanded by an Umbrella underwriter, you'll have to buy an intermediate layer of coverage . . . and at a

pretty stiff price . . . or look for another primary carrier. Today, it is not unusual for an Umbrella underwriter to ask for primary Auto Bodily Injury Limits of $500,000/$1,000,000 and an Auto P.D. limit of $250,000. Other insurers may want a single limit of $500,000 or $1,000,000 . . . and this is for all underlying coverage—i.e., a $500,000 or $1,000,000 single limit for Auto, a single limit in the same amount for General Liability, etc.

Two random examples of premium increases, one involving a medium-sized, and the other a small, manufacturer: Firm A had been paying $5,000 annually for a $10 million Umbrella. At renewal, the best quote offered was $20,000 annually. Firm B had been paying $800 for a $5 million Umbrella. The renewal quote was $1,500.

THE COST OF THE PEANUTS IS IN THE BEER

There is currently, in a Senate committee, a bill (S2018) introduced by Senator Javits of New York that has such labor-vs.-management political implications that action on it is being delayed until the presidential election year. Two-O-one-eight, as it's affectionately known, changes workman's compensation from individual state regulation to Federal regulation. The fact that it will make the compensation for the loss of an eye in Mississippi the same as that in New York is good. On the other hand, some would argue that New York's social awareness is driving it into bankruptcy. Perhaps so, but I feel that S2018 improves nothing, because, while it equalizes compensation, it obscures the basic fact that workers' compensation in any state fails to adequately compensate for losses.

By the purchase of workman's compensation insurance the employer limits his legal liability according to the prescribed (albeit insufficient) schedule of compensation payments. Enter the plaintiff lawyer, who accepts the contingency of payment only if he wins the case. Because of no-fault auto insurance, thousands of plaintiff lawyers have turned to industrial accidents as a viable field in which to apply their expertise. The result has been a rash of third-party suits, generally against the machinery or material manufacturer. Juries, who naturally relate to the worker, are swayed by the theatrical dexterity of the plaintiff lawyer regardless of the validity of the "industrial giants" argument of worker or employer negligence. Judges motivated by "social consciousness" award massive settlements which often are not based on the loss. To further complicate the matter, equipment involved is often quite old and has been rebuilt or modified in such a way that the modification rather than the original design has been the cause of the injury. All of this (like doctors' malpractice insurance) has brought about doubling and tripling of insurance premiums to equipment manufacturers and in some cases even cancellation. And don't for one minute forget that these additional costs find their way into the cost of the equipment without providing additional value to the customer.

An effective, fair and universal workman's compensation law would spell out a formula whereby the worker or his heirs would receive compensation based on his loss. No doubt this would considerably raise the cost of compensation insurance—but fairly, based upon the loss history of the industry and of the individual employer. A law based on this premise would make a lot more sense than the partial cure (and unfortunate obfuscation) of S2018. Where equipment malfunctions are the cause of the injury, the insurer would have the recourse of subrogation of the claim against the equipment manufacturer. Then the courts would be faced with an unemotional test based on technologically provable facts. The sometimes unconscionable awards would diminish, the onus would be placed wherever it belongs, upon the worker, the employer or the equipment.

If this sounds unpalatable at first, think about it—the cost of the peanuts is in the beer.

MACHINE SUPPLIERS CHALLENGE USERS: USE IT SAFELY OR PAY THE PENALTY!

The National Machine Tool Builders Association wants to remove the current financial immunity of negligent employers who maintain unsafe workplaces. In turning on rogue users of equipment in an effort to bring some measure of control to runaway product liability costs, the NMTBA is supported by most manufacturers of woodworking machinery, plastic injection molding machinery, and packaging machinery.

NMTBA's position was recently detailed by J. H. Mack, public affairs director, in hearings before a subcommittee of the Senate Labor and Public Welfare Committee. He proposed an amendment to the Federal Worker's Compensation Act of 1975 with two important features.

In accidents in which an employer has violated state or federal safety regulations, he cannot be shielded by other state or federal laws from an action for either contribution or indemnification brought by an equipment builder who has suffered economic injury because of the employer's misconduct.

In cases to recover a workers' compensation loss brought by an employer or his insurance carrier against a machinery builder, the builder can raise the defense that the employer failed to comply with an applicable state or federal safety regulation and that the failure contributed to the employees' injury.

If adopted, the amendment would represent a significant legal change. Mack noted, "Under present law, virtually every state workers' compensation statute (and/or its court interpretation) bars recovery or indemnification from the employer by an equipment builder—no matter how negligent the employer may have been in failing to properly guard and maintain the machinery or in failing to properly instruct and monitor his employees in how to use the machinery. Minnesota is the only state which currently permits the equipment manufacturer to recover all his damages from the employer."

The reasoning of machinery manufacturers is straightforward: 1. The most effective way to prevent product liability suits is to prevent accidents. 2. The employer is in the best position to prevent accidents. And this leads to Mack's observation that, "one of the surest ways to increase employer safety awareness and reduce employee accidents would be to place the full economic burden of such accidents upon the party or parties who are at fault, whose act or failure to act caused the employee injury. That party also is likely to be in the best position to eliminate hazards and placing the economic burden on his shoulders will insure that he has the greatest incentive to do so . . ."

In Mack's opinion, "trying financial responsibility directly to violation of state and federal safety laws and regulations . . . would encourage compliance with those requirements, perhaps to a far greater degree than OSHA itself since the potential economic costs of noncompliance would be much greater than they are at present."

To highlight the general problem, Mack cited some interesting data from a recent study of 11 manufacturers of mechanical power presses:

1,361 machines have been involved in reported accidents (out of over 338,000 presses they have manufactured over the years). About two-thirds of the accidents have been reported in the past 6 years.

615 of the reported accidents have, to date, led to lawsuits.

One out of seven lawsuits involves a machine over 40 years old; one out of four, a machine over 30 years old; and almost half, machines over 20 years.

Approximately 85% of the reported accidents occurred when the injured employee was manually feeding the power press.

Most of the machines had been modified one or more times by the employer and/or the person he bought the machine from.

Various machines had been sold, resold, junked, resurrected from a junkyard, and placed into operation.

Over one-fourth of the machines were poorly maintained by the employer.

In over one-fifth of the cases, the employer either failed to properly guard the machine or failed to make sure his employee used the appropriate safety device.

Translated into other terms, these facts for one press manufacturer are reflected in an increase in product liability insurance premiums from $3,000 in 1968 to $168,000 in 1975. For another, there was an increase from $15,000 in 1968 to $400,000 in 1975. Still another builder has had his premiums increased from $125,000 in 1968 to $600,000 in 1975. Mack added that early this year many members of NMTBA have had their product liability insurance cancelled. Companies able to purchase coverage have paid double, triple, and even greater premiums compared to 1975 rates.

This inequitable distribution of the costs of accidents must be changed—and capital equipment industries are out to change it in such a way that the legal rights of an injured employee are in no way affected.

[From the Industry Week, Mar. 22, 1976]

MACHINERY MAKERS ON TRAIL OF PRODUCT LIABILITY ANSWERS

Machinery manufacturers are slowly gaining recognition in their campaign to make the nation's lawmakers more aware of their mounting product liability problems.

More than 70 corporate and trade association executives from capital equipment industries met in Washington last week for a special White House conference on the problems they face.

Among them: skyrocketing insurance rates, cancellations, unlivable policies, and ever-increasing litigation. Officials of the departments of Labor and Commerce, the Small Business Administration, and the Occupational Safety & Health Administration (OSHA) were told quite clearly by manufacturers that without relief there could be "absolute chaos" in the near future.

"We are threatened with extinction . . . by the effects of product liability suits and awards," declared Ralph B. Baldwin, president of Oliver Machinery Co., Grand Rapids, Mich., who, as past president of the Woodworking Machinery Manufacturers of America, pushed for the meeting.

"We need to agree on a series of steps which might be translated into law in time to avert the nationwide calamity we foresee," he said. "We are still in business and making a profit, but the future trend is clear. Product liability settlements will inevitably put my company and other woodworking machinery manufacturers out of business. . . . And every manufacturer of capital goods is in the same vulnerable position."

USER PROTECTED

The problems stem from laws which now protect an employer against any claim from an industrial accident other than workmen's compensation claims. That means that regardless of who is at fault, any resulting lawsuit for damages is filed against the machine's manufacturer (IW, Dec. 1, 1975, Page 15).

And that holds true even in the case of 50-year-old equipment which may have changed ownership numerous times and been modified by each owner.

In fact, the National Machine Tool Builders' Assn. (NMTBA) says a survey of 11 of its mechanical power press builders shows that the equipment involved in product liability accidents was over ten years old more than 70% of the time. Only in 2.8% of the cases was the piece of machinery less than five years old.

Adds James A. Gray, executive vice president of the NMTBA and one of six speakers at the conference:

"This adds up to a situation in which unsafe work practices in unsafe workplaces, maintained by unsafe employers, are causing men and women to lose fingers and hands . . . or worse . . . and our members are paying for it in the form of court judgments, out-of-court settlements, and scandalously high insurance premiums."

Those 11 press builders, he notes, have an average of 30 liability cases pending and are paying insurance premiums that average seven times as much as they were just seven years ago.

The concentrated efforts have resulted in legislative response.

IN CONGRESS

Sen. Robert Taft Jr. (R, Ohio), for example, is preparing to introduce as a separate bill an NMTBA proposal which would permit manufacturers to seek redress from employers—or use employer negligence as a defense—when it can be shown that the employer violated an OSHA, state, or local safety standard, and that the violation played a part in causing the accident.

Moreover, the product liability issue is creating "quite a bit of interest," says a staffer of the Senate Labor & Public Works Committee's subcommittee on Labor. "We consider it a serious problem and expect some sort of legislative remedy" to be included in the workmen's compensation bills now undergoing hearings in the Senate and the House.

There has been some action, too, in state legislatures. Minnesota has had a law that permits manufacturers to seek redress of grievances, and North Carolina recently imposed a ten-year statute of limitations for machinery liability, starting with the date of the original sale.

The Massachusetts legislature is working on a proposal suggested by a group of New England businessmen—led by E. H. Rosenberg, president, Thomson National Press Co.—that would guarantee the availability of product liability insurance to all through a no-fault approach similar to that used for workmen's compensation. Premiums then would be paid by both manufacturers and employer-users based on actual loss experience.

Some other solutions advanced at the White House conference that the speakers and conferees generally agreed on were:

A codification of awards for injuries.

Permission to make juries aware that an injured worker has received workmen's compensation and hospitalization expenses, and that the accident may have been caused by an employer's or worker's negligence or fault.

An OSHA program to certify that machines are safe.

Establishment of a statute of limitations for liability, perhaps keyed to depreciation schedules accepted by the Internal Revenue Service.

Ending the manufacturer's liability for machines that have been resold by the original purchaser, or modified.

Development of an arbitration panel to adjudicate disputes without a jury.

WHAT'S COMING

The tidal wave of product liability claims must be stopped, adds Oliver Machinery's Mr. Baldwin, "before it devastates our industries and our country.

"We must set up a system of product liability where the awards are reasonably related to the injury and the distribution of the award payments is proportioned to the responsibility of the accident. Contributory negligence must be fully considered. A reasonable statute of limitations is imperative.

"Only in this way will the reputable manufacturer be able to stay in business," he says, and the government prevent "absolute chaos" from occurring.

THE ANCHORAGE DAILY NEWS

Mr. GRAVEL. Mr. President, I take great pride in the announcement that the Anchorage Daily News has captured the most coveted journalism award, the Pulitzer gold medal for public service reporting.

This award recognizes, not only the series on the impact of the Teamsters Union on Alaska's economy and politics, but the dedication of a small newspaper with extremely limited resources to provide a dimension in news coverage that has not only equalled but excelled newspapers of much greater size and stature.

The Anchorage Daily News, its publisher, Katherine Fanning, and its entire staff, have consistently worked to provide an insight into the many important issues affecting Alaska.

It is so easy for newspapers to do the automatic stories, handle the press releases and get the paper on the street. The Anchorage Daily News, while doing the bread-and-butter type reporting, looks beyond to underlying causes to find out how things work politically and financially so people have a better understanding of the community and the world in which they live. In the process, the Anchorage Daily News has stepped on toes. But the newspaper and its publisher, Mrs. Fanning, and her late husband, Lawrence, have encouraged its young staff to pursue their stories with integrity and diligence, wherever they may lead.

It is true that a free press is the cornerstone of democracy and Alaska is well served by the Anchorage Daily News.

IGA'S 50TH ANNIVERSARY

Mr. PERCY. Mr. President, I would like to call to the attention of my colleagues an event which will take place this summer in Chicago. It is the 50th anniversary convention of the Independent Grocers' Alliance, which is headquartered in Chicago, known by consumers as IGA food stores. Some 5,000 IGA retailers, wholesalers, and suppliers will be on hand to celebrate the big anniversary in McCormick Place, July 25–28, 1976.

IGA represents small business. It is one of the remaining bastions of free enterprise. The 3,350 IGA food stores in 46 States are locally owned and operated. They stress the theme, "The Owner Is in the Store." The retailers invest their own money in their stores, and they are the big losers if they do not make a success of their enterprise.

The 50th anniversary convention is evidence of the success of IGA, which continues to grow each year and has great plans for progress in the years ahead. While the organization represents small business, that does not mean IGA stores are "Mom and Pop" corner grocery stores. They moved out of that era a long time ago. Today IGA stores are comparable to anything showcased by the most aggressive corporate chain. For example, just a few months ago the new Arlington IGA Foodliner store opened in Poughkeepsie, N.Y., the birthplace of the IGA movement. That store is a huge supermarket with the finest equipment and facilities of any retail food store in the country. And its retail sales volume compares with that of the best supermarkets in the Nation. Still, the Arlington IGA store is locally owned and operated, and the owner is in the store.

IGA retailers are successful because they know their business and they know their market. Most of them have stores in their hometowns, and they call their customers by name. There are many examples of independent retailers taking over a store abandoned by a national chain and turning it into an instant winner.

While there are 3,350 IGA stores in 46 States, that does not mean there are 3,350 IGA retailers. Almost one-fourth of the stores are multiunit operations. Some IGA retailers own and operate 2 stores, 3 stores, 4 stores, with 1 IGA retailer operating 11.

It is the IGA concept of free enterprise and local ownership that sets the organization apart in our Nation today. The concept has almost been lost as business grows bigger and Government sets up more and more roadblocks in the path to profits. It is a concept that has been preserved for 50 years by the IGA organization. The seed was planted in 1926 by a man I knew and respected, and it was nourished by his son and others as the organization grew. J. Frank Grimes is the man to whom I am referring. He was a Chicago accountant specializing in the auditing of books of wholesale grocery firms.

J. Frank, who was known as the "Chief," was alarmed as he saw more and more small independent grocers go out of business as the corporate chains grew by leaps and bounds. At that time the independent grocer was called the vanishing American by some people in the industry who thought the chains would capture all the business. In some cities, such as New York, Spokane, Springfield, Mass., and Indianapolis, the chains were doing 60 percent or more of the grocery business.

The Chief decided to fight the chains with their own weapons—centralized purchasing and retail services. He took a train to Poughkeepsie, N.Y., and signed up a group of retailers serviced by a wholesale grocery company there. That was in 1926, and it has been a story of growth ever since. J. Frank Grimes' son Donald succeeded him as president, but they are both gone now, and the family is no longer associated with the business. IGA is in a new era today, headed by a youthful president, William E. Olsen.

Bill Olsen will be leading the big IGA parade to McCormick Place in July, and

the delegation of 5,000 will raise a fitting banner in this Bicentennial Year. It will read, "Spirit of Independents," the theme of the IGA big 50th convention. I salute the IGA organization on its birthday and wish for its continued growth and success in the years ahead.

THE PEOPLE WANT SOLAR ENERGY

Mr. McINTYRE. Mr. President, if we heed the pundits, and examine the results of the Presidential primaries, I think we have to concede that "running against Washington" is the key to political success this year.

As a member, by circumstance, of the Washington establishment, I have to wince, as I am sure most of my colleagues wince, over the implications of this phenomenon.

Are we really that unworthy of respect? Are we all that venal and self-seeking? Are we truly so inept and unresponsive that the voters favor anyone but us?

I do not think so. I still believe the Congress of the United States is blessed with an inordinate number of honorable, gifted and dedicated Members, men and women whose presence here has been to the lasting benefit of the Nation.

But having said that, let me quickly concede that collectively, perhaps, we are vulnerable to public suspicion that obsession with self and office and, yes, with the Washington power structure itself, has put distance between us and the people and made us slow to recognize and tardy to respond to the public will.

In truth, Mr. President, the people were ahead of us in sensing the threat to the environment, the tragic folly of our involvement in Vietnam, and real dimensions of the perfidy involved in Watergate.

And in recent days I have come to believe the people are ahead of us again—ahead of us in recognizing that whatever excuse for a national energy policy we now have is so circumscribed by habit and the conventional wisdom about energy, and so influenced and manipulated by the giants of the energy industry, it is at once shortsighted and dangerous.

The people sense that the energy path upon which we are now embarked will lead, at best, to ever-soaring energy costs, and at worst to an energy crisis of cataclysmic proportions.

They are understandably reluctant to put their trust in the purveyors of conventional energy, when that trust has been so abused in the past.

They are understandably reluctant to invest their energy future in a nuclear industry beset on every side with problems that may, indeed, be insurmountable.

At the same time, they are willing, as every poll shows, to conserve, to make sacrifice, to do without certain creature comforts if it will insure energy survival for themselves, their children and their children's children.

But they would feel infinitely more confident that those personal sacrifices are worth making if they were certain their future energy needs would be provided by sources that will not pollute their land, their air, their lakes and streams and seacoasts, that will not threaten their health or their lives, that will not be controlled by profit-greedy cartels, that will not heighten international tensions or precipitate wars.

Mr. President, on April 10, I witnessed a dramatic expression of the public will on this subject.

That day I sponsored a solar energy symposium in New Hampshire's Queen City, Manchester. I organized that symposium to show the people of New Hampshire the current state of solar energy technology. And to this end, I had people involved in the solar energy business exhibit their products and arranged a speakers panel to air ideas on what can and should, be done to encourage the development and the use of solar energy.

Now I knew that interest in solar energy was growing. I had evidence of that in mail from constituents and from hearings Senators HATHAWAY, NELSON, and I conducted last year.

Nevertheless, I did not expect more than 200 to 400 people to attend the Manchester Symposium, and I would have been delighted with that kind of response.

I want my colleagues to know that nearly 2,000 people, from every part of New Hampshire, came to Manchester that day and jammed the auditorium, the aisles and the adjacent hallways.

Fortunately, I do not have to try to tell you what this means. That explanation was made 6 days later by John Cole, the editor of the Maine Times, the moderator and one of the speakers at the symposium. In his personal column of April 16, Mr. Cole said this:

I don't know exactly how far I'd have to rummage through the twenty-year span of my journalistic work to locate my first mention of the need to accelerate the development of solar energy and other renewable energy resources, but it would be a good ways. Until this past weekend, I never thought during all those years that too many people were listening. I got so used to being labeled an idealist—most often a foolish one—that there were times when I even began to believe the patronizing remarks about the implausibility of solar supplements. Perhaps, I thought, the conversion of the sun's incredible energies on behalf of humankind was, after all an impractical idea, even though it seemed quite logical to me.

Well, I never should have had those doubts, and I'll never have them again. And you could never guess the location of the ultimate affirmation of the sense the sun makes. It was Manchester, New Hampshire—the home ground of the conservative, the practical Yankee, the realist and the industrialist. Manchester is mills, millworkers and the polluted Merrimack River, shopping malls and hard-earned weekly pay checks to keep them going.

Yet for eight hours of a wonderfully sunny spring Saturday, more than 2,000 working folks of Manchester and New Hampshire packed into the Manchester Memorial High School to look at more than twenty exhibits set up by energy salespeople and spent more than four hours listening to six people talk about solar energy from six different points of view. Those 2,000 sat in the stiff bleachers of a stuffy high school gym to do that, and they stayed and stayed and listened and applauded.

It was an incredible day....

I could not agree more with John Cole, nor could I even hope to express it better. It was a most remarkable day—a day for people to learn about solar energy and for me to learn that the people understand the nature of our energy problems and want solar energy and other renewable resources that are safe and clean, that cannot be controlled or monopolized by a few producers, that cannot be embargoed for political reasons.

The conference offered no panaceas. The strongest solar energy advocates, those who say that solar energy can be used today as the primary source of heating and cooling in a home, readily conceded that mass production standardization of parts, and additional technological improvements are needed to bring down production costs—and the cost to consumers.

But these are objectives that can be attained—if we do not let the energy giants, with their vested interest in fossil fuels and nuclear power, continue to discourage Government support of solar energy.

To underscore that admonition, I call my colleagues' attention to the following excerpt from Jack Anderson and Les Whitten's syndicated column of May 3:

SOLAR SLOWDOWN

Solar experts believe recent breakthroughs make workable solar energy possible in 10 years. Yet the government appears to be doing everything in its power to slow the development of solar energy.

A new breakthrough in photovoltaic technology converts the sun's rays directly into electricity. With a concerted effort, this photovoltaic development can provide cheap, practical sun power in 10 years, experts claim.

Under this system, solar power could be generated right in the homes and buildings that use it. This would reduce the need for the vast utility power grid network, with the tangle of electric lines that now crisscross America.

It is precisely for this reason, solar supporters suspect, that the government is downplaying solar research. The giant electric utilities have tremendous political influence.

The solar division of the Energy Research and Development Administration (ERDA) requested $300 million from the upcoming budget. The agency's top brass whittled this down to $257 million before even submitting it to the White House.

The President's budget office then attacked it with a meat cleaver, chopping solar research down to $160 million. This was coupled, according to our sources, with a gag order.

The agency has even refused to tell Sen. Hubert H. Humphrey (D-Minn.), a solar sympathizer, how the original $300 million request would have been spent. Humphrey wants to restore part of the solar budget in hearings this week but he can't find out what research was cut.

In fact, one high ERDA official, Donald Beatty, has threatened to fire any employee who talks to Congress about solar energy.

In contrast, funds for developing nuclear energy continue to flow as free as the Nile, despite growing evidence that safety and technology problems may make nuclear power unfeasible.

The powerful utilities, of course, are pushing nuclear power which they can distribute through their existing electric lines and sell to their customers for the customary guaranteed profit.

Mr. President, I repeat, the people again are ahead of their elected leaders.

The kind of energy policy and politics described in the Anderson-Whitten column is not the kind of energy policy the people want.

And if my colleagues find that difficult to believe, I urge them to take their own readings of constituent interest in solar energy. Better yet, I urge them to sponsor solar energy conferences in their home States and witness, as I did, the astonishing response.

Moreover, I can assure my colleagues that putting together such a symposium is not as difficult as they might think. I am sure every region, for instance, has a wealth of authoritative advocates of solar energy who would be more than willing to take part in the speakers program, and I also learned, to my pleasure, that solar manufacturers and distributors are eager to exhibit their products at public gatherings.

At our New Hampshire conference, we heard, in addition to Mr. Cole, the following speakers:

Mrs. Robert—Lola—Redford, founder of Consumer Action Now. Mrs. Redford sees solar energy as a resource that should have been tapped long before now and one that holds tremendous potential for the future.

Bruce Anderson, an architect who heads Total Environmental Action, a New Hampshire-based firm. Mr. Anderson is actively involved in the design of homes using solar energy.

Paul Cronin, a former Congressman from Massachusetts, who now heads his own solar energy company, SUNSAV, and who is outspoken in his conviction that Government lags far behind the public in appreciating solar energy's potential and supporting its accelerated development.

Charles Burkhardt, executive vice president of the New England Fuel Institute, the association that represents the region's independent fuel oil companies. In his Maine Times column of April 16, this is what Editor Cole had to say about Mr. Burkhardt's presentation:

Formerly the fellow who ran the company that installed and serviced more oil burners than any other firm in the nation, Charles Burkhardt, is now directing the first industry transition to solar units. He's training solar service people, he's marketing solar heating supplements, and he is stumping the regional countryside explaining in pragmatic terms why New England has got to make the switch to solar supplements or freeze. He does his job well, energetically, and with total conviction. For me, it was the end of a long and lonely run as I sat there listening to an aggressive and hard-headed businessman on the stump on behalf of the sun.

As host to the symposium, I offered an overview of the energy situation, and I ask unanimous consent to have those remarks appear in the RECORD at the conclusion of this statement.

In addition to the speakers who participated in our symposuim, there were a number of exhibits by individuals, solar energy companies and companies involved in conservation. They included:

Contemporary Systems for Housing, Inc., Rt. 1, Box 66, Ashland, N.H. 03127

Kalwall Corp., 111 Candia Road, Manchester, N.H. 03105

Alex McFarlane, Star Route 3, Hillsboro, N.H. 03244

Sol-R-Tech, The Trade Center, Hartford, Vt. 05047

New Hampshire Solar Energy Association, Henry Cote, Chairman, 13 Edinburgh Drive, Bedford, N.H. 03102

Elite Aluminum, P.O. Box 183, Goffstown, N.H. 03045

Beamhouse, R.F.D. No. 2, Exeter, N.H. 03833

New England Solar Energy Association, John Schnebly, Jr., Pres., P.O. Box 121, Townshend, Vt. 05353

Natural Power Inc., New Boston, N.H. 03070

Total Environmental Action, Box 47, Harrisville, N.H. 03450

Northeastern Sheet Metal Corp., P.O. Box 328, Manchester, N.H. 03101

Solar Data, 13 Evergreen Road, Hampton, N.H. 03842

Energy Research and Development Administration, Dr. Peter Ball, 109 Winona Drive, West Springfield, Mass. 01089; Charles Hayes, Division of Solar Energy, Third Floor, ERDA, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545

Granite State Electric Co., 4 Park Street, Concord, N.H. 03301

Wright, Pierce, Barnes and Wyman, 99 High Street, Topsham, Maine 04086

SUNSAV Inc. 250 Canal Street, Lawrence, Mass. 01840

Wright, Pierce, Barnes and Wyman, 99 High Street, Topsham, Maine 04086

Don T's Properties, Inc., R.F.D. No. 3, Amherst, N.H. 03055

Roger Papineau, Solar Energy Co., Deerwood Drive, Merrimack, N.H. 03054

Daystar Corp., 41 Second Avenue, Burlington, Mass. 01803

Along with these exhibits, three solar energy experts held classroom seminars during the morning of the symposium. The discussion groups and their leaders were:

"Designing homes for solar energy: what to look for in solar equipment." Leader: James Logan, Energy Service Center.

"Retrofitting homes for solar energy." Leader: Nick Dawson, Breeze Bros. and Sun, Inc.

"Slide presentation of solar homes now in use." Leader: Scott Keller, Kalwall Corp.

As I said, the enthusiasm and the size of the audience that attended our symposium convinced me that the people want a different energy policy, that they want their government to lead them into a new era of clean, safe, abundant energy, energy that would not corrupt, would not pollute, and would not bankrupt us as a nation or impoverish us as a consumer.

So how do we in the Congress respond? I do not know all the answers, of course. But I do have a few suggestions:

First, we can enact legislation that would at least temporarily lower the cost of buying a solar heating, cooling, or hot water system. This could be done in any number of ways. I have sponsored a bill, S. 3154, for example, which would give a tax credit of up to 25 percent to any homeowner who installs solar heating or cooling equipment. And I have joined a number of my colleagues in cosponsoring S. 2932, a measure that would provide loans for installation of solar energy equipment in the home, and have the Federal Government pay for a portion of those loans.

Second, we can take quick, positive action to help the infant solar energy industry to become commercially competitive—a development that can happen sooner than we might think. One way to do this could be to shift the emphasis of the Energy Research and Development Administration from pure research in new energy systems to commercial development of those solar energy and conservation technologies that already work. To ERDA's credit, this shift is already under way within the agency. A strong statement of policy from Congress would help ERDA to become more involved in bringing the discoveries that ERDA sponsors into commercial production and widespread use.

Third, we can review the entire regulatory process with respect to solar energy to see what Federal, State, and local statutes tend to inhibit solar energy development and advances in insulation and other conservation measures. Later this year I plan to hold hearings on the need to remove certain regulatory barriers to solar energy.

Fourth, ERDA should be encouraged to do more to promote the development of alternate sources of energy through small businesses than it has in the past, and should spend a lesser proportion of its research grant money with the giant energy corporations that seem to have only one "solution" to our energy problems—higher prices for conventional fuels.

Mr. President, these suggestions by no means exhaust the possibilities for accelerating the development—and the use—of solar energy. I am sure some of my colleagues have a great many more constructive ideas, and I look forward to hearing them proposed.

But for now, I am satisfied to have shared with you the excitement, the surprise, and the wonder of witnessing firsthand—in my own state—the astonishing level of public enthusiasm for solar energy.

In concluding these remarks, I would like to quote the closing paragraph of John Cole's column on the New Hampshire solar energy symposium:

There is more to tell about the great day in Manchester, but for me it boils down to one essential fact: solar energy is no longer a dream for a few idealists; it's a reality that has captured the imagination and interest of Senators, engineers, industrialists, entrepreneurs, executives, movie stars, activists and hard workers like Lola Redford. More importantly, the thought of getting some practical information about the sun as an energy supplement was enough to bring 2,000 everyday citizens of Manchester and New Hampshire to a stuffy high school gym on a fine spring Saturday. That, more than any other fact, let me know that it is time to quit wondering if the people support the solar energy idea.

The do. They surely do.

I ask unanimous consent that my remarks before the Solar Energy Symposium at Memorial High School, Manchester, N.H., be printed in the RECORD.

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

REMARKS BY U.S. SENATOR THOMAS J. McINTYRE

Mr. Chairman, fellow participants, concerned citizens, guests and friends: There are a number of people here today who know a great deal more about the technology and the application of solar energy than I do. And that's why I invited them—to educate all of us.

So I don't intend to take up much of your time, or their time with my remarks.

I would, however, like to take this opportunity to thank the many people who made this event possible and to tell you why I thought it was important to have a symposium on solar energy.

First of all, I want to thank Memorial High School Superintendent Henry McLaughlin, Principal Leonard Foley, Robert Pollack of the Superintendent's office, Jim Moriarty and all the other faculty members and students for their cooperation and assistance.

Then I'd like to thank the volunteers who offered their services to make this program work. I'd particularly like to thank Susan Bradbury and her fellow members of Save Our Shores, who are on hand to help with the logistics.

Finally, I want all the program participants to know how grateful I am for their contribution advancing the cause of solar energy:

The exhibitors who took their time to show you the state of solar energy technology today;

John Cole, the editor of the Maine Times, a man whose eloquent typewriter reverence for the biosphere and sense of humanity, have brought him national renown and respect;

Former Congressman Paul Cronin, the President of SUNSAV, a man who put his money where his faith was—in the soundness of solar energy and the practicality of solar equipment.

Charles Burkhardt, the executive vice president of the New England Fuel Institute, a man who appreciates how the use of solar energy to supplement oil heating can save our region, oil in the short run and dollars in the long run.

Bruce Anderson of Total Environmental Action, an architect whose organization not only seeks to combine the aesthetic with the practical, but actively promotes the use of solar energy through its own seminars and programs.

And, finally, Lola Redford, a person I have come to know and respect and appreciate, not only as a fellow advocate of solar energy but as one-half of a husband-wife team that put popularity, fame and prestige to work in behalf of a clean, a healthy and a beautiful America—inside as well as out.

I thank these people one and all, and I thank you, the concerned citizens of New Hampshire, for taking the time and making the effort to learn more about solar energy.

And now a few personal observations to explain my own deep interest in this subject:

The sun is the cleanest most abundant and potentially the most thermodynamically efficient and cost-effective of all energy sources.

By its very diffusion throughout the world it is also the least vulnerable to monopoly control and cartelization . . . and the least likely to provoke international conflict.

Every day of the year enough of the sun's power reaches the earth to translate, at today's prices, into $5 billion worth of electricity. Yet we use only a few hundredths of one percent of that potential.

Since the beginning of his time on Earth, man has had an intuitive sense of the sun's tremendous benefits. Yet here we are—standing on the threshold of the 21st Century—and still only sensing the sun's energy potential, and still viewing solar energy as esoteric, out-of-reach, impractical.

An American people who in less than one generation saw the mystery of the atom solved, saw men walk on the moon, saw space exploration span hundreds of millions of miles to Venus, are still being told that it will cost too much and take too long to learn how to store solar energy, how to convert it into electric power, how to create from it fuels to power our means of transportation.

They are asked to put their trust in the traditional providers of conventional energy, until that magic day when nuclear power will meet our every energy need.

That's asking too much of the American people.

For one thing, the people know that the energy giants of America have not always functioned in the public interest and they find ample evidence of that betrayal of trust in the events of recent years.

For another there is no question that we are running out of oil and natural gas which now provide more than 70 percent of our energy supply. The experts seem to agree that we have no more than sixty years' supply remaining, and perhaps as little as twenty-five.

For another, despite its ample supply, coal cannot meet our total energy needs. Not only is its production and use more destructive of the environment, and more harmful to human health than any other fossil fuel, but the process of converting coal to liquid or gas is so capital intensive, as to discourage private investment without substantial government subsidies or loan guarantees.

And, for still another, one need not be an opponent to recognize that nuclear power is in deep trouble. All one has to do is turn on your television set, or open the pages of a magazine or newspaper.

I've said this before, and I'll say it again. I am not an alarmist about nuclear power. But I cannot ignore the troublesome questions being raised about the economics of the nuclear business, the threat of proliferation from reactors to bombs, and the seemingly endless problems that have plagued nuclear power since we first began pouring huge sums of development money into it more than a quarter of a century ago.

The very fact that after all this time and all this investment we still draw less than 10 percent of our energy supply from nuclear generating plants is testimony enough to the range and the depth of those problems.

Now let me be clear about this:

My enthusiasm for solar energy is a positive enthusiasm.

It is not predicated upon any strong antagonism toward conventional fuels nor toward nuclear power. Indeed, I know full well that we will have to rely on all traditional energy sources, including conventional nuclear power, until we can develop clean, safe, abundant alternative energy sources.

Moreover, I do not limit "alternative" sources to sun, wind, tides, ocean currents and geothermal.

I would include the nuclear fusion reactor.

A fusion reactor fuses atoms together, instead of splitting them like a fission reactor. Fuel for the fusion reactor is hydrogen, inexhautible and cheap. And equally important, the fusion process does not have many of the safety problems and waste-disposal dangers of uranium and the even more highly toxic plutonium used in the trouble-plagued fast breeder reactor.

Unfortunately, our national leadership has decided that the breeder reactor is a better bet than the fusion reactor, so it has proposed only half the research and development funding for fusion as it is proposing for the breeder reactor.

Somehow, my friends, the leadership will not face up to the sobering realities about our disappearing conventional fuels and the problems of nuclear fission power and continues to resist the obvious need to accelerate development of alternative energy sources.

I happen to think this is folly. I happen to believe that common sense demands that we put much more of our energy research and development effort into more promising pursuits, including fusion power, but emphatically and especially including solar energy.

I'm sick and tired of playing with a stacked deck when it comes to national energy policy.

I'm sick and tired of being dealt oil, gas, coal and uranium, while the dealer discards sun, wind, tides, ocean currents and fusion power.

It is inconceivable to me that the policy makers can continue to demean, ignore, damn with faint praise and patronize solar energy. The one source of energy that can meet all our needs without polluting, without corrupting, without bringing on a war, and without bankrupting the nation.

It is inconceivable to me that the policy makers can ignore the obvious fact that the most sophisticated solar energy technology imaginable would be far less complex, far more likely of success, than the technology involved in either the breeder reactor or the fusion reactor.

Yet up to now official Washington has done just that.

You have a right to ask why. I have an obligation to try to answer your question.

I believe that far too many of our leaders—of both parties—have been locked into a blind mindset against alternative energy sources. I believe that far too many of our leaders—again of both parties—have been under the considerable influence of the conventional energy giants who have a vested interest in the production, sale and use of oil, gas, coal and uranium and have mobilized their vast resources to keep our national energy tied to the fuels they control.

How else can you explain why solar energy will get only one-thirty-sixth of the amount of Federal government has budgeted for fiscal '76 research in nuclear energy? How else can you explain why the Administration is seeking to cut the fiscal '76 research and development budget for solar energy by 40 percent?

But I am here to tell you, "that the times they are a' changing," my friends.

I'm here today to tell you that the Washington power structure is beginning to get a message—a message from some of us in Congress, but, most importantly, a message from the people—people like you.

And that message is this: Solar energy is, indeed, an idea whose time has come. And you leaders better start taking it seriously!

Let me tell you what's happened since I held my first solar energy hearings two years ago, hearings I'm continuing this summer, incidentally.

Testimony I've heard in those hearings convinced me that neither consumers nor small businesses were being informed about what Federal solar energy programs did exist and thus weren't able to make use of them. I also learned about a number of institutional and regulatory roadblocks to bringing solar energy into a home or a business.

Well, at my request, one of those roadblocks is on the way to being removed. I asked the Department of Housing and Urban Development to establish interim building standards to guide bankers and builders in financing and constructing solar equipped homes, and those standards are just about completed.

And there are other encouraging signs: ERDA is setting up programs specifically designed to provide information about install-

ing solar energy equipment in homes and small businesses. The agency is establishing offices throughout the country to help commercialize solar energy and help existing businesses provide solar energy to consumers.

Several financial institutions—most notably Bank of America, the nation's largest—have begun funding subdivisions of solar heated homes.

The Small Business Administration has expanded its technology assistance program to help businesses develop solar energy and energy-saving technologies.

But much more must be done, and the responsibility rests with the legislative as well as the executive branch of government.

I hope Congress will see fit to pass legislation I introduced in December and again in March to grant a tax credit to homeowners who install solar energy equipment.

I hope Congress will see fit to pass my Energy Research and Development Free Enterprise Act, legislation aimed at insuring that giant corporations don't get all the solar energy research money dispensed from Washington. My bill would insist that 50 percent of ERDA's solar energy money go to small businesses and individual investors.

And I hope the Congress sees fit to pass legislation I cosponsored to provide low-interest loans through the Small Business Administration to homeowners and businesses who want to put solar energy facilities in their buildings.

Finally, Congress must not only work to restore the 40 percent cut in ERDA's solar energy budget for fiscal '77 but must work to increase that budget.

It won't be easy to accomplish all this, my friends but I can say to you that I am more confident today than I was just a few short months ago.

I'm more confident because I believe that once again the American people have been ahead of the leadership in recognizing both the need and the potential for solar energy... and for the first time I'm confident that the leadership is beginning—only beginning, mind you—but beginning to catch up with the people.

Last week Lou Harris, one of the two top pollsters in America, addressed an audience in Washington. One of the findings he reported backs up what I just said.

By a 3 to 1 majority, Harris said, the public believes that "the trouble with most leaders is that they don't understand people want better quality of almost everything they have rather than more quantity."

The American people's overriding concern is with the quality of life, he said. And if I interpret Harris's findings correctly, this means the American people want clean, safe, abundant energy—the kind of energy the sun can provide better than any other source.

One final word:

Just as I recognize that we must rely on traditional energy sources until solar energy can come into its own, I also recognize that without tax credits for the purchasers and without incentives for the economies of mass production, the cost of available solar heating and cooling devices will be too high for many citizens to afford them.

The one taint solar energy cannot afford is elitism. So it behooves all of us who see in solar energy the ultimate hope for providing everyone with safe, clean energy that everyone can afford to work as hard as we can to encourage enactment of tax credits and enactment of financial incentives and aids to those who want to mass produce reasonably priced solar energy devices.

I know I can count on you for that support.

With the technology already developed for space and water heating solar energy could soon become a $25 billion a year industry. And solar energy could soon create the kind of jobs New England needs most.

Unlike oil refineries or nucelar power plants, solar collector systems would be simple to construct and would make an ample, long-term demand for many kinds of labor.

These devices can be built in big plants in big cities. But they can also be built by plumbers, carpenters and metal workers, laborers in small shops in small communities.

Beyond these near-future employment prospects, of course, are the long range job prospects involved in the construction and the operation of solar team plants and photovoltaic power plants.

But I've talked too long. It's time to yield the rostrum back to the real experts.

I leave you with this final thought:

Every year the solar energy that falls upon the Arabian Peninsula is greater than double the energy contained in all the oil reserves of the entire Earth. Some of our national leaders don't appreciate that telling fact.

But let me tell you who does—the Shah of Iran and the government of Saudi Arabia.

Last year Saudi Arabia, the greatest oil exporting country in the world, began importing solar energy technology.

And this year the Shah of Iran, the ruler of another fabulously oil-rich nation, announced that he intends to bring electricity to the 70,000 remote villages scattered throughout his country.

How? Well, not with petroleum, my friends. With solar cells.

Does that tell you something? Well, it ought to.

And now in closing let me once again thank all of you who made this program possible, and thank all of the New Hampshire citizens who turned out for this event. So far it has been a most rewarding—and encouraging—experience.

THE EFFECTS OF UNEMPLOYMENT ON YOUTH

Mr. HUMPHREY. Mr. President, I was very pleased to see that the Labor Department allocated $528.4 million among about 420 State, city, and county governments last week to create 888,100 jobs for young people this summer. This money is made available under the Comprehensive Employment and Training Act's title III, and will give up to 9 weeks of work experience and job training to disadvantaged young people across the Nation.

This is an important program. It will help these young people use their summer to earn the income they might need to stay in school and help them acquire job information that will be useful to them when they first begin looking for full-time jobs.

But there are still hundreds of thousands of other youths—black youths, Chicano youths, Native American youths, Puerto Rican youths, and disadvantaged white youths—who are out of school, who need and want full-time jobs, and who will not be helped by this program.

These are young people who are trapped in our inner cities and our jobless rural communities. They are seeing years of their lives being wasted in enforced idleness because our economy has not been able to produce the jobs they need.

How this joblessness among our Nation's youth is affecting them and the Nation is the subject of an article on "The Effects of Unemployment on Youth" which appeared in the April 19, 1976 issue of Encore American & Worldwide News: the Black Newsmagazine. The article was written by James S. Tinney, former editor of the Washington Afro-American.

Mr. Tinney's article warns that our continued failure to provide jobs for our youths will have serious consequences for the Nation long after this recession is over.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

THE EFFECTS OF UNEMPLOYMENT ON YOUTH

Channeling the restless energies of young people into productive work could be a key to the salvation of America, but it is possible that we will not discover this in time. Instead, it appears that the rising toll of wasted lives, fruitless ambitions, untapped creativity, and lost potential productivity—all the result of forced unemployment among teenagers—will continue unabated for the foreseeable future.

Already the horrendous figures of idleness among our youth reveal that one of the nation's most important "natural resources" is being eroded. Current economic woes being perpetrated by the present administration in league with its misguided economic advisors has already sent at least 42.4 percent of all Blacks between the ages of 16 and 19 into the streets, according to the Bureau of Labor Statistics. Realistically, that figure is probably much higher. Even conservative journals appraise joblessness among Black teenagers in most major cities at somewhere between 60 and 70 percent.

What does this mean in terms of actual figures? Depending upon whether one accepts the lower figure of those seeking unemployment compensation, or the higher figures of all such youths without jobs, these represent from 400,000 to 700,000 lives. If one adds to these the unemployed Chicano, Native America, Puerto Rican, and "underprivileged White" youths, the total could reach an astounding 3 or 4 million. One should note, further, that these numbers do not include the millions of young who stream into the streets seeking summer jobs each year during public school vacations—millions for whom the President would offer only 800,000 nine-week jobs as a mere pittance last summer.

It is the solid block of permanently unemployed young, not the summer job situation, which is most alarming. This unused work force continues to expand. Although the ranks of all those 16 to 19 years old swelled from 10 million in 1960 to nearly 16 million in 1973, the number of Black teenaged males holding or even seeking jobs tumbled from nearly 57 out of 100 to just 47 out of 100. Which means that fewer young people are even seeking work, so discouraged have they become.

Herrington J. Bryce, of the Joint Center for Political Studies, has written, "Between 1973 and 1974 alone, the number of Black teenagers who left the labor force in disgust and convinced that they could not find jobs, more than doubled." Research also indicates that there are vast number of ghetto youths who not only have never entered the labor market, but never intend to do so. Therefore, these are not included in the above statistics. As Dr. Bernard Anderson, an economist at the famed Wharton School of Finance and Commerce, stated, "An entire generation of Black teenagers will reach adulthood between now and 1980 without ever holding a job."

The effects of all this have catastrophic implications. Not only can these consequences be measured in terms of missing production and idle plant capacity on a national scale, but they also have dire repercussions on the personality, on education, on the home and family, on crime, and on the very future of our young.

One of the most damaging effects of the present jobless crisis occurs within the

psyche of the youths themselves. It is practically impossible to deprive a person of the chance to have a job—the *sine qua non* of personal worth in a capitalistic setting—without also damaging his ego. Not only does the unemployed despair of ever finding a job, but his hopes and plans and sense of personal adequacy also suffer. James P. Comer, associate professor of psychiatry at Yale, testified of these consequences at congressional hearings held a few months back, sponsored by the Congressional Black Caucus. Jobless youths are under great stress, he pointed out, which often multiplies other problems commonly associated with adolescence. Unable to feel good about themselves, they also form negative attitudes and ideas about everyone around them. The psychological casualties which result become many.

Discouragement is almost too mild a word to describe their plight. Many have become so disillusioned by constant defeat and rejection on the job market that they suffer emotional problems and have little desire to even acquire the necessary skills or to do good jobs if they come their way. "So I said to myself, man, you're just wasting your time," one youth recently lamented.

Teenage joblessness also has untold negative effects on home and family life. Many of these young men are living on their own. Frequently they have young families of their own to support and care for. On the other hand, large numbers of young women are included in these youthful heads-of-households. In numerous cases they have babies to care for, but despite the fact that many of these young mothers have no job incomes, they see no future in getting married. Marriage for them would be a liability rather than an asset because the men don't have jobs either.

Not only in teenage-headed households, but also in 34 percent of all Black families, there are women at the head of the home. In these cohesive units, working mothers who often earn less than men at equivalent jobs anyway, must rely on the part-time or full-time earnings of their teenage children to supplement their own wage checks. In this way, the jobs of these youngsters are crucial contributions to the survival of the home. Bryce explains: "While their median income is just over $600 per year, this is just under one-tenth of the income of the average Black family. Such a proportion is critical in low-income Black families. Furthermore, 20 percent of low-income Black families have more than one wage earner. Who are these other earners? Many of them are teenagers." This same situation does not hold true for White families, where poverty is more often related to the elderly than to women with children, he adds.

Joblessness among youthful families and family members affects the well being of the inner city home in more ways than simple bread-and-butter, clothing and rent concerns. Unemployment and marginal or periodic employment consistently produce cases where family problems are more severe and more persistent. Such homes are more chaotic and filled with high conflict, Comer stresses. Children and parents alike take out their feelings on each other. "Family break-up and movement from place to place in search of a better situation or 'just in front of the rent man' is more likely," he explains.

The consequences of unemployment are clearly evident in the schools, in some cases resulting in listless, inattentive, underachieving children. At other times it manifests itself in overt rebellion. More often than not, these symptoms are caused by poor nutrition, hunger, deprivation of supplies and facilities, and despair, all of which are traceable to the absence of established income in the home and paralleled skimpy tax bases from which the schools derive their monies.

The direct effect on the educational scene is also seen in the growing teenage dropouts. Some might imagine that the lack of youth job slots would encourage the young to stay in school. Actually, the reverse is true. The downturn in the economy and subsequent job shortages create a substantially larger number of school quitters. Ironically, some of these are leaving school precisely in order to enter the already-flooded applicant pool. Many times they do so because they are needed to help support other children in the home, or even to make up for the loss suffered by a laid off parent. Although most of these families have good intentions of re-enrolling these youths when things get better, educational sociologists tell us their chances for reentry into the educational setting are slim.

Of course, other teenagers are quitting school with no intentions of getting a job. For some of these, the only validity or relevancy the educational system ever had was its ability to prepare one for meaningful employment. Now there no longer seems to be a direct correlation between an education and a decent job—at least many young people perceive it this way. Before the unemployment crisis things were bad enough. One-fifth of all Black family heads below poverty level had at least a high school education. And a Black high school graduate made no more than a White person with an eighth grade education, while a Black college graduate earned no more than a White college dropout. With the tightened job market, our youths clearly understand that this situation is worsening rather than improving. As Charles V. Hamilton, an urban analyst at Columbia University, says, "These youngsters don't see the relationship between the process of education and the end result of getting a decent job. They short-circuit it, because even with education, they are not going to have an 'open sesame'."

For those who are desirous of continuing their education, tremendous hurdles have developed. Most college students for instance, who in the past received partial scholarships, could rely on part-time jobs to make up the difference. Now without these part-time openings, less-than-full tuition aid is seldom enough to keep a person in school. Others who once entertained plans of attending more prestigious institutions, and consequently preparing for more prestigious careers, are being forced to stay home and attend local, often two-year colleges, because there is not enough money for clothing, books, transportation, and other long-distance living expenses.

Besides these results of the unemployment situation, there is also the somewhat circular effect upon the job market itself. Without job opportunities, the multitudinous job-training programs have little significance or meaning. Teenage employment traditionally also provides work experience, an early opportunity to familiarize oneself with the various trades, to develop proper work habits and attitudes, and obtain exposures and experiences which are critical to future job success. But a whole generation or more of our young people will not grow into adulthood without this work preparation. As Sociologist Sar Levitan concludes, "We will have serious problems that will last for years. We will not be giving these youngsters critical experience in the job market."

Other experts have expressed concern about the costs of job-seeking itself. Money to buy clothes to face the interviewer, or even money to get to the interview, becomes scarcer since the whole family is pinching to get by. In effect, the present joblessness is creating another generation of poorly trained, lower positioned, lesser paid workers. Some may never be given the tools necessary to hold a job, even if they eventually get one.

Finally, the job crisis is resulting in an increase in youth crime within our cities. Publication of crime figures for the first few months in 1975 in New York City point to a possible link between this rising joblessness and rising crime. Even in 1974, as the situation worsened, the rate of crime rose 17 percent nationally, compared to an increase of only 6 percent in 1973. Further crime has risen most in recent months, correlating with the similar rise in unemployment. Cities with the highest rate of joblessness had the highest rates of crime increments. As Tow Wicker has pointed out, crimes also rose most sharply in the categories of "street crimes," including muggings, robberies, and assaults—crimes clearly committed for economic gain, and most often by the young.

Prospects that this situation will worsen proportionately as unemployment worsens are many. Arthur J. Kennedy Sr., man-power director in St. Louis, has said, "It's plain hell around here. These kids are pushing dope, they're into prostitution, and they're into mugging. It's not because they want to do this, but dammit, there is little left for them to look forward to."

One doesn't need to threaten major rioting as the depression deepens, although even this possibility may exist. In fact, it is not necessary to simply dwell on the direst predictions. For the terrible realities of youthful idleness and unemployment existed even before the current crisis, though on a lesser scale. Yet nothing appreciable was done about them even then. What is needed is the will to ensure a decent job at a decent wage to every youth and adult who desires it. The issue is whether or not the nation as a whole is prepared to accept responsibility for the elimination of discrimination and economic disparity and poverty; and to provide a future life of opportunity and meaning for all our youth.

MICHIGAN HEALTH MAINTENANCE ORGANIZATIONS

Mr. GRIFFIN. Mr. President, at a time when health care costs have been skyrocketing, attention increasingly has focused on alternative ways to provide health care services. One such alternative is the Health Maintenance Organization—HMO—concept recognized under Public Law 93–222.

In its March issue, the Michigan Banking and Business News published an interesting article on the HMO experience in Michigan. I ask unanimous consent that it be printed in the RECORD.

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

MICHIGAN HMO PLANS, INC.—A LEADER IN UNIQUE AND EXPANDING NEW HEALTH CARE FIELD

(By Bruce Ashley)

DETROIT.—In five short years, Michigan Health Maintenance Organization Plans, Inc. (MHMOP) has moved to the forefront in a unique and expanding new field that provides basic and supplementary health services to its members.

Michigan HMO Plans, the state's only Federally funded development grantee, is a direct outgrowth of the Health Maintenance Organization (HMO) concept which became well known as a result of the Kaiser Permanente prepaid group practice plan in California. The HMO concept is not new, but the understanding and acceptance of HMO's has been slow in coming.

Health Maintenance Organizations, until recently, were almost totally disregarded by those in the medical profession. It has only been in recent years, with astronomic rises in health care costs, that HMO's have received serious and critical attention. Along with the rapid health care cost increases, abuses of the Medicaid system have forced

political leaders to legislate alternative programs.

An outgrowth of this legislative response was P.L. 93-222, the federal Health Maintenance Organization Act of 1973. Planning and developmental grants from the Department of Health, Education and Welfare (HEW) to groups interested in studying, planning and developing HMO's were finally made available. Today, there are almost 200 HMO's nationwide and although millions of Americans are HMO subscribers, the predominant question of "What Is An HMO" still exists.

A brief definition of an HMO is: A legal entity which provides basic health services to its members for a premium. The premium is paid on a periodic basis without regard to the day health services are provided, their frequency, extent or kind and is fixed under a community rating system.

Michigan HMO Plans is the State of Michigan's largest HMO under this definition, even though it is a relatively young organization. In 1971, the Detroit Medical Foundation (DMF) was established by a group of physicians. Their purpose was to lay the initial groundwork for the development of a health maintenance organization in the Metropolitan Detroit area. Through grants from HEW in 1972 and 1973, the Detroit Medical Foundation was able to establish Michigan Health Maintenance Organization Plans, Inc., in late 1972. In December of 1973, Michigan HMO Plans entered into a contract with the Michigan Department of Social Services in order to serve individuals in Wayne County who are Medicaid eligible.

In December, 1975, Michigan HMO Plans was granted a license by the State of Michigan under P.A. 264 of 1974 (Health Maintenance Organization enabling legislation in Michigan) to enter the private market and enroll persons other than those receiving Medicaid. Michigan HMO Plans intends to market its program in Wayne, Oakland, and Macomb Counties as soon as the administrative in-house mechanism is completed.

It has taken less than five years for Michigan HMO Plans to grow from a nucleus of a handful of consumers and physicians to a non-profit corporation with over 100 employees and revenue totaling almost 10 million dollars. Practicing out of health centers throughout the Detroit Metropolitan area, approximately 150 physicians care for the 28,000 Michigan HMO Plans enrollees.

"We offer a comprehensive health benefit package," states Dr. William O. Mays, president and chairman of the board of Michigan HMO Plans. "The HMO concept of stressing preventive health care—that is, keeping enrollees well and out of the hospital—can only stabilize health care costs in the coming years."

Dr. Mays cites a couple of recent cost savings examples. In 1974, Michigan HMO Plans saved the taxpayers of Michigan nearly one million dollars under its contract with Michigan Department of Social Services to care for nearly 28,000 Medicaid subscribers in Wayne County. The organization now projects 1.6 million dollars in additional savings to the Department of Social Services for 1975. Add to this an almost 20 percent reduction in hospital stay time compared with state averages (hospital days per 1,000) and a substantial health care dollar savings is realized.

W. Melvin Smith, senior executive vice president, indicates that the health care benefit packages available to individuals and employee groups is difficult to beat anywhere. "We offer all of the traditional insurance benefits in our basic benefit package, plus additional benefits not found in most health insurance policies", says Smith.

The basic benefit package includes the following:

Complete pre- and post-natal maternity care.

Complete well baby care.

All medical consultation and therapeutic services.

All maternity physician and/or surgery care.

Inpatient and outpatient hospital services which include:

Semi-private room and board (maximum 365 days of hospital care per confinement).

All in-hospital ancillary inpatient services.

All in-hospital therapeutic and support care, services supplies, prostheses and appliances.

Inpatient special duty nurses when ordered by a Michigan HMO Plans physician.

Hospital emergency room services.

In-hospital radiation therapy, speech therapy and related services.

Professional care and treatment for drug and alcohol abuse.

Laboratory services.

X-ray services.

Out of area emergency services.

The Michigan HMO Plans basic benefit certificate also includes the following covered services which are not usually covered under traditional medical insurance policies:

Unlimited office visits (all physician services).

Periodic physicals.

Immunizations.

Ambulance services (24-hour, 7-days-a-week ambulance services).

Twenty outpatient mental health visits per year.

Home health services.

Voluntary family planning.

Eye exams for children under 18 years of age.

Ophthalmology exams prescribed by a Michigan HMO Plans physician.

Dental services consisting of oral prophylaxis, topical application of flourides, emergency treatment and space maintenance (spacers) for children under 12 years of age.

Triage (emergency) phone services 24 hours a day, seven days a week.

In addition to these many Michigan HMO Plans basic benefits, the following supplemental riders are available:

Prescription drugs.

Long-term physical therapy by specially trained allied health professionals.

Intermediate skilled nursing home care (730 days maximum per confinement).

Eyeglasses, adult and children (one pair per person per year).

Prosthetics and orthotics.

Psychiatric—inpatient (30 days maximum per confinement)

W. Melvin Smith, senior executive vice president and chief operating officer of Michigan HMO Plans, points out that "unlimited office visits to a physician is one of Michigan HMO Plans key components. Few other health care plans offer this feature. One other key feature is that once a subscriber pays his or her premium for a desired benefit package, no additional out of pocket costs whatsoever are involved".

From an organizational point of view, Michigan HMO Plans is an Individual Practice Association (IPA) model HMO. It contracts with professional physician corporations to provide Michigan HMO Plans covered benefits to Michigan HMO Plans enrollees.

An IPA is a health care center (corporation, association or partnership) which is responsible for the delivery of basic and supplemental health care services to Michigan HMO Plans enrollees, and is staffed with physicians and allied health professionals (e.g., nurse, medical technicians, etc.) for the purpose of delivering efficient and high quality health care services.

Michigan HMO Plans and the IPA's are separate and independent corporations. The relationship between the two is contractual.

An enrollee joining Michigan HMO Plans may choose any one of the health centers contracting with Michigan HMO Plans. An enrollee may, upon moving out of an area, or for convenience to transportation, etc., change centers.

Michigan HMO Plans and the individual IPA maintain separate management, and each corporation has full independence regarding internal matters within their separate organization. The IPA assumes complete responsibility for the delivery of health care services to individuals enrolled in Michigan HMO Plans and the IPA attending physician directs the administration of the necessary medical services.

The mechanism of payment to the IPA's is one of pre-payment and is computed on a monthly basis as follows:

Number of Enrollees Selecting a Health Center × per person capitation amount = Amount of Monthly Payment to the Health Center.

The net result of this structure not only enables the subscriber to better budget his or her health care dollar, but the physician also knows exactly what dollar amount will be received each month.

As is true when bringing any new idea or product before potential consumers, proper marketing is a vital element if the product is to be sold successfully. Prior to receiving licensure to enter the private market, Michigan HMO Plans marketed exclusively to Medicaid recipients in Wayne County.

According to Fred L. Prime, director of marketing sales, "the difficulty was not getting to the people, but convincing them that the Michigan HMO Plans' concept of preventive medicine plus comprehensive benefit package would help improve their quality of life. It was difficult to sell. People had to be convinced that the availability and utilization of a physician—with no out-of-pocket cost—on a regular basis, could greatly improve their state of health. We had to prove that maintaining good health was a necessary evil. Most people only think about health when they are sick. We want them to be conscious of it all the time".

Bringing the concept of staying well to the forefront of people's minds is only one of the many problems Michigan HMO Plans has had to overcome. But, as Smith says, "Any company striving to find its rightful place in today's business market is bound to have problems. At Michigan HMO Plans, we have overcome more problems than we care to mention. But we believe that there are battles to be fought which will result in still better health care in Michigan in the coming years".

FINANCIAL DISCLOSURE OF SENATOR HASKELL

Mr. HASKELL. Mr. President, since coming to the Senate, I have each year placed in the RECORD a copy of my Federal income tax returns. It is done so that my constituents will be able to judge for themselves whether or not there has been a conflict of interest in carrying forth my duties as Senator from Colorado.

I have introduced, along with 10 colleagues, S. 2098, a bill which would require complete disclosure by a broad spectrum of public policymakers in the executive, as well as congressional branches of our Government. Hearings have been held and I am pleased to see the major portion of the disclosure provisions of our bill included in the "Watergate Reform" legislation recently reported to the Senate by the Committee on Government Operations. I am confident these most important provisions will be favorably considered by the Senate in the near future.

This year, I am including a statement of my assets and liabilities as well as my Federal return to present a complete financial picture. I intend to make this a regular practice to assist constituents in their evaluation of my work here in the Senate.

Mr. President, I ask unanimous consent that a copy of my Federal income tax return and a financial statement that I have prepared be printed in the RECORD.

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

FLOYD K. HASKELL'S NET WORTH AS OF MARCH 17, 1976

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household. Where values are other than current market value state the basis. In the case of real estate, mineral leases and similar interests specify nature and location.

ASSETS

Cash on hand and in banks, $7,083.44.

U.S. Government securities—add schedule,[1] $64,552.

Listed securities—add schedule,[2] $22,468.75.

Unlisted securities—add schedule,[3] $30,-988.

Accounts and notes receivable:

Due from others,[4] $407.98.

Real estate owned—add schedule,[5] $255,900.

Real estated mortgages receivable,[6] $18,832.

Autos and other personal property (est.), $5,000.

Cash value—life insurance, $14,000.

Other assets—itemize:

Civil Service Retirement Account, $10,790.

Remainder Interest in Trust,[7] $42,659.54.

Limited Partnership Interests,[8] $13,200.

Miscellaneous,[9] $1,000.

Total assets, $486,881.71.

LIABILITIES

Notes payable to banks—secured, none.

Notes payable to banks—unsecured, none.

Notes payable to relatives, none.

Notes payable to others, none.

Unpaid income tax (est. for bal. 1975 tax), $2,500.

Other unpaid tax and interest, none.

Real estate mortgages payable—add schedule, none.

Chattel mortgages and other liens payable, none.

Other debts—itemize, none.

Total liabilities, $2,500.

FOOTNOTES

[1] 10 U.S. Treasury Notes due 5/15/77; 15 U.S. Bonds due 3/31/77; 15 U.S. Bonds due 8/15/84; 25 Treasury Notes due 11/15/81; all at market value.

[2] 1,000 shares Continental Materials and 1,750 shares Terra Chemicals at market value.

[3] 56 shares Sheridan Savings and Loan at book value June 30, 1975; 4,000 shares Hazen Research, Inc., at appraised value November 1975.

[4] 595.69 shares Mile High Savings and Loan sold for $0.68488 per share.

[5] 319.88 Acres unimproved real estate in Boulder County, Colorado, at appraised value December 31, 1973.

[6] Secured by First Deed of Trust; appraised value November 1975; face value $24,066.00.

[7] Remainder interest in trust established for mother:

TRUST ASSETS

200 shs. Bank of New York @ 30.25	$6,050.00
100 shs. Cyprus Mines @ 30.50	3,050.00
150 shs. American Electric Power @ 21.125	3,168.75
400 shs. Hercules, Inc. @ 36.25	14,500.00
200 shs. Shell Oil @ 50.25	10,050.00
250 shs. Utah Power @ 29.25	7,312.50
	44,131.25
10,000 Philadelphia Electric Bonds @ 98.75	9,875.00
Value of Trust	54,006.25
	@ 0.7899
Value of remainder interest	42,659.54

[8] At investment cost. Partnerships own miscellaneous non-productive mining interests in Arizona and Montana. One property may be of value. The General Partner has informed the Limited Partners that a discovery has been made and sufficient mineralization exists to pay the retained royalty. The corporations owning the operating interests in the property apparently disagree, since no announcement to shareholders of any discovery, as required by SEC rules, has been made.

[9] Valuation arbitrary. Undivided interest in federal oil and gas leases—income 1972 ($455.00), 1973 ($423.00), 1974 (-0-), and 1975 ($438.00).

U.S. INDIVIDUAL INCOME TAX RETURN, 1975

Floyd K. and Eileen N. Haskell,
1034 W. Peakview Circle,
Littleton, Colorado 80123.

Your social security number, XXXX

Spouse's social security no. xxx-xx-xxxx.

Occupation—yours, U.S. Senator and spouse's, housewife.

A. In what city, town, village, etc., do you live? Littleton.

B. Do you live within the legal limits of the city, town, etc.? Yes.

C. In what county and State do you live? Arapahoe, Col.

FILING STATUS

2. Married filing join return (even if only one had income).

Exemptions, 2.

8. Presidential Election Campaign Fund: Do you wish to designate $1 of your taxes for this fund? Yes. If joint return, does your spouse wish to designate $1? Yes.

9. Wages, salaries, tips, and other employee compensation, $43,025.00.

10a. Dividends, $26,729.69.

10b. Less exclusion, $200.00.

Balance, $26,529.69.

11. Interest income, $5,661.77.

12. Income other than wages, dividends, and interest, $18,282.19.

13. Total (add lines 9, 10c, 11, and 12), $93,498.65.

14. Adjustments to income (such as "sick pay," moving expenses, etc. from line 42), $3,822.39.

15. Subtract line 14 from line 13 (Adjusted Gross Income), $89,676.26.

TAX, PAYMENTS AND CREDITS

16a. Tax, check it from: Schedule D, $29,-143.18.

b. Credit for personal exemptions (multiply line 6d by $30), $60.00.

c. Balance (subtract line 16b from line 16a), $29,083.18.

18. Balance (subtract line 17 from line 16c), $29,083.18.

19. Other taxes (from line 63), $158.13.

20. Total (add lines 18 and 19), $29,241.31.

21a. Total Federal income tax withheld, $10,945.58.

b. 1975 estimated tax payments, $12,750.00.

22. Total (add lines 21a through e), $23,-695.58.

BALANCE DUE OR REFUND

23. If line 20 is larger than line 22, enter BALANCE DUE IRS, $5,545.73.

29a. Net gain or (loss) from sale or exchange of capital assets (attach Schedule D), $15,938.37.

31a. Pensions, annuities, rents, royalties, partnerships, estates or trusts, etc. (attach Schedule E), $1,288.82.

35. Other (state nature and source—See page 9 of Instructions), Honoraria from speeches, $1,055.00.

36. Total (add lines 28 through 35). Enter here and on line 12, $18,282.19.

ADJUSTMENTS TO INCOME

39. Employee business expense (attach Form 2106 or statement), $3,822.39.

42. Total (add lines 37 through 41). Enter here and on line 14, $3,822.39.

TAX COMPUTATION

43. Adjusted gross income (from line 15), $89,676.26.

44(b). If you do not itemize deductions and line 15 is $15,000 or more, $14,362.43.

45. Subtract line 44 from line 43, $75,313.83.

46. Multiply total number of exemptions claimed on line 7, by $750, $1,500.00.

47. Taxable income. Subtract line 46 from line 45, $73,813.83.

OTHER TAXES

59. Self-employment tax (attach Schedule SE), $158.13.

63. Total (add lines 55 through 62). Enter here on on line 19, $158.13.

ITEMIZED DEDUCTIONS AND DIVIDEND AND INTEREST INCOME

Medical and dental expenses

1. One half (but not more than $150) of insurance premiums for medical care. (Be sure to include in line below), $150.00.

2. Medicine and drugs, $228.09.

3. Enter 1% of line 15, Form 1040, $896.76.

5. Enter balance of insurance premiums for medical care not entered on line 1, $184.80.

6. Enter other medical and dental expenses, $3,439.60.

7. Total (add lines 4 through 6c), $3,624.40.

8. Enter 3% of line 15, Form 1040, $2,690.29.

9. Subtract line 8 from line 7 (if less than zero, enter zero), $934.11.

10. Total (add lines 1 and 9). Enter here and on line 35, $1,084.11.

Taxes

11. State and local income, $2,456.95

12. Real estate (Colo.), $2,138.93.

13. State and local gasoline (see gas tax tables), $31.00.

14. General sales (see sales tax tables), $358.00.

15. Personal property (Maine), $84.00.

17. Total (add lines 11 through 16). Enter here and on line 36, $5,068.88.

Interest expense

18. Home mortgage, 1st Denver, $2,334.96.

19. Other (itemize) Chemical Bank, $933.21.

Accrued Interest—Purchase of U.S. Treas. Bonds, $363.24.

20. Total (add lines 18 and 19). Enter here and on line 37, $3,631.41.

Contributions

21 a. Cash contributions for which you have receipts, cancelled checks or other written evidence, $755.00.

24. Total contributions (add lines 21a through 23). Enter here and on line 38, $755.00.

Miscellaneous deductions

33. Other (itemize) See attached statement, $3,823.03.

34. Total (add lines 30 through 33). Enter here and on line 40, $3,823.03.

Summary of itemized deductions

35. Total medical and dental—line 10, $1,084.11.

36. Total taxes—line 17, $5,068.88.

37. Total interest—line 20, $3,631.41.

38. Total contributions—line 24, $755.00.

40. Total miscellaneous—line 34, $3,823.03.

41. Total deductions (add lines 35 through 40). Enter here and on Form 1040, line 44, $14,362.43.

Dividend income

(H) Sheridan Sav&LnAssn, $33.60.
Terra Chemicals, $1,200.00.
Hagar Research, $1,200.00.
(W) See attached statement from Chemical Bank, $25,165.40.
2. Total of line 1, $27,599.00.
4. Nontaxable distributions (see page 14 of Instructions), $869.31.
5. Total (add lines 3 and 4), $869.31.
6. Dividends before exclusion (subtract line 5 from line 2). Enter here and on Form 1040, line 10a, $26,729.69.

Interest income

(H) U.S. Treasury Bonds, $2,067.50.
Mtn. Valley Associates—interest on mortgage note, $1,564.27.
(W) U.S. Treasury Bonds, $2,030.00.
8. Total interest income. Enter here and on Form 1040, line 11, $5,661.77.

SUPPLEMENTAL STATEMENT: SCHEDULE A, LINE 33

Miscellaneous deductions

From Form 2106, Part II, line 2	$2,387.43
Colorado Bar Association Dues	50.00
Contribution to Democratic Party of Colorado (Colorado Century Club)	100.00
Contribution to Democratic Congressional Finance Committee	100.00
Legal Fee for Preparation of Tax Returns	300.00
Chemical Bank Custodian Fee	805.60
Chemical Bank Tax Fee	80.00
Total	3,823.03

CAPITAL GAINS AND LOSSES

Long-term capital gains and losses—Assets held more than 6 months

6. Residence: 2707 E. Williamette, Littleton, Colo. (wife):
b. Date acquired, 1970.
c. Date sold, 8/15/75.
d. Gross sales price, $115,000.
e. Cost or other basis, as adjusted (see instruction F) and expense of sale, $96,354.72.
f. Gain or (loss) (d less e), $18,645.28.
See Sheet from Chemical Bank (wife), $204.98.
1,000 shares Terra Chem. (husband):
b. Date acquired, 1967.
c. Date sold, 4/11/75.
d. Gross sales price, $13,599.03.
e. Cost or other basis, as adjusted (see instruction F) and expense of sale, $2,000.00.
f. Gain or (loss) (d less e), $11,599.03.
9. Enter your share of net long-term gain or (loss) from partnerships and fiduciaries (husband), $1,427.45.
11. Net gain or (loss), combine lines 6 through 10, $31,876.74.
13. Net long-term gain or (loss), combine lines 11, 12(a) and (b), $31,876.74.

Summary of parts I and II

14. Combine the amounts shown on lines 5 and 13, and enter the net gain or (loss) here, $31,876.74.
15. If line 14 shows a gain—
(a) Enter 50% of line 13 or 50% of line 14, whichever is smaller (see Part VI for computation of alternative tax). Enter zero if there is a loss or no entry on line 13, $15,938.37.
(b) Subtract line 15(a) from line 14. Enter here and on Form 1040, line 29a, $15,938.37.

Computation of alternative tax

44. Enter amount from Form 1040, line 47, $73,813.83.
45. Enter amount from line 15(a), $15,938.37.
46. Subtract amount on line 45 from amount on line 44 (but not less than zero), $57,875.46.
47. Enter smaller of amount on line 13 or line 14, $31,876.74.
55. Tax on the amount on line 46 (use Tax Rate Schedule in instructions), $21,173.99.
56. If the block on line 47 or 49 is checked, enter 50% of line 45; otherwise enter 25% of line 49, $7,969.19.
57. Alternative Tax—add amounts on lines 54 (if applicable), 55, and 56. If smaller than the tax figured on the amount on Form 1040, line 47, enter this alternative tax on Form 1040, line 16a, $29,143.18.

SUPPLEMENTAL INCOME SCHEDULE AND RETIREMENT INCOME CREDIT COMPUTATION

Rent and royalty income

Colo. O&G Leases:
(c) Total amount of royalties, $438.67.
(d) Depreciation (explain below) or depletion (attach computation), $96.51.
2. Net income or (loss) from rents and royalties (column (b) plus column (c) less columns (d) and (e)), $342.16.

Income or losses from partnerships, estates or trusts, small business corporations

Sucan, Ltd., 86–6059772, $170.16.
Can US, Ltd., 84–0583390, $676.10.
High Hopes, Ltd., 84–6114818, $100.00.
1. Totals, $946.66.
2. Income or (loss). Total of column (d) less total of column (e), $946.66.
Total of Parts I, II, and III (Enter here and on Form 1040, line 31a), $1,288.82.

RETIREMENT INCOME CREDIT COMPUTATION

1. Maximum amount of retirement income for credit computation, $2,286.00.

COMPUTATION OF SOCIAL SECURITY SELF-EMPLOYMENT TAX

Computation of net earnings from nonfarm self-employment

Regular Method

5. Net profit or (loss) from, (b) Partnerships, joint ventures, etc. (other than farming), $946.66.
(e) Other, honoraria for speeches, $1,055.00.
6. Total (add lines 5(a) through (e)), $2,001.66.
8. Adjusted net earnings or (loss) from nonfarm self-employment (line 6, as adjusted by line 7), $2,001.66.

Nonfarm Optional Method

9. (a) Maximum amount reportable, under both optional methods combined (farm and nonfarm), $1,600.00.

Computation of social security self-employment tax

12. (b) From nonfarm (from line 8, or line 11 if you elect to use the Nonfarm Optional Method), $2,001.66.
13. Total net earnings or (loss) from self-employment reported on line 12. (If line 13 is less than $400, you are not subject to self-employment tax. Do not fill in rest of schedule.), $2,001.66.
14. The largest amount of combined wages and self-employment earnings subject to social security or railroad retirement taxes for 1975 is, $14,100.00.
15. (c) Total of lines 15(a) and (b), 0.
16. Balance (subtract line 15(c) from line 14), $14,100.00.
17. Self-employment income—line 13 or 16, whichever is smaller, $2,001.66.
18. Self-employment tax. (If line 17 is $14,000.00, enter $1,113.90; if less, multiply the amount on line 17 by .079.) Enter here and on Form 1040, line 59, $158.13.

EMPLOYEE BUSINESS EXPENSES

1. Travel expenses while away from home on business (number of days NA):
(a) Airplane, boat, railroad, etc., fares, $9,296.03.
(b) Meals and lodging (away from Washington, D.C. and Littleton, Col., overnight), $1,456.28.
(d) Other travel expenses (Specify), Washington, D.C. living expenses of U.S. Senator (I.R.C. § 162(a)), $3,000.00.
Total travel expenses, $13,752.31.
4. Employee expenses other than traveling, transportation, and outside salesperson's expenses to the extent of reimbursement, $10,250.56.
5. Total of lines 1, 2, 3, and 4, $24,002.87.
6. Less: Employer's payments for above expenses (other than amounts included on Form W–2), $19,375.24.
7. Excess expenses (line 5 less line 6). Enter here and include on Form 1040, line 39, $3,822.39.
Employee Business Expenses—See schedule attached:

SUPPLEMENTAL STATEMENT: FORM 2106 (EMPLOYEE BUSINESS EXPENSES)

Expense item	Total expense [1]	Amount reimbursed [2]	Amount unreimbursed [3]
I. Travel expenses:			
Transportation (line 1(a))	[1] $9,296.03	$9,292.03	[3] $4.00
Meals and lodging (line 1(b))	[1] 1,456.28	235.27	[3] 1,221.01
Washington, D.C., living expenses (line 1(d))	[1] 3,000.00	----------	[3] 3,000.00
Excess travel allowance	----------	402.62	[3] —402.62
Total	[1] 13,752.31	9,929.92	[3] 3,822.39
II. Other employee expenses:			
Publications	2,183.66	2,183.66	----------
Communications (expenses for informing constituents)	1,588.52	771.35	[4] 817.17
Office supplies and maintenance	7,221.35	7,221.35	----------
Entertainment	1,037.13	----------	[4] 1,037.13
Miscellaneous	607.33	74.20	533.13
Total	12,637.99	10,250.56	[4] 2,387.43

[1] Reported in pt. I, lines 1(a), 1(b), and 1(d).
[2] Total included in pt. I, line 6.
[3] Total reported in pt. I, line 7 and form 1040, line 41.
[4] Total reported in pt. II, line 2, and in schedule A, line 33.

COMPUTATION OF MINIMUM TAX

1. Tax Preference Items: (i) Depletion, $477.40.
(j) capital gains, $15,938.37.
2. Total tax preference items (add lines 1(a) through 1(j)), $16,415.77.
3. Exclusive. Enter $30,000. If married filing separately, enter $15,000, $30,000.00.
5. Amount from Form 1040, line 18*, $29,083.18.
11. Add lines 5 through 10, $29,038.18.

Income

Dividends: Qualifying Corporations, $25,165.40*.
Interest: From United States Bonds—Fully Taxable, $2,038.00.
Capital Gains and losses (Separate Sched. D: Net Long Term Gain, $204.98.
Interest on Other Obligations, (Tax exempt for Federal Purposes): Other State Municipal Bonds, $4,842.54.

Disbursements

Deductions: Custodian and Investment Counsel Fees Paid to Chemical Bank, $805.60.
Tax Fee, Interest Pd., Tax Fee $80.00 Interest Pd. D/L $933.21, $1,013.21.

Dividend and interest received

2/18/75, U.S. of America Treasury.
2/18/75, 3½% due 2/15/90.
2/18/75, interest, 00, $1,015.00.
8/15/75, U.S. of America Treasury.
8/15/75, 3½% due 2/15/90.
8/15/75, interest, 00, $1,015.00; 00, $2,030.00.
1/02/75, American Tel & Tel Co Com $16 ⅔ par.

* Deduct $869.31 non taxable portion of dividend of Pacific Gas & Electric Co.

1/02/75, dividend, 01, $127.60.
1/02/75, Chemical New York Corp Com $12 par.
1/02/75, dividend, 01, $180.00.
1/15/75, Pacific Gas & Electric Co Com $10 par.
1/15/75, dividend, 01, $376.00.
1/27/75, General Electric Co Com.
1/27/75, dividend, 01, $200.00.
1/27/75, Bankers Trust New York Corp Com.
1/27/75, dividend, 01, $37.50.
2/03/75, Commonwealth Edison Co Com $12.50 par.
2/03/75, dividend, 01, $115.00.
2/03/75, Public Service Co of Cold Com $5 par.
2/03/75, dividend, 01, $265.20.
2/03/75, American Natural Gas Co Com $10 par.
2/03/75, dividend, 01, $174.62.
2/03/75, Northern Illinois Gas Com $5 par.
2/03/75, dividend, 01, $46.00.
2/03/75, RCA Corp Com no par.
2/03/75, dividend, 01, $76,50.
2/18/75, Cleveland Electric Illuminating Co.
2/18/75, com no par.
2/18/75, dividend, 01, $99.20.
2/18/75, Proctor & Gamble Co Com no par.
2/18/75, dividend, 01, $200.00.
3/03/75, Westinghouse Electric Corp Com.
3/03/75, dividend, 01, $72.00.
3/03/75, Pabst Brewing Co Com no par.
3/03/75, dividend, 01, $1.00.
3/07/75, Gulf Oil Corp Com no par.
3/07/75, dividend, 01, $637.50.
3/10/75, Exxon Corp Com.
3/10/75, dividend, 01, $750.00.
3/10/75, Mobil Oil Corp Com $7.50 par.
3/10/75, dividend, 01, $637.50.
3/10/75, Standard Oil Co of Ind Com $12.50 par.
3/10/75, dividend, 01, $744.00.
3/10/75, Texaco Inc Com $6.25 par.
3/10/75, dividend, 01, $294.00.
3/10/75, Allied Chemical Corp Com $9 par.
3/10/75, dividend, 01, $141.30.
3/10/75, General Motors Corp Com $1.66 2/3 par.
3/10/75, dividend, 01, $300.00.
3/10/75, Warner-Lambert Co Com.
3/10/75, dividend, 01, $153.72.
3/14/75, E. I. du Pont de Nemours & Co Com $5 par.
3/14/75, dividend, 01, $125.00.
3/17/75, Continental Corp.
3/17/75, $2.50 Cuml Conv PFD Ser A $4 par.
3/17/75, dividend, 01, $45.00.
3/17/75, Continental Corp Com $2 par.
3/17/75, dividend, 01, $411.45.
3/28/75, American Cyanamid Co Com.
3/28/75, dividend, 01, $75.00.
4/01/75, American Tel & Tel Co Com $16 2/3 par.
4/01/75, dividend, 01, $127.50.
4/01/75, Chemical New York Corp Com $12 par.
4/01/75, dividend, 01, $180.00.
4/15/75, Pacific Gas & Electric Co Com $10 par.
4/15/75, dividend, 01, $376.00.
4/25/75, General Electric Co Com.
4/25/75, dividend, 01, $200.00.
4/25/75, Bankers Trust New York Corp Com.
4/25/75, dividend, 01, $37.50.
5/01/75, Commonwealth Edison Co Com $12.50 par.
5/01/75, dividend, 01, $115.00.
5/01/75, Public Service Co of Cold Com $5 par.
5/01/75, dividend, 01, $265.25.
5/01/75, American Natural Gas Co Com $10 par.
5/01/75, dividend, 01, $174.65.
5/01/75, Northern Illinois Gas Com $5 par.
5/01/75, dividend, 01, $48.00.
5/01/75, RCA Corp Com No par.
5/01/75, dividend, 01, $76.50.
5/15/75, Cleveland Electric Illuminating Co.
5/15/75, Com No par.
5/15/75, dividend, 01, $99.20.
5/15/75, Procter & Gamble Co Com No par.
5/15/75, dividend, 01, $200.00.
5/30/75, Pabst Brewing Co Com No par.
5/30/75, dividend, 01, $1.00.
6/02/75, Westinghouse Electric Corp. Com.
6/02/75, dividend, 01, $72.90.
6/10/75, Exxon Corp. com.
6/10/75, dividend, 01, $750.00.
6/10/75, Gulf Oil Corp. com. no par.
6/10/75, dividend, 01, $637.50.
6/10/75, Mobil Oil Corp. com. $7.50 par.
6/10/75, dividend, 01, $637.50.
6/10/75, Standard Oil Co. of Ind. com. $12.50 par.
6/10/75, dividend, 01, $744.00.
6/10/75, Texaco Inc. com. $6.25 par.
6/10/75, dividend, 01, $294.00.
6/10/75, Allied Chemical Corp. com $9 par.
6/10/75, dividend, 01, $141.30.
6/10/75, General Motors Corp. com $1.66 ⅔ par.
6/10/75, dividend, 01, $300.00.
6/10/75, Warner-Lambert Co. com.
6/10/75, dividend, 01, $168.38.
6/12/75, E I du Pont de Nemours & Co. com $5 par.
6/12/75, dividend, 01, $100.00.
6/16/75, Continental Corp.
6/16/75, $2.60 cuml conv pfd ser A $4 par.
6/16/75, dividend, 01, $43.00.
6/16/75, Continental Corp. com $2 par.
6/16/75, dividend, 01, $411.45.
6/27/75, American Cynamid Co. com.
6/27/75, dividend, 01, $75.00.
7/01/75, American Tel & Tel Co. com $16⅔ par.
7/01/75, dividend, 01, $127.50.
7/01/75, Chemical New York Corp. com $12 par.
7/01/75, dividend, 01, $180.00.
7/15/75, Pacific Gas & Electric Co. com $10 par.
7/15/75, dividend, 01, $376.00.
7/25/75, General Electric Co. com.
7/25/75, dividend, 01, $200.00.
7/25/75, Bankers Trust New York Corp. com.
7/25/75, dividend, 01, $37.50.
8/01/75, Commonwealth Edison Co. com $12.50 par.
8/01/75, dividend, 01, $115.00.
2/01/75, Public Service Co. of Colo., com $5 par.
8/01/75, dividend, 01, $265.20.
8/01/75, American Natural Gas Co. com.
8/01/75, dividend, 01, $174.63.
8/01/75, Northern Illinois Gas com $5 par.
8/01/75, dividend, 01, $48.00.
8/01/75, RCA Corp. com no par.
8/01/75, dividend, 01, $76.50.
8/15/75, Cleveland Electric Illuminating Co.
8/15/75, Com No par.
8/15/75, dividend, 01, $99.20.
8/15/75, Procter & Gamble Co com no par.
8/15/75, dividend, 01, $200.00.
8/29/75, Wisconsin Gas Co com.
8/29/75, dividend 01, $23.39.
8/29/75, Pabst Brewing Co com no par.
8/29/75, dividend, 01, $1.00.
9/02/75, Westinghouse Electric Corp com.
9/02/75, dividend, 01, $72.00.
9/10/75, Exxon Corp com.
9/10/75, dividend, 01, $750.00.
9/10/75, Gulf Oil Corp com no par.
9/10/75, dividend, 01, 637.50.
9/10/75, Mobil Oil Corp com $7.50 par.
9/10/75, dividend, 01, 637.50.
9/10/75, Standard Oil Co of Ind com $12.50 par
9/10/75, dividend, 01, $744.00.
9/10/75, Texaco Inc. com $6.25 par.
9/10/75, dividend, 01, 294.00.
9/10/75, Allied Chemical Corp com $9 par.
9/10/75, dividend, 01, 141.30.
9/10/75, General Motors Corp com $1.66 ⅔ par.
9/10/75, dividend, 01, $300.00.
9/10/75, dividend, 01, 168.36.
9/12/75, E I du Pont de Nemours & Co com $5 par.
9/12/75, dividend, 01, $100.00.
9/15/75, Continental Corp.
9/15/75, $2.00 cuml conv pfd ser A $4 par.
9/15/75, dividend, 01, $45.00.
9/15/75, Continental Corp com $2 par.
9/15/75, dividend, 01, $411.45.
9/26/75, American Cyanamid Co com.
9/26/75, dividend, 01, $75.00.
10/01/75, American Tel & Tel Co com 118⅔ par.
10/01/75, dividend 00, $127.50.
10/01/75, Chemical New York Corp com $12 par.
10/01/75, dividend, 01, $180.00.
10/15/75, Pacific Gas & Electric Co com $10 par.
10/15/75, dividend, 01, $376.00.
10/27/75, General Electric Co com.
10/27/75, dividend, 01, $200.00.
10/27/75, Bankers Trust, New York Corp com.
10/27/75, dividend, 01, $37.50.
11/03/75, Commonwealth Edison Co com $12.50 par.
11/03/75, dividend, 01, $115.00.
11/03/75, Public Service Co of Colo com 15, par.
11/03/75, dividend, 01, $265.25.
11/03/75, American Natural Gas Co com.
11/03/75, dividend, 01, $174.83.
11/03/75, Northern Illinois Gas com $5 par.
11/03/75, dividend, 01, $48.00.
11/03/75, RCA Corp com no par.
11/03/75, dividend, 01, $76.50.
11/17/75, Cleveland Electric Illuminating Co.
11/17/75, com no par.
11/17/75, dividend, 01, $99.00.
11/17/75, Proctor & Gamble Co com no par.
11/17/75, dividend, 01, $200.00.
11/28/75, Wisconsin Gas Co com.
11/28/75, dividend, 01, 23.30.
12/01/75, Westinghouse Electric Corp com.
12/01/75, dividend, 01, $72.90.
12/01/75, Pabst Brewing Co com no par.
12/01/75, dividend, 01, $1.04.
12/10/75, Exxon Corp com.
12/10/75, dividend, 01, $750.00.
12/10/75, Gulf Oil Corp com no par.
12/10/75, dividend, 01, $637.50.
12/10/75, Mobil Oil Corp com $7.50 par.
12/10/75, dividend, 01, $637.50.
12/10/75, Standard Oil Co of Ind com $12.50 par.
12/10/75, dividend, 01, $744.00.
12/10/75, Texaco Inc com $6.25 par.
12/10/75, dividend, 01, $294.00.
12/10/75, Allied Chemical Corp com no par.
12/10/75, dividend, 01, $141.30.
12/10/75, General Motors Corp com $1.66 2/3 par.
12/10/75, dividend, 01, $300.00.
12/10/75, Wagner-Lambert Co. com.
12/10/75, dividend, 01, $168.36.
12/15/75, E I Du Pont De Nemours & Co com $5 par.
12/15/75, dividend, 01, $100.00.
12/15/75, Continental Corp.
12/15/75, $2.50 coml conv pfd ser a $4 par.
12/15/75, dividend, 01, $45.00.
12/15/75, Continental Corp com $2 par.
12/15/75, dividend, 01, $411.45.
12/22/75, American Cynamid Co. com.
12/22/75, dividend, 01, $75.00; 01, $25,165.40.*

CAPITAL GAINS AND LOSSES

Description and source	Date	Face value or number of shares	Proceeds	Cost	Gain or loss (—) ST indicates short term
Commonwealth Edison Co. rts. exp., Mar. 20, 1975:					
40	Mar. 29, 1975	200	$12.49	$0	$12.49
P	Over 6 mos				
Massachusetts Bay Transportation Auth. gen. transportation sys. rev. ser. A 6¼ percent due, Mar. 1, 1996:					
40	May 15, 1975	20,000	19,212.00	19,212	
P	Apr. 18, 1975				
Pacific Gas & Electric Co. rts. exp., May 20, 1975:					
40	May 30, 1975	800	192.49	0	192.49
P	Over 6 mos				
Total		21,000	19,416.98	19,212	204.98

Note: Verified—Total long-term gain, $204.98.

RELIEF FOR WOOL GROWERS

Mr. HASKELL. Mr. President, I want to thank the members of the Senate for approving S. 532, a bill I introduced in the 93d Congress and again last year to correct an inequity which caused certain wool growers in Colorado and other western States to lose their rightful wool price support payments several years ago.

I am grateful to Committee Chairman TALMADGE, Subcommittee Chairman HUDDLESTON, and the members of the Senate Agriculture and Forestry Committee for their favorable consideration of the bill. The same bill passed the Senate in 1974, but the House was unable to act on it before adjournment that year. I hope it will now receive prompt action in the House of Representatives.

I first introduced this bill when I learned of an inequity affecting certain wool growers in Colorado and several other western States. These growers had received price support payments based on promissory notes, rather than actual cash payments, from a company in Denver to which they consigned their wool. When the company went bankrupt, those promissory notes were never honored, so although the wool was actually sold, the company never paid the growers in full for it. Unfortunately, Department of Agriculture regulations in effect at the time did not permit price support payments to be awarded on the basis of promissory notes. When this was discovered, the Department withheld incentive payments from these particular growers in 1972 to compensate for the erroneous payments made earlier. So, in effect, these growers suffered a double loss of income through no fault of their own. When the Department of Agriculture tried to amend the regulations retroactively to correct this obvious inequity, it was found that the Secretary of Agriculture lacked the necessary authority. This bill simply grants the Secretary of Agriculture the requisite authority to amend the regulations retroactively to correct this particular situation so that these growers might recover their rightful payments.

The Department of Agriculture estimates that this bill will result in the payment of about $150,000 to about 50 growers who were caught in this unfortunate situation. This is a one-time allocation. The current regulations governing the wool payment program for the 1974 through 1977 marketing years provide for the use of administrative discretion under specified circumstances to include uncollectible notes as part of the net proceeds.

Once again, I am pleased that the Senate has approved this measure, and I hope it will now receive speedy approval by the House of Representatives, as these wool growers have already waited many years for restitution.

SHORTAGE OF FOOD RESERVES AND PRODUCTION IN DEVELOPING COUNTRIES

Mr. PERCY. Mr. President, a few weeks ago William Mullen of the Chicago Tribune reported a followup series to his 1974 Pulitzer Prize winning articles on the drought and famine suffered by millions of people in West Africa, Ethopia, and India.

After a lapse of 2 years, Mr. Mullen, who recently revisited those areas, found that hunger and malnutrition had virtually disappeared. Due to normal amounts of rainfall in this dry part of the world, good harvests and plentiful food have substantially eliminated the pestilence which plagued these people. Encouraging as this may seem, it is not a convincing and reliable mode of recovery because of the dependency on weather patterns.

The shortage of food reserves and inadequate food production are the fundamental problems. What is needed are efforts on the part of developed and developing countries alike to increase food production and build extensive reserves to provide assurances for emergencies. The United States also needs to develop a comprehensive strategy that would bring about an eventual balance between world population growth and world food supplies.

I urge my colleagues to read or reread the following articles on the food situation in Africa and India.

I ask unanimous consent that the articles be printed in the RECORD.

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

[From the Chicago Tribune, Apr. 18, 1976]

RAINS, HARVESTS END FAMINES—BUT FOR HOW LONG?

(By William Mullen)

GEWANI ETHIOPIA.—Early this year two ragged little shepherd girls crouched in a pasture here transfixed as they watched one of their goat herd give birth to a kid.

It was a luscious, hot, sunny afternoon in a landscape pregnant with life amid fields of ripening cotton and millet growing next to the fast, smooth-flowing Awash River.

They were lucky to be alive on this day, witnessing the birth of new life. Many families in the town have no children. Whole families were dying here two years ago as Gewani baked in the sun of a two-year drought.

Two years ago, there was no cotton or millet growing in Gewani. The goats and cattle of the farmers had starved to death, the town's food stores were empty, and the government hadn't yet devised a way to get food to the slowly starving people.

That was when all the children of Gewani walked on spindly legs, so weakened by hunger it took only a common cold or a simple case of diarrhea to kill them.

But this year the faces of hunger have disappeared from Gewani—at least for the time being.

The two little shepherd girls were fat-cheeked and laughing as they played in the meadow with the newborn kid and its mother.

In fact, the emaciated faces of hunger which shocked the world two years ago have largely disappeared.

Severe, widespread famine has disappeared from the world this year but not because of any government programs, United Nations commitments, or international agency contributions.

It has disappeared because nature programed it that way, by bringing rain—good, steady, normal amounts of rain—to the parched parts of the world. With the return of the rain came good harvests and cheap, plentiful food.

In little towns like Belegara in Niger, Gewani in Ethiopia, and Cooch Behar in India, peasant populations which two years ago were weakened by starvation now are back in good health.

It is an encouraging sight, but not a convincing one for world agricultural and weather experts who fear hundreds of millions of people may yet starve to death before the end of this century.

Are the rains going to return to these areas of the world on a reliable basis year after year? That is the crucial question, Dr. Reid Bryson, a University of Wisconsin climatologist, said.

And the answer, he said, is "probably not, at least for the remainder of this century."

Bryson is a leading spokesman for a group

of scientists convinced world weather patterns are changing in a way which may drastically cut food production worldwide.

For the last several years he has been sounding warnings that the world should be building extensive food reserves for times of emergency.

"There still are no reserves," he said, "and as long as you keep building up population and not reserves, eventually there is going to be a big problem.

"Nothing seems to be getting done."

Bryson said he believes that over the next few years death rates in many of the world's poorest countries will rise dramatically as tens of millions weakened by malnourishment die from normally minor illnesses.

He cites preliminary studies, which show death rates increases in 19 countries over the last three years.

Outwardly, government officials speak of great progress in solving their food problems and protecting their populations from future famines.

But everywhere—in the Upper Volta, Niger, Ethiopia, India—officials leave the unspoken impression that nothing has really changed. If the drought returned this year, they seem convinced they soon would be faced with the same starving masses they faced two years ago.

Indeed, some officials expressed a fear that last year's relatively good harvests have resulted in a diverting of world attention from these areas at a time that they need the world's help as desperately as ever.

In Ethiopia, Shimelus Adugna, head of the Ethiopian Relief and Rehabilitation Commission, is afraid that the rich nations, which have been funneling money into his country for relief and rebuilding, will cut off the funds while Ethiopia is in the midst of plans to modernize its agriculture.

Since the height of the drought three years ago, hundreds of millions of dollars in relief and development aid has poured into the hunger belt, mostly from Western Europe and North America.

The international response and long-range commitment to the drought-stricken nations has been spotty, however.

The United States has offered only nominal development assistance to Ethiopia, for instance, and virtually nothing for development to India. But in the Sahel region of Africa, the U.S. and European nations have lavished so much assistance money that some officials admit they don't know what to do with it and wonder if too much money will do more harm than good.

The much-heralded World Food Conference held in Rome in November, 1974, focused on developing plans of action against world hunger, including a worldwide emergency food supply, but these seem destined to economic and political failure.

At the Rome conference, plans were laid to store food in famine-prone nations throughout the world so it could be moved quickly and efficiently into problem areas in the event of disaster.

However, political differences between rich and poor nations have widened since the Rome meeting, making the mechanics of establishing the reserve system more difficult.

Secretary of State Henry Kissinger has underscored the U.S. determination to link economic aid with world politics. Early this year he postponed aid agreements with Tanzania and Guyana because of their anti-Zionist votes and their opposition to the seating of South Korea in the United Nations.

The U.S. also canceled a $75 million agricultural aid agreement with India this year because of frigid relations between the two nations.

If international development assistance becomes a matter of political selection, the nations which suffer most in times of disaster face a perilous future in the face of stiffening competition for development money, international aid experts believe.

In 1974, Dr. M. S. Swaminathan, head of India's Agricultural Research Institute, said the world food shortage could be overcome with vastly increased economic aid from rich nations to poor nations. This year he talked about his disappointment in the slow response of the rich nations.

After an all-time record harvest, hardly anyone is starving in India now. But a trip through any rural village or city slum makes it quickly apparent that India's food problem is far from solved.

Despite the good year, a visitor to India this year can still see peasant children with stomachs bloated by malnutrition.

Those in the Howrah District of West Bengal, for example, were not severely malnourished or ill, but in their condition it would take only a few weeks of food shortages to put them on the brink of starvation.

"Our people are eating once a day now instead of once every two or three days," Ajit Kumar Barman, a social worker, said of landless laborers in Howrah District.

"But our problems are so immense that, if we have another bad year, we will be in a very sorrowful position."

Even though billions of dollars have been poured into India in the last three decades for agricultural development, Indian peasants are still at the mercy of how much rain they get in the monsoon season.

World weather experts who for the last several years have been predicting a gradual disruption of normal weather patterns for at least the rest of this century targeted 1975 as a relatively good year. They say, however, that India and Africa and much of the rest of the world face serious problems over the next 10 years.

Some African officials are worrying about the diminishing concern of westerners over their fate.

"We appreciate the assistance we've received already," Shimelus Adugna said in Ethiopia, "but we need much, much more."

Adugna said he senses that the U.S. and European nations are eager to cut back on aid to Ethiopia. Last year the U.S. committed only $5 million in development aid to his country.

"The donor nations tend to be more optimistic than we are because they want to let go of the tail of the tiger they have taken hold of," he said.

Even with last year's good harvests, Ethiopia faces a good deal of danger in the next few months. Hundreds of severely malnourished children are in isolated refugee camps in the Ogaden Desert, where 110,000 persons have sought help in the midst of a blistering two-year drought.

Western relief experts also are predicting severe problems in vast areas of the country during the rainy season this spring.

"Just go a hundred miles south of Addis Ababa to Hosana next April," one official said, "and you will find 80,000 to 100,000 people having a very bad time of it. The government just didn't get in there with any food stocks or road improvements, and once it starts raining, it's going to be impossible to get in there with any help."

The Sahel region of Africa—the six sub-Saharan nations of Mauritania, Senegal, Mali, Upper Volta, Niger, and Chad—have not lacked for outside financial assistance.

In fact, some development experts worry that the hundreds of millions of dollars committed to the Sahel might in the long range be damaging to the fragile economics of the six nations.

Much of the aid has gone into building up vital networks of roads and storage facilities in remote areas most susceptible to food shortages. In a nation like Niger—a country bigger than California and Texas combined and where more than half the population lives at least 50 miles from a paved road—the task is immense and agonizingly slow.

What worries some experts is that the huge influx of outside development aid is not being marshaled wisely, and it is creating a false, inflationary economy in the poverty-stricken Sahel.

Galal Madagal, director of the United Nations Sahelian Office, doesn't share those worries. But he said at his headquarters in Ougadougou, Upper Volta, that finding ways to use available money has been a headache.

"Since the drought hit," said, "it has been like there has been a big bag of money hanging suspended over the Sahel.

"The money is here to be used, but we still don't know exactly how to use it, what types of projects will be most effective. The problem is as much a matter of time as it is of money, and we are going to need a long-term commitment from the rest of the world."

It will probably take 10 years before any significant results are evident from the immense spending and development efforts in the Sahel. Many experts are not convinced much progress will ever be made.

"All it takes is another bad year of rain," one American development worker in Niger said, "and all the progress we've made will stop and the dying will start again."

[From the Chicago Tribune, Apr. 19, 1976]

PESTILENCE, IGNORANCE, REDTAPE MEAN DISASTER IN SAHEL REGION

(By William Mullen)

NIAMEY, NIGER.—A few weeks ago several hundred miles north of here, Tuareg tribesmen were spending their days searching the semiarid countryside for anthills to open up so that they could raid the insects' grain stocks packed inside.

The anthills were virtually the only food supply left for the Tuaregs, and they were running out of anthills to raid.

The nomads told westerners passing through their area that they would soon have to resort to collecting desert nettles, sort of oversized sandbur-like weeds, as their only source of food. Surviving on the nettles would be difficult, they said, because it takes a strong person two days of grinding to transform enough of them into flour for one meal.

Unless the government of Niger undertake to find the widely scattered Tuaregs and provide them with relief, their prospects of getting better and more abundant food appear grim until the next harvest, in October.

Even at that, there is no guarantee Niger will have a good harvest this October.

Last year, despite a fairly good rainy season, much of Niger suffered severe crop failures.

Unlike the previous several years, when repeated doughts caused widespread famine in Niger and five other West African nations, 1975 brought Niger repeated attacks of worms, grasshoppers, rats, and frogs.

Farmers planted crops up to six times, only to see them destroyed by the repeated infestations.

As a result of these latest disasters, Niger will need to beg at least 110,000 metric tons in relief food from the outside world in 1976.

The failure of the 1975 crops also in some measure accounts for a growing pessimism among some foreign development workers in West Africa who wonder if the region will ever be able to get off the international dole.

Six countries make up the African Sahel region that was crippled by drought from 1968 to 1974—Mauritania, Senegal, Mali, Niger, Upper Volta, and Chad.

Of those countries, Niger and Mauritania suffered serious crop losses again last year. Although the other four Sahelian countries had relatively good crop years, the root causes of the drought, in which more than 100,000 Sahelians starved to death, are still very much in evidence.

"Two lines have passed on the graph," one discouraged worker for a private American agency said. "Population has outstripped the capacity to grow enough food."

The worker added, "I think the world has already given its best, and it just isn't going to be enough."

The pessimism stems from the fact that while only 24 million persons live in the Sahel—a region roughly two-thirds the size of the continental United States—little of the land can support life. Much of it is covered by the Sahara Desert, with relatively little semiarid land suitable for farming or stock grazing.

The disillusioned speak of the lack of water resources in a region with little rainfall. Farmers do not even know rudimentary, medieval farming techniques. There is a hopelessly tiny transportation network with few roads, few vehicles, and virtually no railroads. Governments have few officials with more than a high school education and are hamstrung by impossible bureaucratic red tape.

"I'm afraid the sad truth is, there isn't much hope for a country like this," an agricultural development worker in Niger said.

"There isn't enough here to start with, and the administrative red tape of the government chokes most efforts that could possibly help. These people are at the mercy of the slightest fluctuation of the weather or pest infestation, and it looks like famine is going to be with them for a long time to come."

Since the drought the attention and relief dollars of the outside world to the Sahel, the list of failed development projects and government bungling has been maddening to foreigners working here.

Last year in Mali, for example, the government forced thousands of Malian Tuareg tribesmen to return to the country from refugee camps in Upper Volta and Niger. The Tuaregs, who didn't want to return, soon began to starve in camps in the Gao region of Mali because government relief officials refused to open camp warehouses filled with food supplies.

The camp officials explained to outraged westerners that they couldn't distribute the food because they hadn't received authorization from Bamako, the capital city of Mali.

Westerners who had visited the Gao camps discovered nobody in the camps had bothered to tell the authorities in Bamako about the situation. It took intervention of the westerners to get a simple message of authorization sent to the camps so the warehouses could be opened to the suffering nomads.

"That's one of the great problems of the Sahel," one westerner said. "They inherited the concept of central authority from the French colonial system.

"Everybody is terrified of making even the smallest decision on his own; so they sit and wait for months for a request to filter up through the bureaucratic ranks. It often doesn't stop until it goes to the chief of state himself, then takes several weeks to filter back down."

Problems with the bureaucratic red tape become doubly perplexing in an emergency situation.

Late last summer when it became apparent a grasshopper invasion was imminent in a vast portion of Niger's croplands, the United States Agency for International Development [USAID] brought in a plane to spray the fields.

The aircraft, a specially equipped DC-3, landed at Miamey airport in July. It sat idle at the airport until September, while the grasshopper attack came and went, because authorization to use the plane got hopelessly tied up in the bureaucracy.

Even when the red tape is cut and westerners get projects set up, they are often doomed to failure before they start because of the outsiders' ignorance of local customs and traditions.

Several attempts have been made in various Sahelian countries in the last two years to train desert nomads at demonstration ranches to control the size and quality of their cattle herds.

Most experts feel the cattle industry in the Sahel if properly managed, could provide meat for much of Africa.

They also feel the traditional nomadic cattle-herding methods have in large part been responsible for the deterioration of cattlelands and the 30-mile-a-year southward growth of the Sahara Desert.

The cattle herds in the 1960s became too large for the limited rangelands, and when the drought came, the nomads helped the desert grow by cutting down trees to feed the leaves to their dying animals.

To make better use of the grazing land available, western experts are preaching the benefits of smaller, better-cared-for herds kept in contained, ranch-style areas.

The nomads, who have always followed their herds to wherever the grass is green and the water plentiful, have listened patiently to the westerners. They have been helped to build experimental ranch operations when paid to do so.

But as soon as they have had enough money saved to buy a few animals, they have turned their backs on the ranches and returned to their free-wandering ways.

A $2 million USAID ranch operation in Upper Volta failed for those reasons. Another ranch set up by Western Europeans in Niger failed after development workers meticulously fenced in the demonstration area. Besides fencing in the nomads and their cattle, they had also fenced in local farmers—who became irate and continually cut down fence sections so they could pass to and from their lands.

Despite growing disillusionment of some westerners in the Sahel, there is no lack of development money earmarked by western nations for the region.

Nobody knows for certain how much money has been spent on development there by various nations and agencies in the last three years bcause of the drought, but it seems safe to say more than $200 million.

Some of the money is still unspent, because the international agencies and the Sahelian governments themselves don't know where to spend it.

Still, several western nations, with the United States at the forefront, are considering spending a great deal more in the Sahel in the next 10 years.

Last November, James Bishop, deputy director of the U.S. State Department's West Africa bureau, unveiled a tentative, multibillion-dollar development proposal for the Sahel. Speaking at a meeting of the African Studies Association in San Francisco, Bishop proposed creation of a "Sahel Development Investment Fund" which would oversee as much as $7 billion in Sahelian development spending.

The proposal is just that, a rough outline that hasn't gone before Congress or any other government in the world for approval. But it has attracted considerable attention.

Bishop said its aim would be to make the Sahel fully self-sufficient in food production by 1995. The only alternative to such a massive undertaking, he warned, would be repeated and increasingly more expensive relief efforts by outside nations each time disaster strikes the Sahel.

Roughly outlined, the U.S. proposal would sink money into irrigation, massive road improvements.

Though bishop emphasized the lack of hard statistical data to back it up, he said the proposal could open about five million acres of land to new cultivation, thereby quadrupling food production, raise the current 34-year Sahelian life expectancy to 44 years, and increase the present 5 per cent literacy rate to 50 per cent.

Bishop suggested the U.S. might undertake 20 per cent of the funding, amounting to $140 million a year for 10 years.

The proposal has not attracted widespread public attention, but it has been received with a surprisingly cold shoulder by many western development workers already laboring in the Sahel.

"The fragile economies of these countries have already proved they can't absorb assistance when it comes in the tens of millions of dollars," one skeptic scoffed. "So what the hell is going to happen when we start sending in billion of dollars?"

Another critic suggested the proposal was the brainstorm of desperate USAID employes afraid of losing their jobs. "USAID has had to lay off thousands of people since the end of the Viet Nam war," he said.

"A lot of Viet Nam AID people are showing up here now with big plans of expanding programs in the Sahel. AID has had to cut back a lot since the end of the war, and now the Sahel is giving them a chance to come back."

Albert Baron, USAID program director for Niger and an old hand both in the Sahel and in Viet Nam, calls such charges ridiculous.

"We have a marvelous opportunity here for a strictly humanitarian undertaking," Baron said. "You have to remember that this is a long-range proposal, and we would be educating, training, and upgrading Sahelian people over the years to eventually take over the operation themselves."

But Washington is beginning to look more and more reluctant to undertake any vast foreign-aid schemes. President Ford is determined to hold down overseas spending and the U.S. has been cutting back commitments to various United Nations programs—notably in the UN Development Program [UNDP]. This has hurt UNDP operations in some Sahelian nations.

Also, the Ford administration has theatened to cut off foreign aid to nations consistently voting in opposition to the U.S. in the UN. Aid has already been suspended to two nations for that reason. Some Sahelian countries have flirted with political stands in the UN which have been unpopular with the State Department.

"I'm becoming increasingly fearful that all help being directed here is going to get bogged down in political arguments, and the world is going to forget the real problems here," Sandy Rotival, director of UNDP in Niger, said.

"These are the poorest of the poor nations on Earth, and they need assistance now as desperately as when their people were dying. We should know by now that there will be another disaster here within the next few years, and now is the time we should be working together to avert it."

[From the Chicago Tribune, Apr. 20, 1976]

NOMADS STARVING TO DEATH IN ETHIOPIA; THOUSANDS FILLING REFUGEE FOOD CENTERS

(By William Mullen)

ADDIS ABABA, ETHIOPIA.—Just about now during a year when food is supposed to be relatively cheap and plentiful worldwide, it is becoming scarce in vast stretches of this troubled East African nation.

In the next few months it is likely there will be reports of severe hunger in remote places like Shoa Province in Ethiopia.

It was evident to relief workers several months ago that places like Shao wouldn't have enough food to last out the year. They predicted there would be problems in April and May, when the rainy season would make it impossible for relief supplies to reach hungry peasants.

Already there are reports coming out of Addis Ababa, the capital of this nation of 26 million persons, that 200 are starving to death every day in the city because of food hoarding in the countryside.

The food situation changes quickly and dramatically in a country like Ethiopia, a nation so poor it lacks resources to respond effectively to disaster even when given several months' warning.

In Addis Ababa several weeks ago, the markets were full of food, and farmers in most parts of the country were celebrating one of their best harvests in years. Everything looked fine on the surface.

But beleaguered, harried Ethiopian relief officials had more than they could handle just trying to provide the barest of food for 100,000 nomads in what seemed to be the country's last pocket of hunger.

That was in the desolate Ogaden Desert region in the southern part of the country, where hungry people have been dying for several months.

Last January, health workers in government refugee centers at Degehabour and Gode struggled daily to keep alive hundreds of severely malnourished children who with their parents had wandered in off the desert.

"We don't know exactly where they're coming from," a nutritionist working in the Degehabour camp said, "but more and more of them keep coming in every week."

There hasn't been any rainfall in the Ogaden for two years, and the drought is now taking its toll on the nomads, who for centuries have eked out a precarious living in the desert.

Since the rains failed, the water holes and grassland in the desert have dried up. With water and food gone, the cattle and camel herds upon which the nomads made their living died.

With their means of livelihood gone, nomad families undertook long, desperate marches through the parched land to reach the refugee centers. Many of the elderly and the very young did not make it.

The Degehabour and Gode camps, two of several set up for drought victims by the government in the Ogaden, were the last haven for hundreds of recently arrived children who were dried, emaciated bags of bones on the threshold of death.

"We have had a population increase of 25 percent in our camps in three months," one camp nutritionist said, "from 90,000 to 115,000. And it is increasingly difficult to get food and water to them."

He was overseeing an intensive feeding program in which the most severely malnourished children were getting special foods supplied by the United States.

Of those children lucky enough to reach the camp, few die of starvation, the nutritionist said, but many die from outbreaks of whooping cough or diarrhea that periodically sweep the rude tent villages.

"So far we have kept people pretty well fed, but it's harder and harder to get our supplies down from Addis," he said.

If food shortages become acute in other parts of the country, as predicted, the Ogaden problems have just begun.

"We know there are going to be hundreds of thousands of people in trouble this year," one western relief expert said. "It won't be as bad as it was here a couple of years ago, but there just won't be any way of getting food and medical supplies into them when the rain starts.

"The government failed to get any significant stocks in there, even when they knew there was going to be trouble."

Nobody really blames the Ethiopian government. It is, in fact, generally regarded as the most efficient and effectivee of all the governments in Africa that have had to struggle with perennial drought problems.

The 2-year-old military regime which threw out the late Emperor Haile Selassie and ended centuries of Ethiopian serfdom is trying to establish a socialist nation at the same time it must confront the drought.

To make matters worse, Ethiopia is wracked with political turmoil from both within and outside the nation, and the government is devoting increasing portions of its limited budget to military expenditures. Throughout the country there were signs of military strife.

In the village of Akobo, missionaries were stocking food "bombs," pods made of old innertubes filled with grain, to be dropped by plane later to starving farmers isolated by the flooding Akobo River.

The river marks the Ethiopia-Sudan border, and Sudanese troops had raided the village of Akobo in a helicopter assault, shooting several women and children to death.

"They thought the pods of food being stacked at the airstrip were real bombs," an official said, "and figured we were preparing some sort of military assault against them."

At the village of Jari in Wollo Province, where an orphanage cares for children who lost their parents during Wollo's catastrophic 1973–74 drought, there was evidence of even more intense military activity.

The army had set up artillery pieces at the orphanage school and shelled nearby mountain villages that had been sheltering the private arm of a former Ethiopian nobleman whose land had been nationalized during the leftist military coup.

The dissident nobleman had gathered loyal followers, declared war on the military regime, and fled to the hills. He was captured during the artillery barrage and executed.

In Mile, a remote town in Wollo Province, a local military curfew, required that everyone be off the street at sundown.

The curfew was imposed after a local sultan, angry with the new military regime, had taken up arms against the government, and the government had sent troops into the area to track down and destroy the sultan's loyalists.

At a bush hospital 200 miles from Mile, a European surgeon was working with local tribes. In a typical day's work, he was in the operating room trying to save the lives of two Afars tribesmen shot the night before by Issas tribesmen in another of the ongoing battles between the tribes that figure in the turmoil now engulfing the nearby French Territory of Afars and Issas.

In the Ogaden Desert, people were jittery. Somali-speaking soldiers wearing uniforms with no insignias had recently opened fire on a vehicle carrying several missionaries on a desert road. A Brtish nurse was blinded in both eyes in the incident, one of many in the last year which have convinced the Ethiopian government that its southern neighbor, Somalia, has designs on Ethiopian territory.

In Eritrea, the province with the most serious military problems, the cream of the Ethiopian army is waging an expensive and lengthy war against a full-scale rebellion by well-organized and well-equipped Eritrean nationalists.

"This country needs roads, dams, and expensive technology to overcome its most basic problems," one foreign diplomat said. "It damn well can't afford the drain of resources that the army has become in all this fighting. It's a pity all this is happening."

Ethiopia is the African drought country most severely threatened with hunger and starvation this year, yet it has less money at its disposal to face its problems than any other.

It has been upsetting to Shimelus Adugna, the head of the Ethiopian Relief and Rehabilitation Commission, that his country has received less attention and help from the outside world than other drought countries.

"More than twice as many people died in Ethiopia from the drought as in West Africa," he said, "but most of the world's attention has been focused there."

Responsible for organizing and carrying out emergency relief efforts and for modernizing the nation's agricultural industry, it is also Adugna's job to attract foreign money and technical assistance to the country.

Most of the rich European and North American nations have responded to Ethiopia's pleas for help, but Adugna said he thinks the rich nations could do far more.

"The U.S. made a donation of $5 million dollars last year for development," he said. "I can tell you that it is not enough. It's like giving a small blanket to a tall man, because, no matter how it is used, it will not be enough to protect us."

There are no evident signs the rich nations have any plans to step up their aid to Ethiopia in the near future.

To the contrary, there are more signs pointing to a reduction of aid because of Ethiopia's leftist leaning in national and international politics.

Ethiopia's socialist military regime has increasingly taken stands in the United Nations and in African affairs opposite from those of the United States at a time the U.S. has been withholding foreign aid for those very reasons.

"If it was up to me," one U.S. Embassy official in Addis Ababa said, "I'd cut off all our aid here. Why should we keep getting kicked in the mouth no matter what we try to do?"

If outside help to Ethiopia dwindles away, it will be a bitter disappointment to many foreign development workers toiling there now. They are convinced that Ethiopia, more than West Africa, has the potential to achieve food self-sufficiency and eradicate hunger.

A U.S.-sponsored irrigation project along the Wabe Shabelle River at Gode has turned part of the Ogaden Desert into lush, thriving farmland, for example. Ethiopians working on the project think it will eventually be possible to raise enough food to feed the entire population in the desert.

"We have to build a good road into Gode," Maj. Eneyew Ferde, the government administrator for the desert town, said. "If we don't, there will be no way to get the food that we grow out, and anything we accomplish here will be wasted.

"But our government doesn't have the money to build the road; so I don't know if we will ever get one."

What galls international relief workers the most is that, if international politics causes the cutoff of aid to Ethiopia, it will be the peasant farmers and nomads who will suffer first and most severely.

It will mean the end of a grand and seemingly successful experiment along the Awash River where Nadew Brbero, 32, an Afars Nomad, is leaving behind generations of nomadic life happily to learn how to cultivate and farm.

Nadew lost all his camels, goats, and sheep in a drought two years ago.

"As soon as I lost my animals, we had no milk or food. And my three young children, two girls and a boy, got sick and died. My wife and I got sick, too, but we reached a hospital and were nursed back to health," he said.

Once he was back on his feet, government workers convinced him to try farming on irrigated plots being built along the Awash. It was a gamble that still hasn't proved itself, because nobody in Nadew's family or those of his neighbors had picked up a farm tool in hundreds of years.

"We enjoy farming now," Nadew said as he crouched in the shade of a haystack next to the first field of crops he had ever

worked with. "After we see the harvest, I'll be in a better position to say if I like it."

If the harvest is good, he said, he will buy a few animals to graze nearby and settle down permanently on his land.

"By settling in one place," he said, "my life is almost guaranteed. As a nomad, I was alway moving into danger of fights with other tribes or wild animals. If there was no rain, it always meant death for my own animals and my children.

"I hope this works so I can stay here and start a new family."

[From The Chicago Tribune, April 22, 1976]

FAMINE IN INDIA: A CASE OF 'DEATH BY INFLATION'

(By William Mullen)

CALCUTTA.—Less than two years ago thousands of peasants suffered withering, painful death by starvation every week in West Bengal, India's fifth most populous state.

For nearly all of them, it was the slow, anonymous death that comes with mass starvation. There was nobody to witness their pain and misery except fellow villagers struggling with the same hunger and destitution.

The Indian government, sensitive to its public image both at home and abroad, never acknowledged the famine in West Bengal, attributing the deaths to hunger-related diseases.

But the deaths occurred, nevertheless. And although the exact number of them will never be recorded, analysts who studied the 1974–75 West Bengal famine have come up with some rather chilling conclusions.

Most surprising of their findings was that, at the height of the famine, there was no real food shortage in this state of 55 million persons.

Food shops were well stocked, but a combination of natural and man-made events had driven up prices of rice and other grains beyond the reach of the starving peasants.

Landless laborers, who make up 40 per cent of the state's rural population, earn an average of less than $50 a year per family. When inflation forced food prices up by more than 100 per cent in a few months' time, the peasants simply were unable to buy enough food. So they starved to death.

The situation prompted one Indian government economist to label the West Bengal famine "death by inflation."

This year the food shops in West Bengal are full. Rice has dropped in price from about 12 cents a pound to 7 cents a pound, because India had a record grain harvest last year after good monsoon rains.

The Indian government is predicting a harvest of 115 million metric tons, up from the previous record of 109 million set in 1971. United States experts think the government is exaggerating but agree India had a record year, probably harvesting 110 million metric tons.

"The startling thing," one U.S. expert said, "is that, because of India's tremendous population growth, there is less food this year after its record harvest for each person than there was in 1971.

"There are 60 million more people in India today than there were in 1971, and they are adding 16 million more every year.

"They had the greatest year they've ever had, but they lost ground, anyway."

If India doesn't have a good harvest this year, it is easy to pinpoint who will suffer the most. It will be the landless laborers, the millions of Indians one social scientist labeled "unpersons."

You see them all over India—dressed in rags, living in makeshift hovels, couples crowded into a small, dirty room with five or more children. Lacking sanitation and pure water, they more often than not are suffering from illness and/or disease.

They own no land; so they can rely on working for other farmers, most of whom are little better off themselves. The labor is seasonal, at planting and harvest time, providing barely 100 days of work a year.

Usually both husband and wife work, each earning little more than $1 a month. When there is no work in the fields, sometimes they can get a job for a few days patching highways for the government, and they can supplement their diet by raising a little food in a kitchen garden.

But most landless laborers can't hope to earn $50 a year. So, if the harvest is poor and prices skyrocket, as happened in 1974, these millions, who in the best of times barely subsist, literally cannot afford food.

They eat once every two days or less. The old people and children, those most vulnerable to lack of food, weaken and begin to die of simple diseases.

There are about 16 million landless laborers in West Bengal alone, and it doesn't take much to set off the inflationary spiral that can begin to starve then.

"There is a psychology of scarcity here in which a 5 per cent shortage or surplus makes a big difference," Dr. M. S. Swaminathan, director of India's Agricultural Institute, said.

In a bad year, such as 1974, he said, there were no real catastrophic floods or droughts, but production dropped just enough to set off a scare which doubled prices, causing hoarding and poor food distribution.

This year India isn't all that much better off, but the record crop has raised confidence and made food more readily available at reasonable prices.

"The best indication we have is that people, even the poorest people, are no longer standing in the long lines at government fair-price shops to buy cheaper, lower-grade rice," Swaminathan said.

"They prefer to spend a little bit more money for better-grade rice on the open market."

Swaminathan and the New Delhi government show cautious optimism that, given a few more good years of harvest, India will build up reserves of food to fight off disaster and buy time while the nation struggles with its population problem.

The Indian government already funds and operates the largest birth-control program of any government in the world. Family planning has been readily accepted among the country's middle class [about 150 million persons], accounting for a small drop in the birth rate in the last 20 years.

But it has not been accepted by the peasants, the vast Indian majority, and the government is beginning to show signs of taking tough and drastic measures to limit them to smaller families.

One Indian state has proposed a law imposing fines and jail terms on parents who have more than two children. Other states provide incentives and disincentives to encourage voluntary vasectomies and tubectomies. The federal government in February ruled that its employes and New Delhi residents who did not limit their families to two children would be denied government housing, medical services, and other benefits.

"We just have no choice anymore," one nutritionist said, 'It's insane to think we can allow the population to grow the way it has."

India has more than 600 million persons now, and 37 births for each 1,000 persons every year. With this birth rate, by the year 2000 the country would have 800 million people—more than double its population of 359 million in 1950. This kind of growth would make India's dream of one day being able to feed itself and even sell export crops, virtually hopeless.

Some development experts in India believe the government has already given up hope of ever eradicating hunger in the nation's rural areas.

"There are always going to be people dying in the countryside," one said. "I think when they really have a bad situation in the future, they are going to concentrate on keeping people in the cities fed, because the cities are more volatile politically. They'll just ignore the suffering in the rural areas."

Reports during the famine in 1974 and early 1975 indicate the government policed rural railroad stations and highways in West Bengal to keep hungry villagers from traveling to Calcutta in search of relief.

"There just wasn't enough food in the city for everyone, and they were afraid of a serious incident in Calcutta if it became overrun," one observer said.

India has embarked on several ambitious programs to increase the size of its irrigated farmlands and introduce more productive technology. But most Indian farmers, even with irrigation and the most modern technology, still are dependent on India's erratic monsoon rainy season.

The pessimists think India, now more than ever, will be dependent on surplus food stocks from the U.S. during emergencies. This dependency comes at a time when U.S.-Indian relations are becoming more and more strained.

Washington recently canceled a $75 million agricultural aid program to India, citing Prime Minister Indira Gandhi's hostility toward the U.S. in public remarks over the last few months.

The U.S. will give India more than $100 million worth of grain this year through various private development agencies such as CARE, Catholic Relief Services and Oxfam. But surplus U.S. grain has become such a valuable commodity in a food-short world that many are beginning to wonder how long Washington will be willing to continue such generous donations.

What will happen in the next few years in India, the country most vulnerable in the world to famine by virtue of its enormous population and agricultural problems, will depend on the vagaries of weather.

If there is rain with no major droughts or floods, India will probably experience only periodic local disasters, such as the 1974–75 West Bengal famine.

If the rains fail, however, many experts are convinced there is no way out for India—that millions will starve in an unparalleled famine before the end of the century.

That is the pessimist's view, and it is probably best stated by Robert Holson, a former CARE and Peace Corps worker who spent a decade working with India's poorest farmers, trying to upgrade their lives.

Before leaving India in 1975, Holson wrote a paper based on his observations of the starving landless laborers in West Bengal.

Holson said he believes millions will face starvation in the near future simply because of inflation and underemployment. He also said the population explosion will make it impossible for the rich agricultural nations continually to feed India's starving masses.

". . . It is doubtful that such a massive relief effort, even if undertaken, would do more than prolong the inevitable day of reckoning," Holson said. "No nation or group of nations can be expected indefinitely to feed a huge and evergrowing mass of landless indigents."

Already, Holson said, it is obvious the populations of West Bengal and most of the rest of India's northern states, along with Bengladesh, are too large to be fed by their outmoded, precarious agricultural systems.

"Thus, without an immediate, massive, two-pronged effort to reduce population growth rates and to increase agricultural production," he believes, "it is only too likely that in this decade we will see Malthus vindicated in West Bengal, as population growth begins to be severely checked by simple starvation."

LESSONS OF THE LOCKHEED SCANDAL

Mr. PROXMIRE. Mr. President, Edwin O. Reischauer, the former U.S. Ambassador to Japan, has written the most lucid commentary I have seen on the devastating effects of the Lockheed bribery scandal upon United States-Japanese relations.

Japan, Professor Reischauer writes in the current Newsweek magazine, is not a country where this kind of bribery is commonplace. The last major Japanese bribery scandal of this magnitude, in 1914, toppled a government. Significantly, that scandal involved charges that a foreign munitions company corrupted Japanese naval officers.

From the Japanese viewpoint, according to Professor Reischauer, the combination of uncorroborated allegations of bribery originating in the United States coupled with an insistence by the U.S. State Department that the details be kept secret, points to "an infuriating combination of irresponsible accusations and a cynical coverup."

Many Japanese suspect collusion between the United States and the ruling pro-American Japanese Liberal-Democratic Party to shield that party from embarrassment. Secretary Kissinger's petition in the Lockheed case asking the court to keep details secret said as much in almost as many words.

Professor Reischauer concludes that "the damage has been astronomical" because "the stupidities committed have been almost beyond belief." Among the stupidities he catalogs are Lockheed's decision to use as its agent a disreputable right-wing Japanese extremist, who was also apparently an agent of the CIA. "Why do Americans think they can apply one standard of ethics at home," Dr. Reischauer asks, "and a different one abroad without damaging themselves and the views others have of them?"

A very good question.

As a remedy, he recommends legislation to prevent U.S. companies from practicing bribery abroad. Bribes, he says, only backfire and cause longrun damage.

The Senate Banking Committee is currently considering S. 3133, which would both prohibit bribery by U.S. corporations anywhere in the world, and would require disclosure to the SEC of all foreign sales consultant commissions. We expect a report on disclosure by the SEC later this month, and one from Secretary Richardson's Cabinet task force by June 1.

I am hopeful that Congress will act on this legislation this year.

I ask unanimous consent that Professor Reischauer's article be printed in the RECORD.

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

THE LESSONS OF THE LOCKHEED SCANDAL

(By Edwin O. Reischauer)

Ever since Watergate, we Americans have become drearily accustomed to unpleasant revelations from Washington. Recent allegations that Lockheed officials made huge payoffs in Japan may seem just another airing of our own dirty linen. We realize that such disclosures may temporarily tarnish the American image abroad, but we do not expect them to set off big explosions. But that is exactly what has happened in the case of the Lockheed scandal in Japan.

The political process in Japan is in turmoil, untimely elections—that is, untimely from the point of view of the party in power—may prove necessary, and, as a result, leadership might slip at least partly into the hands of opposition parties that are less friendly to the United States. In the meantime, the Japanese are furious with the United States, and Japanese-American relations, which only a few months ago had never been better, have passed under a chilling shadow.

Americans may wonder why all the fuss. They have the vague impression that foreign lands, or at least Asian countries, run their affairs corruptly and that U.S. firms competing with foreigners for sales in such countries may be forced into bribery. This may inflame American sensibilities, they feel, but why should the foreigners get excited?

THE ORDEAL OF CORRUPTION

If this is what Americans think, then they are as woefully uninformed about Japan as the Lockheed officials must have been who got us all into this mess. Japanese are lavish with tax-free entertaining, and, as with us, the line between legal and illegal political contributions is somewhat indistinct. But the Japanese are very rigid about the sort of corruption alleged in the Lockheed case. Corruption is often a political issue in Japan, but that is because standards are so high The last major scandal involving bribery in high places was the Siemans affair of 1914 when, just before the first world war, a German company was alleged to have made payoffs to Japanese naval officers. The government fell as a consequence.

With this background, one can understand the irritation of the Japanese when a branch of the American Government blithely alleges that Japanese Cabinet members and high government officials have taken huge bribes and then another branch of the American Government at first tries to keep the supporting evidence from the Japanese Government and finally transmits it but only on the condition that no names may be revealed unless indictments are made—which in most cases will be impossible because of the Japanese statute of limitations. To the Japanese, this seems an infuriating combination of irresponsible accusations and a cynical cover-up.

Add to this situation internal political tensions. The opposition parties, hungry for power, see in the Lockheed scandal a golden opportunity to disrupt the work of the Diet and thus force an election under conditions unfavorable to the Liberal Democrats, the party in power.

The opposition parties are sure the Liberal Democrats are conniving with the American Government on a cover-up. Everyone has been horrified by unofficial allegations in the United States that the CIA is involved and that the case has something to do with clandestine American support for certain Japanese politicians. Businessmen are dismayed that the disruption of the Diet has delayed passage of the budget, thus interfering with economic-recovery programs. Efforts to dig up evidence within Japan have not been fruitful, and the true story may never be known. Everyone is unhappy, and everything is in confusion.

No doubt, both Japan and Japanese-American relations will survive the ordeal, albeit with scars. The scandal may hasten the gradual shift of political power toward the left, though the policies of resulting coalition governments will probably not be as different from those of the present conservative government as most people imagine. Japanese will have another big reason for viewing their close relations with the United States with distaste, but those relations will continue out of economic and political necessity on both sides.

There can be no happy ending to this sorry mess, but we Americans can at least draw two useful lessons from it. One is that we should devise legislation to prevent U.S. companies from practicing bribery of governments or government officials abroad. Any competitive handicap this might temporarily cause in areas where bribery is part of the system would probably be more than offset in time by the realization that American prices had nothing added on for corruption. Where bribery is not part of the system, as in Japan, it is even greater folly to tolerate shenanigans like those Lockheed engaged in. In the long run they can only backfire and cause great damage.

ETHICS AND POLITICS

In the Lockheed case, in fact, the damage has been astronomical. But that is because the stupidities committed have been almost beyond belief. In a country not given to official bribery, in competition with American, not foreign, companies, Lockheed officials allegedly paid exorbitant bribes through Yoshio Kodama, a somewhat disreputable right-wing extremist, whose involvement in any cause is likely to do it more harm than good. Can men actually be paid salaries for making such absurd decisions?

The other lesson we can learn is that, whether or not the CIA was involved, the outburst over the Lockheed case is one more clear indication that the United States should not meddle in the domestic politics of other countries. This is particularly true of democracies like Japan, but the principle should apply everywhere. Whatever short-range gains, if any, may be achieved by channeling aid to certain parties or politicians, they are sure to be washed out in the long run by far greater losses when revelations occur or people suspect that such things might have happened.

Both lessons are quite self-evident even without the Lockheed horror story. Why do Americans think that they can apply one standard of ethics at home and a different one abroad, without damaging themselves and the views others have of them? We realize that our individual ethics apply not just within our own homes but also outside them. Why should we think that collectively as a nation we can disregard our ethical values when we go abroad?

OSHA ON-SITE CONSULTATION

Mr. TAFT. Mr. President, on March 18, 1976, I, in behalf of Senators ABOUREZK, BEALL, LAXALT, and NELSON, introduced S. 3182, a bill to amend OSHA to provide on-site consultation and education to employers. The bill is now pending before the Senate Labor and Public Welfare Committee, on which I serve, and I am extremely pleased to announce that Senators DOMENICI, FANNIN, YOUNG, BUMPERS, and EASTLAND have been added as cosponsors of the bill.

Mr. President, the Labor Subcommittee has conducted 2 days of hearings involving OSHA oversight. I had the

privilege of testifying before the subcommittee on April 13, 1976, concerning my bill at which time I elaborated on its provisions and rationale. I will ask unanimous consent that my testimony be printed in full following the conclusion of my remarks so that my colleagues will be able to study in depth my bill. I believe they will conclude that the on-site consultation proposal established by my bill is a vital, timely and constructive change in the Occupational Safety and Health Act.

Relief to employers in meeting OSHA requirements through a penalty-free on-site consultation program has been an issue of major concern to the business community since OSHA's passage. In oversight hearings held by both the Senate—5 days in 1974 and thus far 2 days in 1976—and the House—6 days in 1972, 16 days in 1974, and 3 days in 1975—the one central theme upon which most witnesses have agreed is the need for on-site consultation.

I am gratified that S. 3182 is supported by the National Association of Manufacturers, the Associated General Contractors of America, Inc., the National Federation of Independent Business, the Printing Industries of America, Inc., and the Can Manufacturers Institute, to name just a few. While the subcommittee has not yet received all the testimony intended to be presented by organized labor groups, I believe it is significant to note that when Roy Steinfurth, administrator, Insulators' Health Hazard program, International Association of Heat and Frost Insulators and Asbestos Workers testified in response to a question posed by me concerning on-site consultation programs, he stated:

I think it would be most important, education, I feel, is the key.

I could not agree more. The establishment of a free, voluntary Federal on-site consultation program which does not contain any punitive provisions, should reduce much of the employer opposition to the act and induce a greater degree of voluntary compliance with it.

Mr. President, there have been some assertions that perhaps employers would not take advantage of a voluntary program similar to that established by my bill and that employers do not really desire this change. These speculations, in my view, are unwarranted and have been rebutted by the many letters we have received by employers urging us to adopt such a program. They are further refuted by the results of an OSHA survey conducted by the Honorable EDWARD W. PATTISON of New York's 29th District, reported in the April 9, 1976, CONGRESSIONAL RECORD—Extensions of Remarks section.

Congressman PATTISON surveyed 2,000 employers in his district about many facets of the present OSHA program. He received a 17-percent response rate which reflects the high degree of interest that employers have in OSHA. We on the Senate side are certainly aware of this. One of the crucial questions asked of these businessmen was as follows:

5. If off-site or on-site consultations between OSHA experts and employers could be conducted without fear of employers receiving citations, would this be a constructive change in OSHA procedures?

Mr. President, 91 percent of the employers who had been inspected by OSHA responded "Yes" and 97 percent of the employers who had not been inspected by OSHA responded "Yes."

I submit this is hard data and affirmative evidence of the worth of the on-site consultation program to employers and employees. To echo and emphasize the words of one New Lebanon Center, N.Y., employer referred to in the Pattison survey who commented on H.R. 8616—the House-passed on-site consultation bill which is identical to S. 3182:

This would be the most sensible change OSHA could make. If this had been done from the start, the whole program would have gone more smoothly, and people would feel differently about OSHA.

To use a popular phrase, Mr. President, this bill, S. 3182, "is where it's at."

I commend to the attention of my colleagues the entire Pattison survey as the results are most interesting and significant.

Mr. President, I ask unanimous consent that my April 13 testimony presented to the Senate Subcommittee on Labor be printed at this point in the RECORD.

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

TESTIMONY OF SENATOR ROBERT TAFT, JR.

Mr. Chairman, I appreciate this opportunity to appear before the subcommittee this morning to express my views regarding the Occupational Safety and Health Act. I am pleased that you have taken the time out of your busy schedule to hold oversight hearings on this important legislation. I particularly applaud the thrust of these hearings which is to focus on OHSA's impact on the small businessman. I believe these hearings will vividly demonstrate that any OSHA reform must include some relief for businessmen, and particularly small businessmen, in their attempts to comply with a Federal statute that is complex, and I'm sure at times, bewildering.

Mr. Chairman, there is no argument from the business community or anyone else that the objective of assuring safe and healthful working conditions for all workers is a goal of utmost importance which must be vigorously pursued. The Occupational Safety and Health Act, in recognizing that need and establishing the means to reduce personal injury and illness on the job, represents an important legislative initiative. However, experience under the act has led me to the conclusion that there are many difficulties posed for the employer by OSHA which must be resolved if a workable program for improved workers' safety and health is to be achieved. I have long believed that a principle shortcoming of the act is the placing of an inordinate emphasis on punishment of employers for noncompliance and not enough emphasis on assisting employers toward compliance. While we have made some improvements in this area because the Occupational Safety and Health Administration has been making efforts to assist employers in understanding and complying with its standards—more is needed primarily in the form of permanent legislation which would rectify many of the shortcomings of the act.

While in the past I have supported comprehensive reform of OSHA (S. 1147, the Dominick bill), it is my judgment that employers are in critical need of immediate relief which cannot await the outcome of extensive hearings and debate on comprehensive OSHA reform. This critical need prompted me to introduce S. 3182, a bill to amend OSHA to provide on-site consultation and education to employers. This bill is now pending before the Labor Committee and I am very pleased to announce that it is cosponsored by three other members of the Labor Committee, Senators Nelson, Laxalt, and Beall, and also by Senators Fannin, Abourezk, and Domenici. I submit that this OSHA reform effort, while limited in scope, is extremely important in promoting OSHA's effectiveness and early and favorable action by this committee is warranted.

The purpose of my bill is to provide a much-needed program of Federal on-site consultation and education to encourage and assist employers, and especially small employers, to comply with the safety and health standards promulgated under OSHA. It is my expectation that government assistance toward voluntary compliance with OSHA will be much more successful than solely relying upon the enforcement mechanism which has proven unsatisfactory in achieving compliance with the act.

I believe there is now in being a general recognition on the part of the Congress that the vast majority of employers are more than willing to comply with OSHA, but there is a desperate need for a clear explanation to them of their obligations under the act. The larger employer is able to hire professional consultants who help to insure compliance. But what about the small businessman? What can he rely upon to help him in his effort to run a clean shop?

The answer, Mr. Chairman, is almost nothing insofar as the current law is written and interpreted. At the present time, consultation services cannot be afforded by the Department of Labor without triggering the normal enforcement provisions of OSHA. As a practical matter, this means that well-intentioned and honorable employers are discouraged from asking for OSHA's advice on the applicability of standards in relation to their places of employment, because to do so may result in a punitive enforcement action by OSHA.

This prohibition has caused considerable misunderstanding and resentment about the act in the business community. It is my feeling, and the feelings of others, that the establishment of a free, voluntary Federal on-site consultation program which has no punitive ramifications should reduce much of employer opposition to the act, and realistically furnish to their employees a place of employment which is both safe and healthful.

Mr. Chairman, my bill must be viewed in the context of the status of existing on-site consultation programs. Currently, the states may have voluntary consultation programs through one of two means: Either under section 18 of the act, or under section 7(c)(1) in jurisdictions which are under Federal OSHA.

Under section 18, any jurisdiction wishing to assume responsibility for development and enforcement of occupational safety and health standards may submit a State plan for development of such standards and their enforcement. If the Secretary of Labor determines that the State plan will at least be as effective as Federal OSHA standards, he will approve the plan and make available Federal funds to operate the State program under section 23(g). The Federal share for each State grant may not exceed 50% of the total cost to the State of such a program.

Currently, 22 out of the 56 jurisdictions covered by OSHA operate a State plan and of these, 21 offer on-site consultation services to employers.

In addition, the Congress established in the Labor-HEW appropriations bill of fiscal year 1975, and continued in fiscal year 1976, a program to operate on-site consultation under section 7(c)(1) in jurisdictions under Federal OSHA. Under these contracts, the 34 jurisdictions in Federal OSHA are eligible to participate in contracts on a 50–50 matching basis with the Federal Government for the purposes of offering on-site consultation services. There are 14 jurisdictions which presently participate in section 7(c)(1) contracts. One is one of these States.

Because of the financial constraints which we well know are operable in many States today, there are 21 eligible jurisdictions which have not joined in the section 7(c)(1) program to provide job site consultation services. Hence, employers in these States are therefore unable to obtain much-needed on-site consultation.

I submit that this is totally an inequitable situation. Consultation services should be available in every jurisdiction. The safety and health of all workers, regardless of where they perform their duties, is of paramount importance and consultation services which help to assure their health and safety should not be subject to such discrepancy. My bill removes these inequities by providing on-site consultation to employers in every jurisdiction.

The key points of my bill are as follows:

(1) Creates on-site consultation services within the U.S. Department of Labor. These services would be completely separated from enforcement activities.

(2) Priority for the services would go, upon request, to small businesses and hazardous workplaces. However, there is no arbitrary "number-of-employees" cutoff limit which would preclude larger employers from using the services nor is there any intent to detract from OSHA's enforcement obligations.

(3) The program would be 100% federally funded and the coverage would be universal. In other words, unlike the present system, employers in all jurisdictions would be eligible to use the services and uniformity in consultation advice would be achieved.

(4) Consultant could not issue citations or propose fines and the consultant's report could not be used against the employer unless the employer specifically permits such use in a subsequent enforcement inspection.

(5) The consultant's advice would not be binding upon enforcement personnel in the case of a subsequent enforcement inspection. However, the consultant's report, if permitted by the employer, may be used as evidence of the employer's good faith in the determination of any penalties.

(6) Consultants discovering a serious hazard shall immediately notify the employer of the hazard and permit a reasonable time for abatement of the hazard. The consultant would not notify enforcement personnel except in a case where the employer refuses to abate the serious hazard.

Mr. Chairman, I think it is important to note that the bill I have introduced is identical with H.R. 8618, which was overwhelmingly passed by the House of Representatives on November 17, 1975. I submit that this vote reflected the manifest feelings of the Members of the House that employers, particularly small employers, obtain consultation in their work places without sanctions.

Finally, Mr. Chairman, I want to again reiterate that this bill is not a panacea to cure all of OSHA's ills. However, it is my judgment that the time is now ripe when we must stem the tide of negative thinking about this act and to provide free affirmative assistance to employers to better enable them to comply with safety and health standards. As I see it, the bottom line of this bill is that employers will benefit because the amendment would make available to them consultative advice on the application of OSHA to their specific work places without fear of reprisal. Workers will benefit from the improvement of health and safety conditions in their places of employment thereby providing them with greater protection. I submit that the only effect of the amendment will be to help make OSHA the useful remedial legislation which Congress intended it to be. I respectfully as for the support of my colleagues in obtaining this most worthwhile objective.

Mr. Chairman, this concludes my statement and again I thank you for the opportunity to be here this morning.

THE PANAMA CANAL TREATY

Mr. McGEE. Mr. President, the present election-year controversy over the Panama Canal Treaty negotiations is courting disaster for the United States if the American people allow themselves to succumb to the extreme rhetoric we are being offered by one of our Presidential candidates—Gov. Ronald Reagan.

As the Washington Post pointed out in an editorial yesterday:

Gov. Reagan evidently would rather see the canal closed and fought over—just as long as it stays in American hands—than to see it open and peaceful under Panamanian control.

Is Governor Reagan actually willing to senselessly risk the lives of both Americans and Panamanians with the ultimate result of losing what we will save through negotiation? Are the American people actually willing to send their sons to the Panama Canal Zone to defend a fallacious principle that the Panama Canal is U.S. territory?

The rhetoric of Governor Reagan raises some very serious questions. Is it his purpose to seek confrontation globally; to sit glibly in the White House if he were elected President wielding his "big stick" as he sends American servicemen overseas to defend what his misperceived notion of U.S. interests might be?

Mr. President, it is easy to respond to simplistic rhetoric. However, the American people must be aware that once the rhetoric becomes reality and we make the decision to seek confrontation, it will not be Governor Reagan on the front lines in the Canal Zone. It will be the average American, many of whom are now dancing to the Pied Piperish rhetoric of the Governor. The rhetoric is all too reminiscent of the fairly tale, the "Pied Piper of Hamlin." Having gladly engaged the Pied Piper to rid their community of rats, the citizens of Hamlin decided his price for such service was too high. He then took all their sons and daughters.

I ask unanimous consent the editorial be printed in the RECORD.

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

PANAMA TROUBLEMAKING

Nowhere is the political campaign doing more mischief to foreign policy than on the subject of the Panama Canal. The particular target is the negotiations the United States has been conducting with Panama to write a new treaty that would assure continued American access to this vital international waterway. Turning the matter on its head, Ronald Reagan repeatedly claims that the negotiations amount to a "giveaway" of something that is "ours." A flustered President Ford has responded by saying on the one hand that the United States will "never" yield defense and operational rights (though the point of negotiations is precisely to determine the terms on which to yield these rights), and on the other hand that is "irresponsible" of Gov. Reagan to suggest that negotiations be broken off. Is there anyone in the house who can parse that? The only restrained party to the dispute is the Panamanian side, which had realized that the Canal was uniquely prey to American political fevers and had wisely decided to wait to consummate the negotiations until next year.

Just what currents in the American psyche Gov. Reagan is tapping on Panama is a question defying conventional political analysis. Is it an expression of repressed resentment over the humiliation which some Americans believe we suffered in Vietnam? An expression of the expansionism, imperialism, jingoism—call it what you will—responsible for the American acquisition of the Canal in the First place? Does it represent deeper misgivings over the method—settlement and conquest—by which the whole home territory of the United States was assembled? Or does it represent a genuine belief that the canal zone actually is American sovereign territory?

This last premise is, of course, false. Mr. Reagan's earnest reiterations notwithstanding, the Zone and Canal are not American sovereign territory. By the embarrassingly one-sided Hay-Bunau-Varilla treaty of 1903, the United States extracted rights ("use, occupation and control") but not sovereignty; these rights were granted only "as if (the United States) were sovereign." Since 1905 the United States government has acknowledged as much. Marilyn Berger aptly noted on these pages the other day that some routine attributes of sovereignty are missing: An American can live in the Zone only as long as he or she works there; a child born there of Panamanian parents is not an American citizen.

The crowds that roar at Ronald Reagan's strumming of their emotions on Panama deserve better of a presidential candidate. For there is no evidence that Mr. Reagan has arrived at his position out of a calculated judgment that American interests would be better protected if the United States hung on indefinitely to the Canal. On the contrary, his course stands only to provoke the Panamanians and to complicate American relations with the other Latin nations—all of them—who, regardless of domestic ideology, share the Panamanian conviction that the American hold is an anachronism that must gradually (over a period of decades) be removed. Gov. Reagan evidently would rather see the canal closed and fought over—just as long as it stays in American hands—than to see it open and peaceful under Panamanian control.

Mr. Ford errs in terms of both policy and politics, we believe, by trying to move to his right on this issue to soften the Reagan attack. He should move back to the center, calmly go on with the negotiations, and put himself forward to the voters as the steward of the vital and legitimate American interest in assuring continued free American transit through the Canal.

A NATIONAL POLICY ON WEATHER MODIFICATION

Mr. BELLMON. Mr. President, yesterday, May 5, the distinguished senior Senator from the State of Kansas, Mr. PEARSON, introduced S. 3383, a bill to authorize and direct the Secretary of Commerce to develop a national policy on weather modification and for other purposes.

I am pleased to coauthor this legislation and wish to congratulate and commend the Senator from Kansas for the leadership he has displayed in developing this legislation.

Since the beginning of human history, the specter of drought has been one of the most fearsome and menacing threats the human race has faced. The problem is especially serious now that the world's food supply and population are in close balance. While there are certain sections of the country where drought is more troublesome than in other areas, the fact is that a drought in Kansas, Oklahoma or Texas, or anyplace else in the country, hurts every citizen by increasing the cost of living. In addition, serious and prolonged drought results in considerable outlays by the Federal Treasury through existing disaster relief programs.

Mr. President, besides the ameloriation of drought, weather modification holds great promise for the suppression of hail, the reduction of devastating windstorms, and possibly the moderation of excessive rainfall which often results in serious flooding. While the science of weather modification is clearly in its infancy and while there is some difference of opinion as to its efficacy, clearly, enough is known to justify the comprehensive investigation contemplated by S. 3383.

For the last 30 years, scientists have recognized the potential benefits possible through the application of weather modification techniques. Regrettably, no effective system of applying presently known weather modification knowledge has been developed. Equally important, no system is now in place to carefully monitor and measure the effectiveness of weather modification efforts on a large scale.

S. 3383, when it becomes law, will provide the means for existing weather modification knowledge to be applied in an effective, coordinated manner with results monitored to add to the growing body of knowledge in this field. Also, for the first time, S. 3383 will bring together the presently widely disbursed Federal efforts in the weather modification field.

Mr. President, in the developing of S. 3383, Senator PEARSON has again demonstrated his leadership. I commend and congratulate him on his work in the formulation of this legislation.

RURAL HEALTH CARE IN APPALACHIA

Mr. INOUYE. Mr. President, the Washington Post late last month published a strong editorial that advocated swift action by Congress in correcting a most unfortunate weakness in our delivery of health services under medicare. That weakness lies in the inability of professional nurse practitioners to handle health problems and preventive services, especially in the rural areas suffering from doctor shortages, under the present medicare plan.

In the last Congress, I introduced a measure that sought to bring our Nation's registered nurses under the medicare plan, so that their services would be reimbursed through medicare payments. I attempted to increase the availability of health care, especially in those areas with an insufficient number of practicing doctors. That bill, cosponsored by Senators BROCK and DOMENICI, sadly failed to generate any meaningful legislative action.

I am happy to report that since I introduced the bill in this Congress, 13 of my colleagues, from both sides of the aisle, have joined me in this effort to improve the delivery of our Nation's health services. Presently, Senators BAYH, CANNON, CLARK, DOMENICI, GRAVEL, PHILIP A. HART, HARTKE, HATFIELD, HUMPHREY, JAVITS, LEAHY, MCINTYRE, and Moss are cosponsoring this measure, S. 104. This bill also enjoys the active support of the American Nurses' Association.

All of us have recognized that too many nurses are underutilized. Nurses are highly skilled professionals that are allowed to perform few services without the direct supervision of a medical doctor. It is my personal belief, based on what many doctors and nurses have told me, that nurses can perform up to 70 to 80 percent of what we typically expect a physician to do. And in many clinics, especially the rural areas, nurses are the chief providers of health care.

As I continue to urge for the careful but expeditious consideration of S. 104 in this Congress, I wish to commend the Washington Post for its fine editorial support, and I ask unanimous consent that the editorial, which is entitled "Rural Health Care in Appalachia," be printed in the RECORD.

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

[Fom the Washington Post, Apr. 24, 1976]

RURAL HEALTH CARE IN APPALACHIA

Some five years ago in eastern Tennessee, a cooperative effort by some mountain citizens helped create a health clinic in the small town of Clairfield. It was desperately needed. As in much of rural Appalachia, the isolation and poverty of Clairfield meant that the people had no doctor or nurse. Because of both the need and the citizen's enthusiasm, the Appalachian Regional Commission provided funds. By law, the commission's support would last for five years, after which the town would have to pay its own way. With the five year period running out, the future of the health clinic is in serious doubt.

The troubles in Clairfield might be seen as another hard luck story, the kind that has been crushing Appalachians for generations. But the town's difficulties are significant because many of the problems in its health clinic are found throughout the 13-state region. In all, the ARC assists more than 150 communities in running primary health care clinics.

What makes the running difficult is an outdated and unworkable Medicare regulation that prevents clinics from being reimbursed for services unless a doctor is physically present. But in Clairfield and many other clinics, doctors can only come once a week or at other intervals. Most of the time, nurse-practitioners, physician assistants or other non-doctors provide the daily health care needs. According to the commission, between 70 to 80 per cent of the region's rural medical problems can be competently handled by the nurse practitioners and other non-physicians. Thus, because Medicare does not reimburse for this non-physician care, the clinics lose money and cannot pay their way. As a recent ARC staff paper notes: "The prohibitive Medicare regulation is based upon objections raised by the American Medical Association during the 1972 hearings on amendments to the Social Security Act. At that time, such (nurse) practitioners were relatively unknown, and many physicians considered them a threat to the high standards of the medical profession. Times have changed and many physicians now use these practitioners extensively. Medicare has not changed, however."

Corrective legislation is now before both the Senate Finance Committee and the House Ways and Means Committee. At the moment, the bills are being debated by the American Medical Association, the American Nursing Association, the administration, the committees and the commission. Each party has its own position, based on its special interests. But what about the interests of the sick people in the mountains? It is already tragic enough that many of them are victimized by poor housing lack of transportation, the effects of strip mining and insensitive coal companies. But now they have to sit still and wait for outsiders to argue it out about Medicare regulations. Even then, the 72 clinics offer only miner relief; the ARC estimates that 700 to 800 clinics are actually needed in Appalachia.

To delay changing the regulations means that many of the existing clinics will soon be closing. The commission argues persuasively that Medicare reimbursement should be given according to the care provided rather than according to the provider of the care. In other words, what difference does it make to the sick person if he is treated by a doctor or nurse practitioner as long as he is treated in an adequate way?

FINANCIAL DISCLOSURE OF SENATOR STAFFORD

Mr. STAFFORD. Mr. President, today I place in the CONGRESSIONAL RECORD a statement of my financial holdings, along with a summary of my 1975 Federal income tax return.

The financial statement shows that my wife, Helen, and I had net assets of $332,000 on May 5, 1976, when the evaluation was made.

The statement I am making public lists details of our holdings, including bank accounts, cash value of life insurance, real and personal property we own, and stocks and bonds.

Virtually all of the stocks and bonds listed were owned by us before I entered public office, and there has been little change in our financial condition since I entered politics in Vermont 22 years ago.

The summary of our joint Federal tax

return shows that my wife and I had a gross income last year of slightly more than $57,200. Of that total, $43,025 came from my salary as a U.S. Senator. Our taxable income for the year was slightly less than $41,000—almost exactly the same as the previous year.

We paid $12,534 in Federal income taxes for the year, and more than $3,400 in Vermont State income taxes. The total of our Federal and State income tax bills was slightly higher this year than last.

I am making copies of this financial statement available to newspapers, radio stations, and other news services in Vermont, as I did last year.

I am doing this because I remain convinced that those who serve in Government, as well as Government itself, must be as open and candid as possible with the public.

I believe one of the reasons for public suspicion of government and politics is that so much of our activity takes place away from public view.

The best way to enable Americans to judge whether their government and their officials are acting properly is to provide full disclosure of all interests of government and of those who make decisions in government.

Thus, I invite all Vermonters—and all other Americans—who are interested to examine my financial holdings and to match those holdings with my record as a public official.

I plan to make a similar financial report on the public record each year for the remainder of my time in public office.

I ask unanimous consent that the financial statement and the Federal income tax return summary referred to above be printed in the RECORD.

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

STATEMENT OF FINANCIAL CONDITION OF SENATOR AND MRS. ROBERT T. STAFFORD, MAY 5, 1976

Savings accounts

Bellows Falls Trust Co	$5,000
Burlington Savings Bank	5,000
The Howard Bank	5,000
Rutland Savings Bank	5,000
Burlington Federal Savings & Loan	5,000
Total	25,000

Checking accounts: Riggs National Bank, First Virginia Bank, the Howard Bank—Total, $9,870.00.

Life insurance (cash value): Travelers Insurance Co., MONY, NYLIC, NSLI, Connecticut General—Total, $17,194.50.

Real estate

64 Litchfield Ave., Rutland, Vt	$50,000
27 Howard Ave., Rutland, Vt	30,000
Total	80,000

Additional property

Real estate, House, 3541 Devon Drive, Fals Church, Va	$80,000.00
Law library and office furniture 27 South Main Street, Rutland, Vt	2,000.00
Contribution to Federal retirement (as of April 30, 1976)	40,399.95
Boat and two cars	14,000.00
Personal property	20,000.00
Total	156,399.95

STOCKS

Name	Value	Shares Number	Shares Price
American Finance System	$312.50	50	6¼
A.T. & T	5,675.00	100	56
Bankers Trust of New York	552.00	16	34½
Bellows Falls Trust	4,800.00	80	60
Book of the Month	1,248.50	50	24⅞
Cluett Peabody	210.00	20	10½
Con Edison of New York	1,637.50	100	16⅜
Exxon	940.00	10	94
Gillette Co	660.00	20	33
Greyhound	325.00	20	16¼
Hayes Albion	313.50	22	14¼
The Howard Bank	11,785.25	1,003	11¾
International Harvester	532.50	20	26⅝
Manufacturers Hanover Trust	26,026.00	728	35¾
Monsanto	3,600.00	40	90
NL Industries	715.00	40	17⅞
National Distillers	1,000.00	40	25
Outboard Marine	635.00	20	31¾
Standard Brands	362.50	10	36⅜
Texaco	1,065.00	40	26⅝
Vendo	53.75	10	5⅜
Total	62,449.00		

Liabilities

Eastern Liberty Federal Savings and Loan Assn., Washington, D.C. (as of December 31, 1975) first mortgage on house at 3541 Devon Drive, Falls Church, Va.)	$12,191.57
The Howard Bank, Rutland, Vt.	6,700.00
Total	18,891.57

Recapitulation

Total assets	$350,913.45
Total liabilities	18,891.57
Net assets	332,021.88

Summary of 1975 Joint Federal Income Tax Returns, Robert T. and Helen K. Stafford

Income:	
Salary	$43,025.00
Dividends	2,815.10
Interest	1,306.95
Other	10,098.97
Total income	57,246.02
Adjustment to income:	
Allowable congressional expenses not reimbursed	4,854.18
Total adjustments to income	4,854.18
Adjusted gross income	52,391.84
Itemized deductions:	
Medical	150.00
Taxes	8,257.06
Interest	1,130.93
Contributions	342.00
Miscellaneous	65.00
Total deductions	9,944.99
Exemptions claimed (2)	1,500.00
Taxable income	40,946.85
Federal income tax due and paid	12,534.48

REFORMS IN THE MINIMUM TAX TO END TAX AVOIDANCE BY THE WEALTHY

Mr. KENNEDY. Mr. President, yesterday's disclosure by the IRS of the massive continuing tax avoidance by wealthy individuals and corporations demonstrates the need for the Senate to face up to its responsibility of enacting effective tax reform measures to end these flagrant abuses of the Nation's tax system.

According to the IRS, there were 220 wealthy individuals in 1974 with incomes of $200,000 or more who paid no income tax. The IRS indicates that the figure will rise to 244 individuals when the final results are known. The preliminary tables released by the IRS reveal the following numbers of nontaxpayers according to income groups:

Number of nontaxpayers

Income group:	
$1 million or more	5
$500,000–$1 million	29
$200,000–$500,000	186
$100,000–$200,000	653
$50,000–$100,000	2,400
Total	3,273

Thus a total of 3,273 individuals reporting income of $50,000 or more in 1974 paid no tax whatever.

Even these figures are only the tip of the iceberg, however. For every tax avoider who wins the loophole game by reducing his taxes to zero, there are countless more who use the loopholes and tax shelters to slash their taxes to levels close to zero.

Despite the enactment of the minimum tax in 1969, thousands of wealthy persons are still finding ways to escape their taxes. Such tax avoidance is especially intolerable in a democratic society whose tax system is supposed to be based on progressive methods of taxation.

The solution to this problem of zero taxpayers is not hard to find. In my view, strengthening of the present minimum tax constitutes the principal means for preventing tax avoidance by high income individuals and corporations.

The House-passed tax reform bill now pending in the Senate Finance Committee includes some long overdue changes that would improve the minimum tax. But additional improvements are required if the minimum tax is to fulfill its important function of insuring that wealthy individuals and corporations pay their fair share of taxes.

Yet, according to yesterday's IRS figures only 43 of the 244 nontaxpayers with incomes of $200,000 or more even reported tax preferences subject to the minimum tax. And even these 43 persons were able to avoid actually paying any minimum tax, because of the loopholes in the minimum tax itself which make that tax so ineffective.

There are several measures of the slap on the wrist nature of the present minimum tax:

One obvious weakness is revealed by the data concerning the effective rate of the minimum tax. A total of almost $8 billion in tax preferences was reported for 1972, the most recent year for which data are available. But the total minimum tax paid on this preference income was only $216 million. Thus, the effective rate of tax on this preference income was actually only 2.7 percent, although the statutory rate is set at 10 percent.

Of the almost $8 billion in tax preferences reported in 1972, persons with the 0.7 percent highest income in the country—those with incomes over $50,000—took advantage of $6.8 billion of the preferences, or 85 percent of the total.

"Tax preferencing" is obviously a game almost exclusively for the rich.

The present minimum tax does not even touch many reporting substantial tax preference income. In 1972, of the 125,000 returns showing tax preference income, 98,000 or 79 percent—paid no minimum tax at all. These nonminimum taxpayers accounted for $3 billion out of the total $8 billion in tax preference income. Thus 37 percent of the total tax preference income reported in 1972 went completely untouched by the minimum tax.

SOURCES OF WEAKNESS IN THE PRESENT MINIMUM TAX

The reasons why the minimum tax has fallen so far short of Congress' expectations in 1969 are easily identified:

First. The statutory minimum tax rate of 10 percent is too low.

Second. The $30,000 exemption is too high.

Third. The deduction allowed for regular taxes and the carryover allowed for regular taxes in future years are inconsistent with the basic nature of the minimum tax.

Fourth. Important tax preference items are not even included in the base on which the minimum tax is calculated.

The House-passed tax reform bill dealt to some extent with each of these problems in a constructive fashion. H.R. 10612 would amend the minimum tax as it applies to individuals by: Raising the rate to 14 percent; reducing the exemption to $20,000 and phasing it out at $40,000 of preference income; repealing the deduction for regular taxes paid and the deduction for the carryover; and adding two new items of tax preference: the deduction for intangible drilling and development costs, for development wells only, to the extent the deduction exceeds the amount that should properly be capitalized over the life of the well; and itemized personal deductions to the extent they exceed 70 percent of an individual's adjusted gross income.

Surprisingly, the House bill did not make corresponding changes in the minimum tax as it applies to corporations.

Nevertheless, the House bill moves in the right direction in insuring that the minimum tax becomes a more effective vehicle for tax justice. But stronger action is required by the Senate if we are to reach our goal of ending tax avoidance by the wealthy.

PROPOSALS FOR REFORM

The steps necessary to strengthen the minimum tax are simple in themselves and also will result in simplification of the minimum tax computation.

As a fundamental matter, the Senate should reaffirm the principle that the minimum tax is to continue to apply equally to corporations and to individuals. Corporation, no less than individuals, have an obligation to pay their fair share of taxes. Corporations can abuse tax preferences, just as high income individuals can. Hence, it is essential that the reforms in the minimum tax must apply to corporations and individual taxpayers alike.

Specifically. I propose that the present minimum tax should be improved by the following four reforms:

First. The minimum tax rate should be increased to 14 percent, both for individuals and corporations.

The 14 percent rate is the beginning tax rate for our lowest income taxpayers. Certainly, the wealthiest individuals and corporations in the country should not pay a lower rate on their tax preference income.

Second. The $30,000 exemption should be reduced to $5,000, and then phased out dollar-for-dollar as tax preference income exceeds that amount. Thus the exemption should disappear at $10,000 of preference income. No exemption should be allowed for corporations.

Establishing the exemption at $5,000 for individuals is appropriate, since that is the amount of tax-free income allowed for a poverty level income family of four. The richest 1 percent of the population hardly needs a larger exemption for their preference income. With respect to corporations, they get no exemption for regular taxable income, so it is difficult to see why an exemption should be granted for their tax preference income.

Third. The deduction for regular taxes and the carryover deduction should be repealed.

The deduction for regular taxes is inconsistent with the basic philosophy of the minimum tax. The minimum tax is intended to put a limit on the benefit of a particular tax preference. The amount of regular taxes paid is irrelevant to achieving this goal. The unfortunate introduction of this extraneous element into the minimum tax has been a major source of avoidance of the minimum tax by high income individuals. It has created an "executive suite" loophole in the minimum tax, under which high salaried individuals are able to use the regular taxes they pay to offset their tax preference income and escape the minimum tax.

Fourth. As in the House bill, the minimum tax base should be expanded to include itemized personal deductions, to the extent such deductions exceed 70 percent of income. The base should also be expanded to include the excess of the intangible drilling and development deduction over the amount deductible if such costs were properly capitalized; this rule should apply to all oil and gas wells, not just development wells, as in the House bill.

We need to be continuously alert to add other tax preferences to the minimum tax base in cases where such preferences are identified as a source of inequity or abuse. The process requires continuing evaluation by Congress. Adding the intangible drilling expense deduction and excessive personal deductions to the list of tax preferences is an appropriate step at this time. Other preferences may well be added as the need is revealed in the tax reform debate.

These proposals represent responsible and effective measures to insure that the minimum tax fulfills its intended function. Taken together, they will generate revenue gains estimated at $2.5 billion for individuals and $500 million for corporations in the first full year the changes take effect.

In the coming weeks, as the Senate studies the complex issues of tax reform, it is essential for Congress to develop effective measures to end the serious abuses and inequities that exist in our present tax system.

In June, when the Finance Committee bill reaches the floor, the Senate will have the chance to make good on the long-awaited promise of significant tax reform for the American people, and end the flagrant abuses so clearly revealed in the recent IRS figures on wealthy tax avoiders.

Mr. President, of all the various tax reform proposals, those concerning the minimum tax are probably most familiar to Members of the Senate.

In the Tax Reform Act of 1969, it was Senator LONG who led the way in adopting the current "additive" version of the minimum tax and rejecting the complex and less effective "alternative" minimum tax that had been approved by the House earlier that year.

My hope is that the Senate will resist the suggestions now being made to revert to the complex and ineffective "alternative" method of calculating the minimum tax.

The experience since 1969 under the present additive tax has given Congress a very clear understanding of the weaknesses of the minimum tax. They are easily remedied, if the Senate has the will, by the sort of easily understandable reforms that I have suggested.

In fact, I believe there is broad support in the House and Senate for such reforms. Last December, the House adopted the improvements in the minimum tax in H.R. 10612 by a vote of 314 to 107, or a margin of nearly 3 to 1. And for good measure, the House defeated a proposal to substitute an alternative tax by the even larger margin of 334 to 85.

Similarly, in January 1974, the Senate approved a floor amendment to strengthen the current minimum tax by a vote of 47 to 32, although the bill to which the amendment was added was subsequently recommitted.

This recent history puts Congress squarely on record in favor of strengthening the current income tax as the proper way to end tax avoidance by the wealthy. I hope that these reforms will be accepted in the forthcoming Senate debate.

Mr. President, I ask unanimous consent that the IRS news release announcing the data on nontaxpayers for 1974, and the 47 to 32 Senate rollcall vote on minimum tax reform on January 24, 1974, may be printed in the RECORD.

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

[From the Department of the Treasury, Internal Revenue Service]

NEWS RELEASE, MAY 5, 1976

WASHINGTON, D.C.—Preliminary statistics based on samples from the over 83 million individual income tax returns filed for 1974 were made available today by the Internal Revenue Service.

The publication, "Preliminary Report, Statistics of Income—1974, Individual Income Tax Returns," summarizes data from returns filed during 1975.

According to the report, adjusted gross income rose 10 percent over 1973, reaching an estimated $906 billion. Taxpayers claimed more than $120 billion in itemized deduc-

tions, of which about $44 billion were for taxes, more than $37 billion for interest deductions, about $15 billion for charitable contributions, almost $12 billion for medical and dental expenses, and another $12 billion for miscellaneous deductions.

The preliminary statistics also show that 220 of the 31,397 individual returns reporting adjusted gross income of $200,000 or more showed no Federal income tax liability. Since the time that the preliminary report was prepared, the IRS says it has determined that final figures show 244 returns of the 31,132 actual returns in this income category ($200,000 or above adjusted gross income) reported no income tax liability. All of these returns have been, or will be, classified to determine whether an audit is necessary.

The number of nontaxable returns in this category of adjusted gross income for 1974 increased by nearly 50 percent over the number of such returns in the same category for 1973. The percentage of returns in this income category which reported no tax liability increased from 0.64 percent of the total returns in this category in 1973 to 0.78 percent in 1974. Adjusted gross income represents a taxpayer's income after the allowance of certain business deductions and before itemized deductions and exemption allowances are deducted.

The statistics show that 43 of the 244 nontaxable returns reported tax preference income subject to the minimum tax. The IRS stated, however, that none of these taxpayers were liable for the minimum tax, either because their tax preferences fell short of the $30,000 exclusion or because the taxpayer could use one of the other tax preference offsets, such as the tax carryover from prior years.

The IRS noted that when returns are audited, changes in the amount of tax liability reported frequently result. The IRS audits a much greater percentage of returns of taxpayers in the higher income categories than it does of returns of taxpayers in the lower income categories.

The publication highlights sources of income and classifies taxable income, exemptions, and income tax by size of a taxpayer's adjusted gross income for the Nation. Estimates are also included for each state.

The 32 page report may be purchased for 65 cents from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

SENATE ROLLCALL VOTE NO. 12

January 24, 1974 (93rd Congress, 2d Session) Kennedy Amendment to Repeal the Deduction for Taxes Paid and to Reduce the Exemption from $30,000 to $10,000.

YEAS—47

Abourezk, Aiken, Allen, Baker, Bible, Brock, Brooke, Byrd, Robert C., Case, Chiles, Church, Clark, Cook, Cranston, Domenici, Fulbright, Hart, Haskell, Hatfield, Hathaway, Huddleston, Hughes, Jackson, Kennedy, Magnuson, Mansfield, Mathias, McGovern, Metcalf, Metzenbaum, Mondale, Moss.

Muskie, Nelson, Nunn, Packwood, Pastore, Pearson, Pell, Proxmire, Ribicoff, Schweiker, Stafford, Stevenson, Symington, Taft, Weicker.

NAYS—32

Bartlett, Beall, Bennett, Bentsen, Buckley, Burdick, Byrd, Harry F., Jr., Cotton, Curtis, Dole, Eastland.

Fannin, Fong, Gravel, Griffin, Gurney, Hruska, Johnston, Long, McClellan, McClure, McGee, Montoya.

Percy, Roth, Scott, Hugh, Scott, William L., Stennis, Stevens, Thurmond, Tower, Young.

NOT VOTING—21

Bayh, Bellmon, Biden, Cannon, Dominick, Eagleton, Ervin, Goldwater, Hansen, Hartke, Helms, Hollings, Humphrey, Inouye, Javits, McIntyre, Randolph, Sparkman, Talmadge, Tunney, Williams.

COMPETITION AND REGULATION OF COMMON CARRIER COMMUNICATIONS

Mr. BAKER. Mr. President, on Monday, May 3, 1976, Richard E. Wiley, Chairman of the Federal Communications Commission, spoke to the 29th annual conference of the International Communications Association on the present controversy over the appropriate role of market competition in the production and delivery of telecommunications services.

In his speech, Chairman Wiley pointed out that—

The FCC, and perhaps the industry itself, has paid little attention to the very fundamental social and political question of whether some classes of users do or should subsidize other classes of users.

He continued:

Until the nature and extent of existing subsidies between classes of users are identified . . . there is no basis for any intelligent conclusions as to potential economic harm to some portion of the telephone industry or its subscribing public.

Mr. President, I agree with Chairman Wiley. If this Nation is to continue to enjoy the benefits of nearly universal residential telephone service and at the same time meet the demand for specialized communications services, some broad questions of socioeconomic policy must be addressed by the Congress. However, the controversy over what Chairman Wiley has correctly described as "commission-made, and, to date, court upheld," common carrier communications policies, cannot be resolved until the Congress has obtained sufficient information to answer, along with other questions of national telecommunications policy, the fundamental question of "who is subsidizing whom?"

Because many Members of Congress are presently concerned with this controversy, I ask unanimous consent that the text of Chairman Wiley's speech be printed in the RECORD.

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

ADDRESS BY RICHARD E. WILEY, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

Thank you for inviting me to be the Keynote Speaker at this 29th Annual ICA Conference. It is an honor to participate in this distinguished and world-wide gathering of telecommunications experts from industry, commerce, education and government.

Although this is, indeed, on international association, I would like to begin by addressing certain controversies which have arisen over the domestic communications policies of the Federal Communications Commission. The era of the 1970's in the common carrier field has been one marked by rapid technological change, new and innovative services, diverse and ever-expanding consumer demands and, finally, governmental action which has attempted to respond to these dynamic factors.

Now, here in 1976, one aspect of the government's response—a return to marketplace principles and opportunities in limited sectors of the communications field—is under an intensive and wide-ranging attack, an attack being directed by the world's largest corporation in conjunction with other members of the telephone industry and one which has moved well beyond the Commission and the courts to the halls of Congress itself. The intended objective of this assault—and I say this factually and without rancor—is to sweep away every last vestige of this Commission-made and, to date, court-upheld policy.

Perhaps, then, the time is ripe to take a close look at the FCC's efforts in this area: what have we decided, why have we so acted and, most pertinently, what are and will be the probable results of these determinations. Let me try to summarize it for you in what, obviously, can be only a brief recitation.

Distilled to its essential ingredients, the fundamental issue which faced our agency in the late 1960's was whether the telephone company had to be the sole provider of the nation's telecommunications services or whether, instead, the public interest might be better served by eliminating regulatory barriers to the development of alternative sources and alternative suppliers. Both then and today, there was no question concerning the logic or efficiency of a single integrated network to provide the basic facilities for public telephone service. Rather, the issue was whether the American consumer should be afforded an opportunity to secure equipment—from any source—which would adapt those facilities to meet his own individualized communications needs.

With respect to telephone company activities outside of the public telephone field, a related question was whether similar opportunities should be permitted for specialized facilities to meet specialized non-public communications needs. The FCC answered these questions by concluding that the communications market is so vast, so vigorous and so vital that opportunities for new ideas and new sources of services could be publicly beneficial without necessarily injuring an existing monopoly supplier or its residential telephone customers.

Our policy—basically, to provide the American consumer with telecommunications options and alternatives—was restricted to two discrete areas of the market: customer-supplied terminal equipment and private line services. Just how narrow and limited these opportunities have been is best illustrated, perhaps, by the market shares which competitors have been able to obtain in economic rivalry with the telephone industry. Today, specialized common carriers account for only 1/10th of 1 percent of the telecommunications market while companies offering terminal equipment in competition with "telcos" have captured but 4/10ths of 1 percent of that market. Their combined revenues do not exceed $170 million. By way of contrast, the revenues of the telephone industry—which exceed $35 billion for all services—are over $4 billion in the competitive market sectors alone. The current dimension of the competition is perhaps best dramatized by the simple fact that AT&T's *increase* in revenue for private line and terminal equipment services in 1975, over 1974 figures, was more than double the total revenues of *all* competing suppliers of these services.

Now why has the Commission permitted competition in these discrete markets in place of a regulated monopoly? As to terminal equipment, the answer is our conviction that our citizens should have the right to use their telephone system in a manner "privately beneficial, but not publicly detrimental". Similarly, with respect to private line services, we believe that consumers should be permitted to enjoy the communications options available from alternative sources. This principle of protecting the American consumer's right to decide how *his* communications needs will best be met, and who can best meet them, undergirds the FCC's de-

cisions permitting competition in these two well defined markets.

Implementation of such precepts has borne fruit for the public in substantial forms. For one thing, there always will be some communications needs which a monopolist either does not find profitable to meet or which it simply lacks the incentive to introduce. The businessmen in this audience know this far better than I do—and you can fill in your own diverse examples. I will provide only one, rather interesting example of this reality: namely, the development of communications terminals for the deaf. As students of telephony may recall, Alexander Graham Bell first became interested in communications as a teacher of the deaf. Some 100 years later, however, telephone companies still have not produced special communications services which would enable over one and a half million deaf Americans to utilize the voice telephone network. Meanwhile in the 1960's a deaf engineer developed a terminal which—if widely marketed—would afford a convenient system for the deaf to communicate by telephone. His initial efforts were unsuccessful because the telephone operating companies concluded that this communications market was too small to be attractive. Undaunted, the entrepreneur began selling his terminal directly to deaf users and, today, over 20,000 of those terminals are now in use.

In the area of private line offerings, it was a specialized common carrier—not a telephone company—that was the first to provide a switched digital data system so important for efficient data communications. Moreover, the first two domestic satellite systems were not launched by a telephone company but by competing private line carriers. The carriers who have pioneered this new satellite technology provide such new and novel services as: a distribution system for the Wall Street Journal; a delivery system for cable television movie services; long haul, high speed data offerings; and vital communications services to remote villages in Alaska.

I say all of this not to denigrate the telephone industry for which I have profound respect and admiration. We do have the finest telephone system in the world, thanks primarily to the expert and dedicated services of the men and women of the Bell System and of thousands of independent companies located throughout the nation. The question, however, remains: is it only the telephone industry which can provide telecommunications service for our citizens or can others, in selected areas, also compete to better serve the public in a number of very tangible ways?

Moreover, the greatest benefit to the American consumers from increased competition may be an intangible one. The old monopolist philosophy that "you can have it if we choose to offer it" has given way to a new receptivity and responsiveness to the public which best can be summed up by AT&T's recent and highly publicized motto: "We hear you". Consumer wants and the needs of small businessmen, both of which previously might have been overlooked, now are pursued energetically by the telephone industry. Competition, in my opinion, has made AT&T and its partners better and more vigorous business entities and better and more vigorous public servants.

Critics of the Commission's pro-competitive policy originally argued that the "one carrier—one system" concept was necessary to preserve the technical integrity of the telephone network. After nearly a decade of experience with the interconnection of customer-supplied equipment and specialized common carriers, the telephone industry has yet to document any deterioration of the nationwide switched network. Thus, it is not surprising that the technical integrity arguments have now been superseded by the theme of adverse economic impact.

In point of fact, however, Bell and the independents also have yet to prove any case of harm here either—that is, any present adverse economic impact. Indeed, USITA's own study bears clear witness to this fact. This does not mean, of course, that some companies or some users could not experience economic effects in the future. But the first task in assessing such potentialities, I would suggest, is to ascertain where subsidies may exist between various classes of users served by the telephone company. Since telco services traditionally have been dealt with in the aggregate for ratemaking purposes, the FCC, and perhaps the industry itself, has paid little attention to the very fundamental social and political question of whether some classes of users do or should subsidize other classes of users.

Stated another way, rate averaging has not been conducive to record-keeping which reflects whether individual services are priced above, or below, cost. Not surprisingly then, the evidence submitted in the Commission's Docket 20003 Economic Inquiry has been conflicting. The telephone companies maintain that terminal and private line services subsidize local exchange rates. Others, most notably the New York Public Service Commission, argue that those services are priced below costs and that residential users may be subsidizing business users. For example, some suggest that residential users may well be subsidizing low private line television transmission rates for the broadcast networks and news wire services. The Commission is presently analyzing these conflicting contentions and will be issuing an initial report late this summer. Until the nature and extent of existing subsidies between classes of users are identified, however, there is no basis for any intelligent conclusions as to potential economic harm to some portion of the telephone industry or its subscribing public.

Let us assume, *arguendo*, that some economic impact might eventuate. What possible remedies might be available? The telephone industry seems to suggest that the only solution is to submerge or destroy their competitors—a nation vaguely akin to contending that amputation is the only cure for an incipient hangnail. There are, however, numerous other alternatives which should be considered. First and foremost is the repricing and unbundling of telephone service rates to make them more competitive with independent suppliers. Second, telcos might be authorized to impose access charges for terminals interconnected with the network. Third, specialized common carriers could be brought into the separations arrangements. Fourth, usage sensitive pricing could be adopted by state jurisdictions to allow users to pay only for the services they use and in relation to the costs they cause. And fifth, state jurisdictions could adopt a "lifeline service" offering—such as that authorized by the New York Public Service Commission—which guarantees each citizen the availability of an inexpensive phone. These are but a few of the options which might be available in the event that any real economic impact on telephone company or subscriber should occur.

The public interest equation must take into consideration the ability of the telephone industry to provide the public with quality service at reasonable rates. Obviously, not all telephone companies throughout the United States stand on the same economic footing in terms of their profitability and their resulting ability to absorb any new costs or burdens imposed by regulatory policies. Regulatory actions that have diminutive impact on large or profitable licensees may be unbearable for their smaller or less profitable brethren. The FCC has given recognition to this reality in the Broadcast and Cable Television fields by according special or different treatment for small or marginal licensees.

Once the Commission has finalized its interim report in Docket 20003, we should have—as indicated—a better idea as to how the subsidies run for telephone company services. At that juncture, the Commission will be in a position to assess whether its terminal interconnection and private line decisions pose special burdens on marginally profitable telephone companies. If so, if—for example—some cooperatives or independent telephone carriers are found unable to provide quality public service at reasonable rates with a reasonable return on their investment, I believe that the Commission will take prompt remedial action. Accordingly, the attempt by certain large companies to oppose our policy by wrapping themselves in the banner of small, rural entities is simply *not* very compelling.

One final word about our decisions in this area, both past and future: they should permit true competition and *not* market allocation. In the private line field, for example, the Commission must walk a careful tightrope between ratemaking principles which fail to adequately protect new entrants against monopoly services being utilized to subsidize competitive services, and the equally dangerous evil of erecting a protective umbrella over new entrants. If the public is to receive the benefits of innovation, efficiency and productivity stimulated by competition, telephone companies must be free to realize any efficiencies or economies of scale inherent in their operations. Furthermore, new entrants should not expect regulatory intervention to protect them from what are natural market-place forces as opposed to anticompetitive cross-subsidies. For this reason, I expect to spend most of the next several months personally reviewing the contents of Docket 18128 dealing with ratemaking principles. This proceeding poses a tremendous challenge to the agency in assuring that the cardinal principle of full and fair competition is attained.

Having belabored domestic common carrier matters at length, let me turn very briefly to the international field. Last June, I publicly expressed my conviction that the time was long overdue for careful Commission analysis of international common carrier policies and practices. In fact, no comprehensive assessment of international common carrier issues has been undertaken by the FCC since 1943. Since last June, the Commission has been engaged in a systematic review of long pending proceedings or outdated policies. As a result, a number of major decisions have been issued—including those relating to "gateway" cities, formulas for distributing unrouted overseas telegraph messages, international dataphone and the lengthy Comsat rate case.

The Commission will continue to devote considerable time and resources to the international field during the next year. Just last week, for example, we ordered an audit of all international carriers. This will be the initial step in the first FCC review of international rates since 1958. Indeed, for some 18 years, the Commission has neither ascertained what the international carriers' costs and earnings have been nor determined what should be the allowable rate of return for their services to various points throughout the world.

While this initial audit is being conducted—with an intended conclusion date of December 1, 1976—I would hope that our agency, interested parties and members of the academic community would devote attention to possible alternatives to rate of return regulation for international and, indeed, domestic carriers. Criticisms of this form of regulation have been frequently

catalogued, but practical and feasible alternatives have yet to emerge. In this connection, the Commission announced last week also that—in July—we will hold a Future Planning Conference on alternatives and possible improvements to rate base regulation.

Ladies and gentlemen, my time is up. In closing, let me simply say that the FCC today is committed to a course of addressing and resolving all of the major policy issues vital to the well-being of the nation's telecommunications capabilities—and doing so in a timely and responsible manner. We welcome your participation and the benefit of your expertise in these efforts to the end of providing our citizens with the very best communications services available and at the lowest possible cost.

THE CANDIDACY OF SENATOR CHURCH

Mr. PELL. Mr. President, on March 18, the distinguished senior Senator from Idaho, Senator CHURCH, announced his candidacy for the Democratic nomination for the Presidency.

As one who greatly respects and admires the character and the demonstrated leadership abilities of FRANK CHURCH, I welcomed enthusiastically his decision to seek our party's Presidential nomination.

Following Senator CHURCH's announcement of candidacy, favorable assessments of his candidacy and appraisals of his record of public service and leadership have appeared in a number of publications.

The New York Times, in its editorial appearing on March 21, 1976, said:

In twenty years in the Senate, Mr. Church has had an exemplary record of integrity, of progressive views on major domestic policies and of sanity in foreign policy.

The editorial continued that "in terms of the Nation's self-education on the issues, the CHURCH candidacy can only be a positive event."

Mr. President, because I believe they will be of interest to the Senate, I ask unanimous consent that editorial comments on the CHURCH candidacy from the New York Times of March 21, 1976, the Post-Register of Idaho Falls, Idaho, of March 28, 1976, the Clay County, Arkansas Democrat, of March 25, 1976, and the Emmett, Idaho Messenger-Index of March 11, 1976, be printed in the RECORD.

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

[From The New York Times, Mar. 21, 1976]

LATE STRATEGY

Pursuing what he describes as a "late strategy," Senator Frank Church last week announced his candidacy for the Democratic Party's Presidential nomination.

Because he delayed his entry until completion of his work as chairman of the Senate inquiry into the intelligence agencies, Mr. Church recognized that at best he cannot hope to win more than a small portion of the delegates needed for a majority. But he believes that a string of victories in the late primaries will give him the prestige to enter the convention as a credible candidate.

In twenty years in the Senate, Mr. Church has had an exemplary record of integrity, of progressive views on major domestic issues, and of sanity in foreign policy. Declaring his candidacy, he stressed several classic liberal themes. He denounced government by secrecy. He deplored the subversive notion that Government officials could ever justifiably be lawbreakers. He rebutted the Nixonian concept that a President can exercise "sovereignty" independent of the powers delegated to him by the Constitution. He called for a foreign policy free of imperialist pretensions and cold-war compulsions.

The first primary in which Senator Church can compete occurs in Nebraska on May 11. Most of the other closing primaries in late May and early June are in the West, including Idaho, Nevada, Oregon and California. But before Senator Church can test his strength with the voters, events in the intervening primaries may drastically alter the present shape of the Democratic contest.

It is now a five-man race with former Governor Jimmy Carter, Senator Henry M. Jackson and Representative Morris K. Udall bunched together in the lead. Governor George C. Wallace is a diminishing factor after successive defeats by Mr. Carter in Florida and Illinois. Former Senator Fred Harris is a distant fifth.

Senator Church's bid, like the shadow candidacy of Senator Hubert H. Humphrey, depends upon there being a multiplicity of candidates right through until the national convention opens. Conversely, Mr. Carter hopes to narrow the number of his rivals steadily until he is the victorious survivor. As a comparative outsider in the party's power structure, he knows that if there is a brokered convention, he is most unlikely to emerge from the smoke-filled rooms as the nominee.

At this juncture, Wisconsin appears to be an increasingly significant contest. Unless Representative Udall can defeat Mr. Carter there, the number of major contenders will dwindle to two as the race is transformed into a Carter-vs.-Jackson confrontation.

All of this may occur before Senator Church's name even reaches the voters on the Nebraska ballot two months from now. Thus, the late strategy is a high-risk strategy. But in terms of the nation's self-education on the issues, the Church candidacy can only be a positive event. The themes he seeks to emphasize are basic themes that urgently require discussion.

[From the Idaho Falls Post Register, Mar. 28, 1976]

SENATOR CHURCH: A HANGING IN BALANCE

Entry of Governor Brown of California in the California presidential primary is an unquestionable impact on Sen. Frank Church's presidential bid, already late deep-in-the-canyon climb at best.

But it is interesting to note what these two so-called "liberals" share in conservatism.

Both Governor Brown and Senator Church are advocates of "limiting big government" in the sense of de-centralizing government. It was one of the central themes in the declaration speeches of both.

In his announcement address at Idaho City, Senator Church had this to say:

". . . Far more flexibility in managing these (federal matching programs) must be given to state, county and municipal officials, the people best acquainted with their particular community needs. By turning the decision-making homeward again, we shall not only assure more efficient use of our tax dollars, but we shall replenish the wellsprings of democracy itself. The people can and will participate when the options are brought back within their reach. I reject the doctrine that all decisions must be made in Washington." As I would strive to revitalize democracy at the grassroots of America, so I would seek to rejuvenate the free enterprise system. Competition must be restored to the role it once played as chief regulator of the marketplace, holding prices down, and parcelling out its rewards to the best-managed businesses."

His conservatism in cutting back foreign aid and making it more responsible is many years old.

As a late starter in the race, and with Governor Brown adding a key westerner to the all-too-large Democrat field, Senator Church faces formidable obstacles in his presidency. Even if he has the credentials as a clear and original thinker, and 20 years experience in Washington, D.C., government, Senator Church must pick up the crumbs of uncommitted delegates. And how much effective the crumbs of uncommitted delegates.

But his announcement address at Idaho City should have a special tugging at the heartstring of American disillusionment with the political scene. Senator Church spoke evocatively when he said:

"Our tragedy in recent years springs from a leadership principally motivated by fear, from men of little faith".

And so it is.

Senator Church would give free enterprise some breathing room, as he says, but retain those controls essential to the public interest. And as an author of significant conservation legislation on the Senate Interior Committee, Senator Church has fostered that thought, remembering that the public lands are not for private claim if that claim is not the top priority in the public interest. He also served as floor manager for the nation's wilderness act and helped write the wild and scenic rivers act. He also has receptive identity for his opposition to the Vietnam war from the outset, his support of human rights legislation, and his attempts to make government more visible.

Senator Church also has rapport with the nation's senior citizens because of his committee work in Congress on their behalf.

Senator Church's Idaho City presidential declaration only indirectly addressed itself to inflation, unemployment, and medical care—basic issues in the country undoubtedly.

But Senator Church's outcropping of conservatism on some basic interests of Americans, may give him propulsion not only in Idaho but elsewhere in a climate of growing concern about the dollar and a growing distrust of government.

It is the crimes of fear, he says, which are the crimes against freedom, as he seeks to sweep away the distrust which can only erode government.

Yet if the Democrat convention shines its beam on Frank Church, many strange things will have had to happen along the way.

Idahoans should all read the complete text of Senator Church's declaration speech at Idaho City. It measures the man and his seemingly impossible dream.

This measuring says something about the judgment balance of the Idaho senator, a balance which some Idahoans will find surprising. How contagious this apostleship against fear, this frontiership of resourceful directness in dealing with the nation's challenges?

[From the Clay County (Ark.) Democrat, Mar. 25, 1976]

FRESH BREEZE IN THE SUMMER OF OUR DISCONTENT

The young man, so similar in many ways to Jack Kennedy, spoke late, but in a telling way.

"The vast majority of federal employes are honest, law-abiding citizens, but nobody—no matter how highly placed—has a right to break the law . . . to open our mail, to photograph our cables, to open tax investigations against persons not even suspected of tax delinquency but targeted for political harassment."

It is our own feeling.

The country has had the opportunity to watch Sen. Frank Church of Idaho in action during his Senate Intelligence Committee investigations over the past months. Most of us liked what we saw, then; and earlier during his Foreign Relations Committee tenure.

We wish his candidacy for the Democratic nomination for the office of President well.

"It is leadership of weakness and fear that grants a full pardon to a former president for whatever crimes he committed in the White House, but looks the other way while his subordinates stand trial," Senator Church said at the time of his announcement to enter the race. Church, 51, has almost 20 years service in the Senate. "As a ranking member of the Senate Foreign Relations Committee," he continued, "I have had a unique opportunity to develop an intimate knowledge of American foreign policy . . . When it comes to dealing with 100 foreign governments, or negotiating with Russia or China in this dangerous world, I suggest to you the presidency is no place for on-the-job training."

"Returning to the theme of weakness," he said, "that same weakness forces imitation of the Russians in our treatment of foreign peoples, adopting their methods of bribery, blackmail, abduction and coercion as if they were our own . . . These are crimes against freedom, and they won't be cured by the cosmetic changes proposed by President Ford. . . . He is clearly most concerned about the exposure of such crimes. I am most concerned about their commission."

Honesty of conviction and belief in American principles, in this year of our Bicentennial, is like a cool breeze on a hot summer day. Gerald Ford is an honest, open man, too. But after all, he is the man who was appointed by Richard Nixon, and who later pardoned Richard Nixon of his ill-defined crimes against citizens in our democracy while he was our elected leader, whose chief responsibility had been the duty to see that the laws governing us all were obeyed by all.

[From the Emmett (Idaho) Messenger-Index, Mar. 11, 1976]

WHO IS FRANK CHURCH?

We were visiting this week with a prominent Idaho Republican who also is a lifetime stockman. He would not suppose, he concluded, that Frank Church would get very far outside of Idaho in his bid for the presidency.

"But I will say one thing for Frank: He gets results. Never once have I ever needed help with a federal agency but that Frank Church has gotten the job done. He is on the other side of my political fence, but I would back him 100 percent."

The Emmett senior citizen had a real tear in her eye when she spoke of Senator Church: "Others talk and say nice things," she said. "Frank Church really cares. He understands us, and he cares."

It was years ago, when Frank Church was only recently the senior senator from Idaho, when this editor happened to be on the same Forest Service tour with the Senator and others, and the plane touched down for the night at India creek in the Idaho primitive area. Not everyone who knows the editor will agree that he just might be the best stream fisherman in Idaho, but few would think of Frank Church as an Izaak Walton star.

In the short evening hour before supper, however, the senator also went fishing and disappeared down the river. It was dog days, and the fish weren't striking well. The editor caught a few little ones and brought them into camp, obviously the champion—until Frank Church trudged in with a whole string of good-sized trout for supper.

It was in 1950, we think, when Senator Church was the commencement speaker for Emmett high school. Being very fond of alliteration, we have remembered best his phrase that anyone who has loved the night on an Idaho mountain "under a star-studded summer sky" cannot for long remain puffed up with his own self-importance.

Who is this Frank Church who next Thursday at Idaho City will announce formally for the presidency of the United States? Does he mean anything outside of Idaho?

Frank Church is the man who four times now, every six years, has been elected to the United States Senate with overwhelming majorities from a state that has hardly any Democrats.

He is the man who makes things move and gets things done for his constituency.

He is the man who won complete and personal victory over cancer in his early manhood.

He is the man who so early and so eloquently foresaw the moral morass and the national taint of the Vietnam war when it was considered almost disloyal to speak out.

He is the man who has served with such distinction and far-sighted wisdom on the Senate foreign relations committee.

He is the man who has steered the Senate intelligence committee with such mastery and such fairness that it has adhered solely to its legislative purpose, that it has elicited the unanimity of purpose from such strongly diverse men as Sen. John Tower of Texas, the vice chairman, and the youngest liberal firebrand, and has earned universal bi-partisan and non-partisan praise.

He is the man whose sheer doggedness, and no small amount of ability as well, brought in fish for supper at Indian creek.

He is the man whom a colleague, speaking for nearly 100 percent of senators and representatives who know him best, recently cited in ringing tribute to his personal integrity.

He is the man who really cares for people, who is never puffed up, who is always just what he seems to be, and who never appears to be anything that he really isn't.

In the depth of his feeling for people, in the toughness of his personal character, in his tremendous capacity for work, in his remarkable ability to communicate and achieve accord, and in his genuine love of country, Frank Church is an uncommon man.

He is presidential timber.

Next Thursday at Idaho City will be an historic day for Idaho. It will be the first time a native son has become a serious candidate for President of the United States.

Will Frank Church go far toward the presidency outside his own state?

He will indeed if the rest of the country can get to know him as he is known in Idaho. Frank Church is a man who stands tall under critical examination, and a presidential campaign can be the most critical examination in the world.

He is a man to restore confidence and inspire dignity in American government.

GRAND JURY REFORM—CONNECTICUT FEMINISTS IMPRISONED

Mr. ABOUREZK. Mr. President, as author of S. 3274, the Grand Jury Reform Act of 1976, I want to call attention to a recent series of articles in the New Yorker magazine which focused on a recent misuse of a Federal grand jury. In articles appearing in the April 5, 12, and 19 issues of the New Yorker, Mr. Richard Harris examines the ordeal of Ellen Grusse and Terri Turgeon, two Connecticut feminists imprisoned for over 7 months for refusing to testify before a Federal grand jury. Many of the rights which I believe a grand jury witness should have—right to counsel, to have the grand jury informed of its powers and independence, to face a grand jury which is not being used for improper investigative purposes—were not available to these two women. These rights and others would be protected under the legislation I have introduced.

The first two articles by Mr. Harris have been printed in the RECORD over the past 2 days. I ask unanimous consent that the third and concluding article, from the April 19 issue of the New Yorker, be printed in the RECORD.

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

TAKING THE FIFTH—III

(By Richard Harris)

"Let me assure you that as long as the F.B.I. has a legal mandate to protect the American people from terrorism we will use all the legal weapons at our command to accomplish this task," Clarence Kelley, Director of the Federal Bureau of Investigation, told the Veterans of Foreign Wars at a convention in the early spring of 1975. Subsequent revelations about the F.B.I.'s widespread use of illegal surveillance, its practices of burglarizing suspect's homes and offices and of opening and reading citizens' private mail, and its harassment of people who were not accused of any misdeed other than holding unpopular political views have made it clear that the F.B.I. has not always been faithful to the rule of law.

On the basis of the Bureau's own recent admissions of its lawless behavior, it appears that the arena in which it has been most culpably active is the political arena. It also appears that politics is the subject F.B.I. men know least about. That is hardly surprising, for the Bureau's job is supposed to be law enforcement, and law-enforcement officers traditionally have a rather narrow, and often cynical, view of society in general. Their task is to find criminals. It has been said that a good cop sees everybody as a potential criminal, and Kelley, who is reportedly a very good cop, must keep tabs on every potential threat to society he sees if he is to be faithful to his duty as he conceives it.

The difficulty lies in the fact that the Bureau has been allowed by every Administration in the past several decades to determine, almost entirely on its own, who and what are threats to society. Given the Bureau's long-standing belief in the dire peril posed by left-wing conspiracies—a specialty of J. Edgar Hoover's—it is also not surprising that F.B.I. men are inclined to view anybody whose politics don't square with the average Rotarian's as a threat to the survival of the Republic. Since the executive and legislative branches have rarely stood in the F.B.I.'s way, only the judiciary remains as a check on the Bureau's abuses of its self-delegated authority. But the courts have done little to stop it from bending and breaking the law, because the courts cannot act fully until the agents who have broken the law are prosecuted.

So far, despite reports about many hundreds of illegal acts committed by F.B.I. agents, not one of them has been tried for any of these crimes. In the end, this multiple failure of all three branches of the government has given the Bureau not merely an implicit right but implicit encouragement to go on snooping into the private affairs of anyone whose political views, expressions, or associates seem unorthodox to F.B.I. men.

Hoover repeatedly tried to persuade Congress to give the F.B.I. the power to issue subpoenas, but Congress, which gave him just about everything else he asked for, turned him down on this score. Such power, it was felt in Congress, was too great to hand over to a national police agency; even

the Bureau's bureaucratic parent, the Department of Justice, was denied subpoena power, because it was held that no executive department should possess what was essentially a judicial function. But when the Nixon Administration took over, Attorney General John N. Mitchell soon came up with a simple way of helping Hoover over this barricade—by instructing the Justice Department's ninety-three United States Attorney's offices around the country, most of which were headed by Nixon appointees, to cooperate with the F.B.I.

The specific way in which they cooperated was by directing the federal grand juries under their control to subpoena those who refused to talk to the F.B.I.—as anyone has the right to do—and to force them to divulge whatever the Bureau's men wanted to know or face prison for contempt of court. Then, less than two years after the Administration took office, it persuaded a compliant Democratic and largely liberal Congress to enact a new law providing for what is called "use immunity." Under the laws previously on the books, no one could be compelled to testify before a grand jury, a court, or a legislative body unless given total immunity against prosecution for the act or transaction testified about.

Only total immunity, the Supreme Court had held since 1892, could be a proper substitute for the Fifth Amendment stricture "No person shall be . . . compelled in any criminal case to be a witness against himself." Under the use-immunity law, however, people who were compelled to testify could later be prosecuted as long as the government did not base its case against them, directly or indirectly, on their own testimony. The new law was so obviously open to abuse by unscrupulous prosecutors—who could easily conceal tracks leading from compelled testimony to "independent" evidence, and could then concentrate their immense prosecutorial resources on targets whom they knew to be guilty—that most legal scholars assumed the Supreme Court would find use immunity flagrantly unconstitutional on the ground that it wiped out the Fifth Amendment. But no one anticipated at the time that President Nixon would end up with four appointees on the Court, including Chief Justice Warren E. Burger, who had frequently and publicly questioned the inviolability of the Fifth Amendment right against involuntary self-incrimination. A year and a half after the use-immunity law was enacted, the Burger Court upheld it.

The Internal Security Division of the Justice Department, which had been virtually moribund until Mitchell gave it the job of locating "enemies" of the Administration and helping the F.B.I. gather evidence against them by way of grand-jury investigations, began relying on the new law in thousands of cases. In fact, over the eighteen-month period following the Court's approval of this law, the Department of Justice received requests for grants of immunity for more than five thousand witnesses. In many of these cases, the Administration employed the grand-jury technique and the use-immunity law to devastatingly repressive ends. Scores of people who were accused of no crime except refusing to testify about some political conspiracy concocted by the Nixon Administration went to jail.

With the end of the Nixon Administration, it was generally assumed that the repressive practices it had employed were at an end. But the use-immunity law is still on the books and is more widely employed than ever, since many states have copied the federal model; many of the officials in the Justice Department and the F.B.I. and U.S. Attorney's offices who abetted the Nixon Administration's attempts to destroy its political opposition are still in office; and grand juries are still being used, in effect, as instruments of government by inquisition. The Ford Administration may be unaware on the highest level that these practices are continuing, for today they seem to be used not to serve the political purposes of a particular Administration but to control the enemies of society as agencies like the F.B.I. define them.

Of all the abuses that are still going on, perhaps the most serious one is the abuse of the grand-jury system to help the F.B.I. do the jobs that it has failed to do on its own. When the F.B.I. couldn't find Patricia Hearst, for instance, it fell back on the old Mitchell tactic by getting U.S. Attorneys to subpoena various people who might have known something of her whereabouts (including her mother, who was compelled to tell what she knew, even though that could have endangered the life of her daughter). And when the F.B.I. couldn't find any trace of Jimmy Hoffa, it got a federal grand jury in Michigan to call scores of people on the off-chance that they might know something that the F.B.I. could use.

"Historically, [the grand jury] has been regarded as a primary security for the innocent against hasty, malicious, and oppressive prosecution," the Supreme Court declared a few years ago. Although this view has been shared by laymen, lawyers, and judges alike for more than eight centuries, it is a myth. From the time that the earliest form of the grand jury was established in England, in 1164, until the system was abolished there, in 1948, there were only two significant occasions when "the people's panel," as it was called in ancient days, stood up for the people against the English government.

In the American Colonies, grand juries were widely admired, but only because they invariably absolved those who opposed the British (for instance, a number of colonists who burned British property, some of whom sat on the grand jury that considered their offense) and indicted those who sympathized with the British (including four innocent Tory civilians who were charged with murder after the Boston Massacre). By the time the Constitution was adopted, the myth of the grand jury as one of the individual's mightiest shields against tyranny was so embedded in the public mind that the grand-jury system was officially established under the Constitution by way of the Fifth Amendment, which states:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land of naval forces, or in the Militia, when in actual service in time or War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall property be taken for public use, without just compensation."

After adoption of the Bill of Rights, in 1791, the grand-jury system was much honored rhetorically and endlessly abused in practice. In the late nineteenth and early twentieth centuries, state grand juries occasionally asserted themselves to root out corrupt political machines. But on the federal level grand juries have almost always been rubber stamps in criminal prosecutions and in political persecutions.

During periods of national strife or popular hysteria, even the most liberal Administrations have allowed or encouraged grand juries to be used in the most nakedly oppressive ways—the Lincoln Administration to silence critics of the Union cause, the Wilson Administration to illegally imprison and deport several hundred innocent radicals to Russia after the Bolshevik Revolution, the Franklin Roosevelt Administration to harass Nazi sympathizers, and the Truman Administration to permit the anti-liberal vendetta waged by Representative Richard M. Nixon and Senator Joseph R. McCarthy. In the end, the Supreme Court's view of the grand jury as "a primary security for the innocent" is wholly unrealistic. A more accurate view was recently expressed by federal District Court Judge William Campbell, who said of the grand jury in general, "Today, it is but a convenient tool for the prosecutor. . . . Any experienced prosecutor will admit that he can indict anybody at any time for almost anything."

At a little after nine o'clock on the morning of February 13, 1975, Ellen Grusse and Terri Turgeon appeared before Judge Jon O. Newman of the federal District Court in New Haven, Connecticut, to be officially notified that the court had granted each of them use immunity, and that they were now obliged to answer all questions asked by a federal grand jury, which they had been subpoenaed to appear before at ten o'clock that morning. The two women had been subpoenaed by the same grand jury a couple of weeks earlier, after they had refused to talk to F.B.I. agents about two fugitives whom the Bureau had been looking for, with almost no success, for four and a half years. The fugitives were two young radicals named Susan Edith Saxe and Katherine Ann Power, who had been charged, together with three male confederates, with participating in a bank robbery in Massachusetts in September, 1970, during which a policeman had been killed; according to the authorities, the five had robbed the bank of twenty-six thousand dollars to finance an anti-war, anti-government terrorist campaign.

After the robbery, the three men had quickly been captured, and had been tried, convicted, and imprisoned. But the women had disappeared. At some stage in their flight, they had purportedly hidden out in several lesbian and heterosexual feminist communities, in one of which, the F.B.I. apparently believed, they had met and become friendly with Grusse and Turgeon. Grusse and Turgeon had refused to testify before the grand jury, and whether or not they had actually met the fugitives, whether they had known the fugitives as Saxe and Power or by the aliases they were said to have used, and whether or not Grusse and Turgeon had known that the fugitives were being sought for bank robbery and murder was, and still is, unclear to everyone outside the case.

Obviously, though, the F.B.I. officials in charge of the case and the government prosecutor who was directing the inquiry of the New Haven grand jury believed that the two women knew something that might help the government catch Saxe and Power. The prosecutor, Assistant U.S. Attorney William Dow III, vehemently denied that catching fugitives was the government's purpose in subpoenaing the women or in granting them use immunity, and insisted that the grand jury was looking into the question of whether any federal crimes had been committed by Saxe and Power if they had lived for a time in Connecticut, as reported, or by others who might have known them and helped them hide out there or escape to another state. If the fugitives had even entered Connecticut, that made them guilty of interstate flight to escape prosecution, a federal crime, and if others had knowingly assisted them, that made them guilty of harboring fugitives and of failing to notify the police of a known felony, which is misprision of felony, another federal crime under the circumstances.

Dow's denial that his purpose was to obtain information on the whereabouts of the two fugitives was essential for the government, because harboring fugitives and misprision were the only kinds of criminal acts in the case at hand that the New Haven grand jury had jurisdiction over, since under the law it could not investigate crimes committed in other jurisdictions than its own, which was limited to the federal judicial

district encompassing Connecticut. Also, it could not legally investigate crimes simply to help the government capture or build a case against someone who had already been indicted, and Saxe and Power had been indicted by both state and federal grand juries in Massachusetts back in the fall of 1970. In a motion to quash the subpoenas, the lawyer representing Turgeon and Grusse in court that February morning charged that the grand jury had two improper purposes: to help the F.B.I. find the fugitives and to help the Department of Justice prepare for its prosecution of them when they were caught. Judge Newman, who had been U.S. Attorney in Hartford for five years before going on the bench in New Haven, dismissed the arguments on these points and denied the motion.

As the two women left the courtroom, their lawyer, a young man by the name of Michael Avery, told them that their situation looked nearly hopeless. He had warned them earlier that if they were granted immunity and still refused to testify, they would probably be found in contempt of court and imprisoned until they talked or the term of the current grand jury ran out, as provided under the use-immunity statute. Federal grand juries normally sit for eighteen months, and the one in New Haven had only a little over six weeks remaining in its term. However, Avery had told his clients, Dow had vowed to have the women subpoenaed again before a new grand jury when they got out of prison; if they refused to answer his questions once more, they could be sent back to prison for the full term of the second grand jury, and the procedure could be repeated until they had served the statutory maximum imprisonment under the use-immunity law. That part of the law is unclear. but Avery believed that under it his clients couldn't be imprisoned for more than eighteen months altogether.

"I had never been so frightened in my life," Grusse said later. "We had brought our suitcases, because we thought we'd be taken off to prison that very day. I was sure I was going to prison, and the mere thought of it terrified me almost beyond control." Turgeon was equally frightened. "I was near hysteria," she said later.

Despite the consequences facing them, the two women were determined to remain silent, for they believed that the only way they could preserve their personal integrity—the essence of their humanity and individuality, as they saw it—was by refusing to talk to anyone connected with the government about their private lives. In their public statements at the time, they said that they were basing their refusal to cooperate with the government on the right to "confidentiality in human relationships." While this suggested that they had indeed had some contact with the fugitives or at least with someone who had known them, Grusse and Turgeon contended that such confidentiality, where it existed, was as inviolable as the confidences exchanged between patient and doctor, penitent and priest, or spouse and spouse.

Unfortunately for their legal defense, this concept of confidentiality was not protected by law. The two women also stated that they were innocent of any criminal acts and possessed an inalienable right to be left alone. The government disagreed on all counts, and demanded *its* right—to be told what they knew about suspected crimes. There could be no doubt that the government had that right, legally speaking. Now that the Fifth Amendment right against involuntary self-incrimination, which had been originally designed to protect the individual's integrity, had been eliminated by the use-immunity law, the government possessed the kind of power it had never had before—the power to decide what the *size* of any individual's integrity would be.

When Avery was retained by Grusse and Turgeon, a couple of weeks earlier, he had known little about grand-jury procedures. "I had never done any grand-jury work before, so I had to do a crash study program," he said. "The first thing I learned was that the whole system is amazingly unjust. To begin with, it is based on the judicial fiction that grand-jury proceedings are not entirely criminal in nature until indictments are returned. The reason for this fiction appears to be that if the proceedings were criminal they would have to be governed by the ordinary due-process-of-law rules that govern trials—things like the right to confront one's accusers, to cross-examine witnesses, to summon witnesses on one's own behalf—and that would turn grand-jury hearings into miniature trials.

In other words, some people would have to be tried twice—once by a grand jury when it questions prospective defendants and once by a petit jury when it tries them. That would take a lot of time, and the courts seem far more interested in improving efficiency in our grossly inefficient legal system than they are in the quality of justice. Anyway, it's absurd to claim that grand-jury proceedings are not criminal proceedings, since witnesses may be indicated for crimes that the grand jury is investigating, and since they can be imprisoned if they refuse to talk after being granted immunity. While someone who has never been tried or convicted of any crime can spend as much as eighteen months in prison for civil contempt, someone who faces a criminal-contempt charge that could lead to imprisonment for six months or more has a right to a jury trial and can never be imprisoned again for the same contempt because of the double-jeopardy clause in the Fifth Amendment. So under our grand-jury system those who have been found guilty can be treated more fairly and leniently than those who are innocent under the law."

The denial of due process that troubled Avery the most that morning as he and his clients left Judge Newman's courtroom was that grand-jury witnesses are not allowed to have lawyers present when they are interrogated. Usually they are permitted to have lawyers waiting outside the grand-jury room and are permitted to go out and consult with them before answering questions. But that, too, has drawbacks. "The only justification for not giving grand-jury witnesses the Sixth Amendment right to have a lawyer at their side is that the lawyer may advise them in a way that the prosecutor doesn't want them to be advised," Avery has explained. "But the basis for the right to counsel is precisely to allow the individual to have that kind of advice when confronted by all the immense powers of government."

Moreover, he went on, the awkward and time-consuming practice of allowing witnesses to leave the grand-jury room to consult with their lawyers makes what should be a *right* to counsel seem to grand jurors to be a *privilege*, and if that privilege is requested very often they are bound to become annoyed and perhaps prejudiced against the witness. And, of course, a frightened and ignorant witness may not even assert the privilege when asked a seemingly innocent question that is actually a legal trap. Among the other drawbacks of the system, Avery said, is that since a grand jury is under no obligation to tell witnesses what the subject of the inquiry is, they often don't know whether they are suspects, whether they have committed some crime that they were unaware of and now may inadvertently confess to, or whether they are being questioned about the activities of others. Under these uncertain circumstances, a witness who answers *anything* asked by a grand jury may be taking a grave risk.

Ordinarily, prosecutors don't tell witnesses whether or not they are "targets" of the grand jury's investigation, that whatever they say may be used against them, that they can remain silent unless they are given immunity, or that they may be prosecuted for perjury if they testify and lie. In addition, if one answers *any* question asked by a prosecutor (or, rarely, a grand juror) before a grand jury—apart from one's name—one may automatically waive the right to refuse to answer any other question. (Called "opening the door" by lawyers, this kind of waiver was established by only one federal-court case, and has not been fully tested judicially.) Witnesses who go before grand juries without consulting a lawyer, as many do, are unlikely to be aware of this rule—or snare—and may end up being forced to testify against themselves without having even the slender advantage of being given use immunity beforehand.

Grand jurors are themselves rarely aware that the elementary principles of fair play—or "fundamental fairness," which the Supreme Court requires of all government practice in criminal cases—are suspended during their hearings, because when new grand juries are convened judges rarely tell the members anything about their supposed "historic function," or much of anything beyond their duty to indict those who seem guilty. Accordingly, grand jurors are usually the uninformed assistants of the prosecutor rather than members of a people's panel, and he can manipulate them more or less as he pleases.

An unscrupulous prosecutor, for instance, can easily make a witness who tries to assert his exceedingly limited rights look guilty merely for asserting them. If a prosecutor asks a witness a seemingly innocuous lead-off question such as "What newspapers do you read?" or "What did you have for breakfast this morning?" and the witness refuses to answer on the ground that his response may tend to incriminate him—meaning, of course, that if he waives his right to silence by answering that harmless question he will have to answer a lot of possibly incriminating ones—the grand jurors are apt to conclude that the witness is simply obstructing justice. Also, prosecutors can easily browbeat witnesses by embarrassing them. Shortly after Turgeon and Grusse had been questioned by the New Haven grand jury the first time, a federal grand jury in Lexington, Kentucky, which was looking into reports that Saxe and Power had hidden out in a lesbian community there, allowed the U.S. Attorney in charge to ask several women who were subpoenaed and put under oath, "What is your sexual preference?" For refusing to answer this question, among others, the women were found in contempt and sent to prison. And, as Avery had warned his clients, once they were both given immunity each of them could be forced to testify against the other, and thereby provide the government with "independent" evidence—if such existed—against both of them.

Assistant U.S. Attorney Dow impressed Turgeon and Grusse as being anything but vindictive or ruthless in their case. When they first appeared before the grand jury, he went out of his way to warn them of various matters that he was under no obligation to reveal—that they were not targets of the grand jury's investigation, that they could still be prosecuted if they revealed any crimes they had committed, that they had the right to plead the Fifth Amendment and remain silent unless they were granted immunity, and that they could be prosecuted for perjury if they testified and lied.

Of course, he must have known that Avery had already told his clients about these matters. Even so, the women regarded Dow with sympathy and even fondness. "He's a decent man—very personable and affable," Grusse said. "I think he really believes that what he's doing is right. But what he believes is

right is that he should do everything in his power to catch a couple of people who are accused of bank robbery and murder. And to do that he will close his eyes to the real problems in this case—the political and legal issues involved and the personal rights being sacrificed. Our individual rights, our sense of our own integrity, our duty to ourselves mean nothing to him. All he can talk about is that dead policeman who left nine kids. I'm sorry about that, too, but I had nothing to do with it, and I have nothing to say now that Dow has any right to know."

Both she and Turgeon felt that although Dow was fair to them, he might as well have been unfair, since his purpose was to force them to betray themselves or go to prison. In Turgeon's view, Dow was also a victim of the F.B.I.'s frantic search for Saxe and Power. "I don't think he set out to do this to us," she explained. "In fact, I don't think the F.B.I. set out to do it, either. I think the Bureau was really embarrassed at not being able to catch two little women for all that time. The whole thing just got out of hand for the F.B.I. and in the end for Dow, too. Because we stood up to the system, they came to see us not as a couple of helpless individuals but as two tough radicals, maybe even criminals, who were nearly as bad as Saxe and Power. When the search for them began, the F.B.I. had no idea of how broad and deep the women's movement was. I don't mean the women's-libbers, the bra-burners, and the equal-pay advocates. I mean the serious revolutionaries who believe that society has to be turned upside down before there can be any true equality for women and any real justice. I think this discovery really scared the F.B.I., and then it saw the Saxe-Power investigation as a cover for finding out more about this radical 'network,' as they call it. So all we are—and maybe all Dow is—are tools in this investigation of the women's movement."

After Judge Newman gave Grusse and Turgeon immunity on February 13th, the two women, together with Avery and Diane Polan, his legal assistant who did most of the research for the case, left the courtroom—on the second floor of the New Haven post-office building—and headed down the broad, marble-floored corridor toward the grand-jury room around the corner. When they got there, Avery held Grusse and Turgeon in a huddle with his arms around their shoulders and whispered some last-minute instructions to them. He had little encouragement to offer, because he had been convinced by his study of the grand-jury system that his clients' chances of remaining both silent and free were slight. "I knew that I was legally helpless," he said afterward. "It was the most frustrating and discouraging experience I'd had so far in practicing law. It's terrible for a lawyer to have to stand there and not be able to do anything for a client—really nothing at all except go through the motions and hope that the other side will make a mistake. A lawyer shouldn't get too emotionally involved with clients, because it destroys his objectivity and effectiveness, but I couldn't help being involved with these women. I really sympathized with them."

Dow summoned Turgeon before the grand jury first, put her under oath, and asked if she understood that the grant of immunity supplanted her Fifth Amendment right to remain silent, and that if she testified and lied she might be prosecuted for perjury. Turgeon nodded, and Dow put his first question to her: Had she appeared before this same grand jury on January 28th? At first, Turgeon assumed that this was one of those seemingly inoffensive questions designed to trap her into waving her right to silence, but then she realized that the grant of use immunity had deprived her of that right.

Following the plan she and Grusse had drawn up with Avery, she wrote down the question, then asked if she could consult her lawyer. The foreman of the grand jury gave her permission—after a glance at Dow, who nodded, almost imperceptibly—and Turgeon left the room and returned in a few minutes carrying a slip of paper on which Avery had written her answer, which she read to the grand jury: "Upon the advice of counsel, I respectfully refuse to answer the question on the grounds that it and these proceedings violate my rights under the First, Third, Fourth, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments to the United States Constitution, and under the United States Code, and for the reason that I believe I have been the object of illegal electronic and personal surveillance by the government, and for the reason that this proceeding and this question constitute an abuse of the grand-jury process."

It was a constitutional mouthful, but it was largely irrelevant, since courts have generally treated grand-jury proceedings as being exempt from the ordinary constitutional protections. Still, the statement contained the two legal issues that were to end up being at the heart of the case: whether or not there had been illegal eavesdropping, and whether or not there had been abuse of the grand jury. The first point was a new one, and Avery raised it both because he and his associates in the case believed there was a strong possibility that the government had illegally kept them or their clients under surveillance and because the Supreme Court had ruled in 1972, by way of Gelbard v. United States, that when the government is asked by grand-jury witnesses about its use of illegal surveillance as a basis for the questions asked them, the failure to deny the use of such eavesdropping relieves the witness of all obligation to testify. (This ruling, which was opposed by all four of Nixon's appointees to the Court, was based not on constitutional grounds but on statutory grounds—that is, on the intent of Congress as expressed in a 1968 act governing electronic surveillance.)

Dow then asked Turgeon if she knew Saxe and Power; she again requested permission to see her lawyer, went outside, came back into the room, and gave the same response. Dow went on to describe the crimes that Saxe and Power had been charged with, and said, "It is believed that either or both Power and Saxe lived for a period of time in Connecticut, and that you knew them, and that you may have information as to other people who knew them who might have assisted or aided them while they were in this state, and [who] might otherwise be guilty of some criminal involvement with them. That is the purpose of this grand-jury inquiry, I'd like to know when you last saw either [of them], where that was, when that was, who they were with." After going through the same routine. Turgeon gave the same answer. This time, Dow warned her that she faced contempt-of-court charges, and then asked several more questions that were slight variations on the main question, all of which Turgeon responded to with the same answer. Finally; she was dismissed.

Dow asked Grusse somewhat different questions about Saxe, Power, and anyone who might have known them in Connecticut. Grusse gave the same answers as Turgeon had, but then added a long statement at the end: "Furthermore, I firmly believe that I have been called before the grand jury because I have chosen to exercise my right not to speak with the F.B.I. My decision not to speak to them is based on the moral belief that the investigation the government is engaged in will violate my basic constitutional and human rights. . . . I believe that every person has the right to keep her affairs private without intervention by government agents. I am also aware that the government, acting through the F.B.I. and grand juries, has used inquiries such as this to harass and gather information on political persons in recent years, and I do not care to be a party to that process. It's also true that there is no basis for investigating any criminal activity in the state of Connecticut, and that the grand-jury system and you, the jurors, are being used as tools of the F.B.I. to further their investigation. This is not a legitimate use of the grand jury, and I respectfully request that you excuse me on those grounds."

Dow asked Grusse if she intended to refuse to answer all questions. Before he could finish, though, the foreman unexpectedly broke in and said, "Could I ask one question?" Looking surprised, Dow nodded, whereupon the foreman turned to Grusse. "Do you understand the description of the reason that you are being called here, that Attorney Dow just stated?" he asked her. "Do you understand that the purpose of this grand jury is to investigate a crime that was committed in Boston in 1970, and your possible knowledge of any of—of any of the facts concerning the whereabouts of the people, the perpetrators of the crime? Do you understand that is the reason why you are being asked to be here?"

Of course, the foreman's questions, or statement, about the grand jury's purpose was not only at odds with Dow's statement about that purpose, it was a clear admission that the grand jury was improperly seeking to help the government catch a couple of fugitives—unless the foreman had no understanding of what had been going on during the grand jury's investigation of the Saxe-Power case.

Dow hastily interrupted to say, "Let me amplify that to a degree, if I could, Mr. Foreman, to indicate that the scope of the inquiry goes beyond the crime itself that was committed in Boston, but activities of the individuals believed to have committed those crimes in the state of Connecticut, such as involving—such as possible assistance to those suspects by other individuals in the state. Is that your understanding?"

Although Dow's flapping syntax put the question beyond understanding, the foreman replied, "That's right."

Apparently, Dow had meant to say that the grand jury's inquiry included crimes committed in Connecticut, which put the witnesses under the jurisdiction of the grand jury. But his "amplification" did not diminish the significance of the foreman's statement, which had unmistakably made clear that in his view the purpose of the grand jury was to get information about a crime committed in another jurisdiction and about two people who had already been indicted for that crime—a doubly improper purpose. Of course, the foreman could have got this impression from only one source—Dow, who had decided what evidence was to be presented to the grand jury. And yet no one who had dealt with Dow in the case from the witnesses' side doubted his decency, sincerity, or devotion to duty. "Dow spent several years working the other side of the street as a public defender in Washington, D.C.," one of the lawyers in the case said shortly after Grusse and Turgeon were granted use immunity. "He's an honorable fellow, and he doesn't like to think of himself as an oppressor. That's why he keeps talking about the nine kids that policeman left. He's trying to convince himself that he's behaving properly so he can uphold his liberal credentials. At the start of this case, we thought he would push it a little to satisfy his superiors and then would realize that he was doing something wrong and would drop it. But he didn't. He's pushed it all the way. His rationalization is that this is a local investigation of lawbreaking in this district, but it's clearly

not that. Whatever Dow's own goal is, the Feds are obviously intent not on just finding Saxe and Power but on uncovering nationwide radical connections in the women's movement."

Dow's reliance on the legal but fundamentally unfair instruments of official inquisition—use immunity and the unbridled power of the grand jury—to achieve the laudable goal of bringing to justice two people accused of vicious crimes reminded an observer of Justice Louis Brandeis's famous warning: "Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

After Grusse and Turgeon refused to testify, Dow filed a motion with the court asking that they be ordered to answer the grand jury's questions, and Judge Newman set a hearing on the motion for the next morning. At the hearing, Dow put on the stand the court reporter assigned to the grand jury, and he read his stenographic notes of the questions asked by Dow, the witnesses' refusals to answer, the foreman's statement about the grand jury's purpose, and Dow's attempt to "amplify" it. When Avery got his turn, he bore down on the foreman's remarks to prove that the grand jury was being improperly used by the government. It was clearly the prosecutor's intention, Avery said, to turn over to the F.B.I. any evidence presented to the grand jury about Saxe and Power, which would violate the strict secrecy imposed by law on grand-jury proceedings as far as any member of the jury or any official of the government was concerned.

Judge Newman regarded both arguments with indifference, and at the end of the hearing he said, "Essentially, when all is said and done, it seems to me as if the witnesses are really asserting what they conceive to be a constitutionally protected right of privacy. It's understandable they may have a personal preference not to assist a grand jury [in] uncovering evidence of the commission of federal crimes, but their preference must give way to the legitimate power of the grand jury to have their testimony. . . . There is no showing before me whatsoever of any harassing or unnecessarily personalized inquiry. The situation might be different if in a very extraordinary case intimate personal details were being probed for no apparent legitimate purpose. That's not this case at all." Newman then instructed Dow to write down the questions he had asked the two witnesses, and said that he would order the women to go back before the grand jury later that day and answer them or face contempt of court. At two o'clock that afternoon, Grusse and Turgeon appeared before the grand jury and refused to answer the questions on the same grounds. Afterward, Dow filed a motion asking the court to find them in contempt, and Judge Newman set February 18th, four days later, for a hearing on that motion.

Early on the morning of the eighteenth, Avery and David Rosen—another young New Haven lawyer who worked with him on the case—filed a forty-two-page brief setting down all the legal issues that they had not had time to present to the court formally. They also filed a motion claiming "unlawful electronic surveillance" and demanding that the government deny there had been taps on any of the telephones used by the principals, their lawyers, and a few associates who had been involved in the case. To support this motion, Avery and Rosen filed seven affidavits indicating why they thought there had been wiretapping of certain telephones by the government.

In reply, Dow the same day filed a half-page affidavit swearing that he had checked all the names listed on the affidavits, and adding, " I hereby state that there has been no electronic surveillance or interception of wire or oral communications of those individuals named." Just before the February 18 hearing, Avery subpoenaed an F.B.I. agent working on the Saxe-Power case in Connecticut, but at the hearing Dow opposed the subpoena, and Judge Newman asked Avery to explain his reasons for wanting the agent to testify. Avery replied that he merely wanted to ask him why he had requested that Dow summon Grusse and Turgeon before the grand jury in the first place, and to find out whether the F.B.I. already had the information that it was seeking from the two women.

In other words, Avery hoped to show that the F.B.I. was more interested in harassing the witnesses than in getting their testimony. Moreover, Avery went on, he wanted to call Dow to the stand, to ask him whether he intended to pass on to the F.B.I. whatever might be learned from Grusse and Turgeon, despite the rule imposing secrecy on everyone involved in grand-jury hearings except the witnesses. Judge Newman denied both requests. "I am satisfied that the representations concerning the inquiry of the grand jury as to possible violations of federal law in the District of Connecticut are sufficient to justify the grand jury asking the particular questions that were put to these witnesses," he said. Then he announced that he would deliver his finding on the contempt motion the following day.

In court the next day, Judge Newman informed Avery that the government had just submitted to him a sealed affidavit containing the evidence it possessed to demonstrate its reasons for asking Turgeon and Grusse the questions posed to them by Dow before the grand jury—reasons that included some evidence against Grusse and Turgeon themselves. (Although the judge in such a case can examine a sealed affidavit, neither the witnesses nor their lawyers are permitted to see it.) The government, Newman added, had promised the court that if it sought to indict the two witnesses for any crimes, the evidence it now had would be presented before a grand jury other than the one they had so far refused to testify before.

Then, ruling that Dow's denial of illegal surveillance was sufficient and that there was no reason to believe that the grand jury was being improperly used or that the witnesses were being harassed by the F.B.I., the Judge found Grusse and Turgeon in contempt of court. He ordered them "remanded to the custody of the United States marshal until such time as they elect to purge their contempt by testifying, but in no event for longer than the expiration of the term of the grand jury on April 1, 1975." Finally, he delayed execution of his order for five days, to allow the women time to appeal.

"Our feeling of helplessness is just incredible," Turgeon said afterward. "In a case of this sort, it's really hard to feel at all like a person. We can't express ourselves in any way. Everything that is said in court has to be said by our lawyers. They've been wonderful, but when the values we hold dear are translated into legal language they lose all personal meaning. They become so abstract that everyone forgets there are people involved—except those people. The frustration is awful, because the truth is lost in all the legalisms. The basic truth is that we have the right to silence. The issues of grand-jury abuse, wiretapping, harassment by the F.B.I. are beside the point. But the truth doesn't matter. What matters is power, and all the power is on the other side."

On February 20th, the day after Judge Newman's decision, Avery and Rosen filed a notice of intent to appeal it and another motion for a stay in carrying out the contempt citation until the appeal was ruled on. Then Dow filed a motion asking the Court of Appeals to deny any delay, on the ground that the contempt law prohibited this if an "appeal is frivolous or taken for the purposes of delay"—both of which, Dow contended, applied to the case at hand; moreover, he said, since the law requires the Court of Appeals to rule on such an appeal in not more than thirty days, if that court took its full allotment of time there would be only eleven more days until the term of the grand jury ran out, which "would render the adjudication of contempt meaningless." On February 21st, the Court of Appeals rejected Dow's arguments, and on the twenty-fifth the court gave the two women two days to prepare their appeals for oral argument before a panel of three judges.

Since Avery was occupied with other cases in New Haven, he decided to call in a specialist in appellate and constitutional law—a young woman named Kristin Booth Glen, whom he had known for years. Glen had got her early legal training in the law offices of Leonard Boudin, one of the most accomplished legal practitioners on the political left, and then she taught at New York University Law School and worked with the National Lawyers Guild, in New York, until she went into private practice.

The Guild, which was set up forty years ago, and played a major role in defending victims of congressional witch hunts against the left in the early nineteen-fifties, had responded to the Nixon Administration's misuse of the grand-jury system to persecute the President's political opponents by setting up a group to study the legal ins and outs of that system. By the time the Grusse-Turgeon case came along, the standard legal work on the subject was a thick Guild handbook, which was used by lawyers on both sides in such cases. Armed with the handbook and assisted by consultants at the Guild, Glen set up a legal command center in a friend's office in New York, and for two days and most of two nights—the extraordinarily short time allotted by the Court of Apeals—she worked on the crucial issue of electronic surveillance for her part of the appellate brief. Back in New Haven, Avery, Rosen, Polan, and a battery of students from Yale Law School worked on their part of the appeal—abuse of the grand-jury system. "It was an around-the-clock job," Polan said later. "We had to drop everything else at the office to work on the brief."

In the end, the brief ran to forty-seven pages, and ranged over a wide variety of complicated technical matters. Overall, though, it concentrated on Avery's two major points: that the government's denial of surveillance had been inadequate and that there had been flagrantly improper use of the grand-jury process. On the first issue, Glen pointed out that the government's "search" of its surveillance records had consisted of a few telephone conversations between Dow and the F.B.I. agent in charge of the Saxe-Power case in Connecticut, who had reported that his surveillance records showed no sign of any surveillance's having been conducted on Grusse, Turgeon, or any of the lawyers and legal assistants in the case.

Apparently, Dow had not asked the agent to check any records in the offices of the F.B.I. or other government agencies in Washington that commonly engage in electronic surveillance. Citing a 1974 decision of the same court she was appealing to—the Court of Appeals for the Second Circuit—Glen asserted that its own ruling then had required a government prosecutor who was challenged on the issue of illegal surveillance to show by affidavit each of the agencies that was checked and its specific written denials that any conversations of anyone using any of the telephones involved had been overheard. (Government wiretapping and bugging, both legal and illegal, have become so widespread

that the Second Circuit often requires what is called an "eight-agency check"—of the F.B.I., the Secret Service, the Internal Revenue Service, the Customs Service, the Drug Enforcement Administration, the Postal Service, the Criminal Division of the Justice Department, and the Bureau of Alcohol, Tobacco, and Firearms. Actually, though, at least twenty-six Federal agencies conduct surveillance of private citizens.)

On the issue of improper use of the grand jury, Avery quoted the foreman's statement about the New Haven grand jury's purpose, which, he said, constituted "a prima-facie case of abuse of the grand-jury function." Quoting the Second Circuit's opinion in an eleven-year-old case on this issue, he reminded the court that it had said there, "It is improper to utilize a grand jury for the sole or dominating purpose of preparing an already pending indictment for trial." Once there was such evidence of abuse as the foreman's admission, Avery argued, Judge Newman had erred in depriving Grusse and Turgeon of their right to due process of law in the contempt hearings by refusing to let them call witnesses on their behalf—that is, the F.B.I. agent and Dow—to ask why they had been subpoenaed in the first place. Further, he said, the District Court had jurisdiction over the grand jury, and Newman had also erred by failing to halt the government's use of a grand jury in one federal district to investigate crimes committed in another district, as well as by failing to prohibit the government from violating grand-jury secrecy by passing on information obtained in secret proceedings to agencies like the Department of Justice.

In reply, Dow submitted a twenty-seven page brief, in which he declared that his affidavit denying the use of electronic surveillance was sufficient under the rules laid down in that circuit. "[The witnesses'] claim that the grand jury is preparing an already indicted case for trial, even if true, does not constitute an abuse of the grand jury," he went on. "While it is often argued that a grand jury cannot continue to hear evidence in a case in which it has already returned an indictment, the cases most often cited to support that proposition do not do so." He then analyzed the cases most often cited, and concluded that as long as a grand jury's investigation of indicted suspects was not its "sole or dominant purpose," the courts could not interfere with the process. Nor, he said, could he find a "court decision which would prohibit a grand jury from investigating the whereabouts of fugitives for the sole purpose of achieving their apprehension." And, finally, he contended that it was wholly proper for him to pass grand-jury evidence on to an agency like the F.B.I.

The issues were clearly drawn, and the Court of Appeals chose to ignore them altogether. At the end of the oral arguments, on the afternoon of February 27th, the three judges recessed for ten minutes and then reconvened to read their two-to-one decision upholding the government—a decision that had obviously been prepared before the oral arguments. In the formal opinion that was filed later, Judge William Timbers, formerly chief judge of the District Court in Connecticut and a Nixon appointee, spoke for himself and Judge J. Edward Lumbard, a former U.S. Attorney.

The opinion was based on three points. First, Timbers said, there was "the strong public policy reflected in the statute" enacting contempt-of-court penalties for refusing to testify after being granted use immunity and in the "congressional concern over disruption of smooth and efficient operation of the grand-jury system." Of course, "the strong public policy" was the Nixon policy of destroying his "enemies" by way of use immunity and the power of the grand jury. Federal courts traditionally examine what is known as the "intent" of Congress in interpreting its legislation, and Judge Timbers took the overwhelming congressional support for the bill that the contempt and use-immunity provisions were part of—the Organized Crime Control Act of 1970—as evidence of Congress's firm intent.

As it happened, though, neither use immunity nor any other part of that act received more than cursory attention by Congress, whose members knew that they risked defeat at the polls if they voted in an election year against anything called the Organized Crime Control Act when the public's fear of crime, which the Administration had largely created and had then relied on when it proposed the legislation, was at such a feverish height. Actually, many of the members who voted for the bill—only twenty-six representatives and one senator voted against it—trusted that the courts would undo the effects of their cowardice by overturning many parts of the law, which was the most malevolently repressive piece of legislation to be approved by Congress in a generation.

In short, their intent was simply to stay in office. By endorsing Congress's timidity and carelessness, Judge Timbers failed to recognize the clear intent of the Framers of the Constitution in establishing an independent, nonelected federal judiciary—to serve as a check on demagogic excesses committed by the popularly elected legislature. And his argument about Congress's concern for the efficiency of the grand-jury system betrayed an ignorance of American history, for no one had ever conceived of any of the safeguards set forth in the Bill of Rights as an attempt to make our law-enforcement system more efficient.

Timbers' second point was that his court had already dealt with the issues raised in the Grusse-Turgeon case the year before through In re Persico. In that case, a grand-jury witness had refused to answer a question based on electronic surveillance that had been approved by a court before it was undertaken and had demanded a hearing, which was denied, on whether the admitted wiretapping violated the law. In Persico, the Second Circuit had ruled that in denying Persico's request for a hearing the District Court had acted properly, in line with "the traditional notion that the functioning of the grand-jury system should not be impeded or interrupted." Now Timbers cited Persico and said that "the present case is an even more compelling one for adhering to the strong public policy of this circuit of not permitting disruption of grand-jury proceedings absent compelling reasons." He added, "We find no such compelling reasons here." Glen had argued in her appeal that Persico was "entirely inapposite"—a point firmly upheld by the dissenting judge in the Grusse-Turgeon case, James Oakes, another Nixon appointee, who has turned out to be one of the most liberal judges on the federal bench today—because there had been no evaluation of allegedly illegal wiretapping by a "neutral and detached magistrate" in the case at bar, whereas in Persico the wiretapping had been approved beforehand by a judge.

Finally, Timbers found Judge Newman's decision that Grusse and Turgeon were in contempt and must go to prison "a striking example of the balancing by a conscientious and comprehending district judge of the interests of the appellants as witnesses before the grand jury, on the one hand, and, on the other, of the public interest." Judge Newman's decision, he added, was "unassailable." There is probably no judicial device that is more assailable than the so-called balancing test, in which the interests of the state and the interests on the individual are weighed against each other. First used by the Supreme Court during the anti-Communist hysteria of the early nineteen-fifties to avoid facing the basic issue of whether speech was to be free in this country, the test is invariably resorted to by the most pro-state judges to justify whatever the government wishes to do. A striking example of judicial cowardice, the test might well be used in Russia or China today, for essentially it provides an opportunity to put a mask of fairness on tyranny. When a judge places all of society on one pan of the scales of justice and one person on the other pan, there cannot be much doubt about the outcome. In fact, the only time that the test works in favor of the individual is when there is nothing at all to put on the government's pan.

It takes four justices of the Supreme Court to grant certiorari—that is, to agree to review a case—and ordinarily it takes the Court several months to get around to deciding whether a petition for certiorari should be granted, and then several more months may pass before the Court reviews and decides a case. But when a citizen stands in danger of suffering irreparable injury by the state, the justice assigned to the judicial circuit involved can grant a stay of any prosecution or imprisonment until the full Court has had a chance to consider a petition for certiorari. To give Grusse and Turgeon an opportunity to take advantage of this rule, the Court of Appeals allowed them six more days to appeal to the justice responsible for the Second Circuit, Thurgood Marshall, and Glen prepared an emergency appeal, which Polan filed at his chambers on March 4th. Glen's brief asking for a temporary stay was much the same as the appeal she had written, except that now she pointed out the different rulings by different circuit courts on the issue of what was an "adequate" denial of illegal surveillance by the government in such cases, and asked the Supreme Court to resolve the question once and for all. Then she came up with a balancing test of her own on behalf of her clients. "Because their loss of liberty can never be justly compensated, petitioners will be irreparably and irrevocably injured if the stay is not extended while their serious constitutional claims are being litigated," she said. "If, on the other hand, the stay is extended to avoid certain irreparable injury to the petitioners, the government will not suffer unduly." And if the government was serious in contending that its purpose in demanding testimony from the two witnesses was to uncover crimes committed in Connecticut rather than to capture two fugitives, Glen pointed out in conclusion, there was no great hurry, for "the only injury which can be justly claimed by the government is inconvenience." Justice Marshall rejected the application on the following day without comment.

At four o'clock on the afternoon of March 5th, Turgeon and Grusse turned themselves in to the U.S. marshal at his office down the hall from the grand-jury room in the New Haven post office. A matron searched the women for weapons, and then the marshal handcuffed each of them and chained them together at their waists. He apologized for the manacles, explaining that they were required by federal rules. "It's unbelievably stupid," Avery said later. "If they wanted to escape, they wouldn't have turned themselves in at all. They would have taken off when Justice Marshall turned down their application that morning. It's just another official attempt to humiliate and degrade people who stand up to the system."

When the prisoners were led out of the marshal's office, they saw heavily armed policemen in riot gear stationed along the corridor, and in the parking lot behind the post office there were several police cars and more riot police. "Obviously, they had come to view us as hardened, dangerous criminals," Grusse said, "And we were merely two women

who had vowed not to discuss their personal lives with anyone."

On the way out of the building, the group passed Dow, and Grusse lifted her manacled arms to him and said, "Thanks a lot, Willie."

Dow looked stunned, "*I* didn't do it," he said. "It's not *my* fault."

The Connecticut Correctional Institution at Niantic, about fifty miles east of New Haven on the Connecticut coast, is a state prison for women that houses a few federal prisoners under contract with the U.S. Bureau of Prisons. During the ride to Niantic, the prisoners sat in the back of the marshal's car, a green sedan, while he drove and the matron sat beside him. "I was absolutely terrified," Turgeon recalled afterward. "All I knew about prison life was those old movies and the stories about Attica—bars and cells and sadistic guards and vicious criminals. There was nothing, absolutely nothing, in my past experience to prepare me for what lay ahead, and I was paralyzed by fear." Grusse was, too. "I knew that most of the other inmates would be black and poor," she said. "That really frightened me, because I had my own stereotyped idea of what such women would be like—tough and contemptuous and ready to hurt anyone they didn't like. I feared that they would resent me because I'm white and educated—in short, privileged. And I was frightened most of all by what they might do to us when they found out that we were lesbians."

Their fears on all of these scores proved baseless. The prison turned out to be an "open facility." There was no fence around its spacious grounds, the "cellblocks" consisted of five cottages, each housing twenty to thirty inmates, and the "cells" were private rooms for each inmate; the guards were generally decent; and the other inmates, most of whom were black women convicted of prostitution or narcotics-related violations, were friendly. "They helped us learn the ropes and settle into the place," Grusse said. "And while they were curious about our being gay, they gave us no trouble about that. In fact, they gave us no trouble at all. They even supported our refusing to talk, because somebody's talking was why most of them were in prison."

Turgeon and Grusse were assigned to tutor inmates in basic mathematics during mornings and to work in the prison library during afternoons. "Although prison life wasn't anywhere near as bad as I had expected, it was terrible," Turgeon said. "Worst of all, they treat you like a bad child who has to be controlled or helped all the time. You're considered to be incapable of making a decision on your own, and if you question anything, they tell you that you just don't understand the reasons behind it. Usually there isn't any reason—just bureaucratic rules that exist for their own sake. And, craziest of all, they never tell you what the rules are until you break one. They kept telling us to act like adults, but every time someone did—by taking responsibility of one kind or another, which is what adulthood means—they would say, 'You're causing problems.' The simplicity of their idea of 'correction' is unbelievable. When we arrived, they even taught us how to take showers. They said, 'You turn on this faucet for hot water, this faucet for cold water, and then adjust them until you get the temperature you want for your shower.' I thought we'd been taken to a madhouse. And when you get angry, they simply give you tranquilizers to control it.

The whole system is aimed at control, but to no purpose. And the boredom is stupefying. Each cottage has a television and a stereo set, which are always on full blast. The inmates are mostly young, and they shout and talk a lot. You can go to your room for privacy, but you can never get away from the incessant noise, except at night, and then you're sleeping. You can take a walk, but only if a guard goes along. There's a pretty little lake on the prison grounds, and I longed to go sit by it alone. They wouldn't allow that. A guard had to go with me. In the end. I felt much the same at Niantic as I had in the courtroom—helpless. It's as if society's true purpose is to destroy every shred of individuality in anyone who stands up to it. And it was just that—my individuality—that had brought me there and that I was trying so hard to preserve."

On March 27th, after the women had been in prison for three weeks, Susan Saxe was captured while walking along a street in Philadelphia. Five days later, the term of the New Haven federal grand jury ran out, and that afternoon Grusse and Turgeon were released from prison. The marshal drove up from New Haven to deliver their release papers, but then, as the two women stepped out of the prison administration building into freedom, he handed each of them a subpoena to appear before a newly convened federal grand jury in New Haven on May 6th, five weeks away.

A Grand Jury Defense Committee, which had been set up in New Haven to publicize and create opposition to the government's pursuit of Grusse and Turgeon, kept public interest focussed on their case, and when they returned to New Haven they found that they had become celebrities among members of the women's community there. Once word of the new subpoenas and the threat of sixteen or seventeen months more in prison if the two again refused to testify got around, their fame spread more and more widely. The publicity made the two women uneasy, because they valued their privacy more than ever now, and they feared the damage that such publicity might do to them personally. "I had to look at myself very closely to make sure that what I was doing was for good reasons and wasn't an ego trip or the result of a desire to become a celebrity," Turgeon said. "I'd never been one to analyze myself, but this time I had to."

When I thought about it, I realized that the stand I was taking had nothing to do with my ego, because being a celebrity of any kind was the last thing I wanted. I just wanted, and want, to be left alone to live in peace in my own way. I decided then that I had to do what I was doing because it was right. When I realized that I would not willingly do anything that I considered wrong, I knew that I was sincere in my decision to remain silent. Since I didn't think that anything I had done was wrong, how could I help the government prove that what I had done *was* wrong? If the government disagrees with something I've done, then it's up to the government to prove that something against me. But the government wants *me* to prove I was wrong. That is simply and fundamentally unjust."

To Grusse, the effects of being a celebrity were also distasteful. "Some people seem to see us simply as two women who refuse to talk, so we're not individuals at all," she explained. "Some others see us as superstrong celebrities. But that's not the way we see ourselves at any time. When we are invited to speak to women's groups in other cities, there are those who act as if we have perfectly formed views, clear politics, absolute strength. In other words, people try to make us into leaders. We aren't leaders, and we don't want to be. We're not allowed to be what we are—often confused and very frightened women. Also, a few people now seem to feel that they have a right to ask the kinds of personal questions that I never would have allowed anyone to ask me before. I guess that's because we're no longer private individuals.

We're public figures, and people feel we belong more to them than to ourselves. The effect has two sides. On the one, I'm more willing to express myself in terms of what's happened to me, because I feel that it's urgent to let people know that this kind of thing can happen to *them*. This has opened up my private space to others. But, on the other side, my experience has made me less willing to talk about myself, because all this limelight has destroyed my privacy, and I constantly try to pull back out of the publicity in order to be myself. Besides all this, people continually come up and ask me for advice. I find that frightening, because I'm not really a different person than I was before anyone asked me for advice. They seem to think that because I'm sure of *my* course I can help *them*. All this has made it very hard for me to be me—just an ordinary person, which is what I am and what I want to be."

At nine o'clock on the morning of May 6th, an hour before Turgeon and Grusse were scheduled to appear before the grand jury, their lawyers submitted three motions to Judge Newman. The first asked him to quash the subpoenas, on the ground that the government was improperly using the grand jury. The second asked that he issue "protective orders" instructing the government to submit to the court all the evidence it had against the two women up to that day. (As it happened, Dow submitted to the court that same morning another sealed affidavit containing the government's evidence up to that point.)

The purpose behind Avery's request was to make sure that the evidence the government had at that time would be separated from the evidence it might obtain if the women testified before the grand jury, so that if they were subsequently tried the defense would have a better chance of making sure that the prosecution was not using any evidence based on their coerced testimony, which would violate the use-immunity law's stipulation that trial evidence must be independent of such testimony. The protective orders that Avery asked for would also prohibit the government from seeking indictments against the witnesses by the same grand jury that they were shortly to appear before; would forbid the prosecutor to pass on any information he got from the witnesses to other government agencies, unless the government demonstrated that it was essential for the grand jury's deliberations, and then gave the witnesses a chance to oppose any transfer of such information; and would assure the witnesses of the right to have a transcript of their testimony.

Avery's third motion asked Judge Newman to compel the government to disclose any surveillance. Avery contended the government should be compelled to conduct a complete search of its records on a total of forty-four telephones, and to submit to the court detailed affidavits from those who conducted searches of records in various governmental agencies showing whether or not there had been any surveillance in the Grusse-Turgeon case. Avery attached to this motion several affidavits sworn to by his clients, himself, Polan, Rosen, Glen, and various other lawyers directly and indirectly working on the case who claimed that their telephones had been acting strangely. The most persuasive of the affidavits was the one signed by Glen, who reported that the office in New York that she used while preparing the Grusse-Turgeon appeal had been leased by a lawyer who was subsequently notified by a judge of the New York County Supreme Court, in a separate case, that he had been the subject of a national-security wiretap by the federal government. "This disclosure obviously raises a very substantial likelihood that calls with regard to these witnesses and my representation of them were overheard," Glen stated in her affidavit. Judge Newman denied the motion to quash the subpoenas, and reserved decision on the other motions.

Shortly after ten o'clock that morning, Grusse and Turgeon went before the new grand jury. Each was asked the same list of

nineteen questions—most of which pertained to what they might have known about others who might have known Saxe and Power in Connecticut—and each answered by refusing to testify, on the grounds they had cited before the previous grand jury. Prepared for this, the government asked the court for an order granting use immunity and compelling the witnesses to testify, and Judge Newman complied. The next day, May 7th, they went back before the grand jury and again refused to testify. Grusse added a new statement at the end of her final refusal: "This matter has been brought before the grand jury for the sole, dominant purpose of apprehending Katherine Power, an alleged fugitive, and of gathering evidence to use against Miss Power, and against Susan Saxe in the trials of indictments which have already been issued. My subpoena is also part of a coordinated campaign by the F.B.I. to punish people who legally refuse to talk with them by exposing such people to threat of contempt of court, and to harass and intimidate people, particularly women's groups, so they will cooperate with the F.B.I. and abandon their legal rights to privacy.

"I decline to answer the questions for the further reason that the Assistant United States Attorney has publicly stated he will breach the secrecy of your proceedings here and will transmit any evidence which I give [you] to the F.B.I. to assist in the capture of an alleged fugitive, although this is in clear violation of the law. I decline to answer for the reason that the immunity which has been granted to me . . . is not adequate to protect my Fifth Amendment rights. I also ask members of the grand jury to take control of your own proceedings and to refuse to be a party to the abuse of your historic function that the government is insisting on here. I also ask you to order the Assistant United States Attorney to dismiss my subpoena and put an end to this violation of my rights. And if you feel that these proceedings are legitimate, I would appreciate hearing the reasons for your position. Would anyone care to answer?"

"We don't have to respond to your questions," the foreman said. "It's our duty to ask you questions. Do you refuse to talk—so you took the Fifth to protect your rights?"

"Yes," Grusse answered.

"It is our job here as an investigating group to ask questions, not to answer your questions."

"O.K.," Grusse said wearily, and with that she was dismissed.

Afterward, Avery said, "The trouble with grand-jury cases like this one—and there are more and more of them now—is that no one besides the witnesses takes the historic function of the grand jury seriously. Jurors don't take their own function seriously because usually they don't know that it exists in the way it's supposed to. They aren't even aware that they have both rights and the duty to assert them to protect the individual against the power of the state. Prosecutors don't take the grand-jury function seriously because to do so would impede their attempts to get indictments and to use grand juries as investigative tools to help them prepare for trials or to catch suspects, as in this case.

"And judges don't take grand juries seriously because they almost never instruct newly convened grand juries about their rights. So there is no way to get to those twenty-three people and say, 'Look, you have these definite rights, and you can assert them to save the innocent and strike a blow for freedom.' What the government fails to see in all this is that it is needlessly creating its own enemies by the methods it uses. I know that every case like this one, in which the government treats its citizens so unjustly, deepens my radical feelings. But think what it has done to these two women and their friends. These women weren't even political before, but they are now—deeply political and defiant—and their friends are, too. So in attempting to control radicals the government has mindlessly created hundreds more of them."

Judge Newman set May 12th for a hearing on why Grusse and Turgeon should not be found in contempt of court. But he also ordered the government to respond specifically to the charges of illegal wiretapping by June 3rd, which effectively postponed at least until that day any final ruling on the contempt question. At the hearing on May 12th, Avery once again tried to put an F.B.I. man—the agent in charge of the Saxe-Power case in Connecticut—on the stand in order to prove that the Bureau and the U.S. Attorney's office were using the grand jury to find Power and to prepare a case against her and Saxe. But Judge Newman refused to let him pursue this line of questioning, and said of the government, "They have filed their affidavit under seal indicating the basis on which they have reason to investigate crimes occurring in the District of Connecticut, and it's a very detailed affidavit. . . . The Court of Appeals affirmed this case the last time without even seeing that much [of] a detailed affidavit, so if they thought the case was right the last time, it's hard to see how it's any less right this time, when there is far more detail in support of the government's claim." Avery said that he would like to look at the affidavit, but Newman refused, saying, "This is not just a nice privacy device to keep the prosecutor happy. . . . That affidavit mentioned several people's names who are potential suspects of a federal crime.

I have no idea if they are guilty or innocent, but until they are properly indicted their names are not going to see the light of day, unless a higher court orders me to do it. So the rule of secrecy is not just for the benefit of the F.B.I. or the grand jury and U.S. Attorney. It's for the benefit, primarily, of those suspected of crime, but as to whom there may be no indictment and no prosecution, and we are just not going to get into names and places and dates that identify those people unless an indictment results. That's why that line of inquiry is just not going to be opened up."

While the Judge's explanation reflected the historic reasons for grand-jury secrecy, it was fundamentally misleading, and his decision was fundamentally unfair to the witnesses. Of course, "that line of inquiry"—whether or not the government was misusing the grand-jury system—was crucial to Avery's case, and it could have been opened up and closed without getting into any names and places and dates. All Judge Newman would have had to do was to allow Avery to ask the F.B.I. agent a simple yes-or-no kind of question: Did you ask Dow to subpoena Grusse and Turgeon in order to help the government catch and prepare a case against Saxe and Power? The answer would have settled the issue once and for all, and would not have jeopardized the grand jury's secrecy.

Avery went on to point out that when there are two potential defendants whose compelled testimony can be used as "independent" evidence against each other, use immunity does not protect their Fifth Amendment right against involuntary self-incrimination. This argument lay at the heart of the use-immunity issue. Under the old form of transactional, or total, immunity, a witness who was forced to testify could not be prosecuted later on for anything to do with the transaction or act he or she was questioned about. Now, though, under use immunity two witnesses who were involved in the same transaction could be forced to testify against each other, thereby providing incriminating evidence that was independent of their own admissions of criminal activity and laying each other open to prosecution. Judge Newman was not interested in the argument.

Glen again handled the issue of illegal surveillance, and pointed out that the FBI's indexing system, according to a recent account in the *Times*, was faulty, and argued that a far more complete search of the Bureau's records would be necessary. Judge Newman wasn't interested in this point, either, and said that any ruling on the surveillance issue would have to wait until the government submitted its affidavits denying or affirming impropriety on June 3rd. "It's my honest belief that most of the claims that have been made are . . . a smoke screen," he said.

On the morning of the third, the National Council of Churches, which represents thirty-one religious denominations having a total membership of more than forty million people, filed an *amicus curiae* memorandum with the District Court in New Haven appealing for leniency in punishing Grusse and Turgeon if they were found in contempt of court. The Council said, in part:

"This court has the physical power to say, "You will be put in jail and kept there until you talk." In such a situation, the greater the witness's moral commitment to silence, to confidentiality in human relations, the greater the possibility of perpetual incarceration. And because of the principled nature of the witnesses' refusal, the major purpose for imposing a jail term—that of coercing the witnesses into testifying—would appear irrelevant. Only retribution remains, and we contend that the community does not demand or require retribution in this case.

"From the point of view of the National Council of Churches—and the community at large—the prospect of protracted imprisonment for civil contempt is horrifying. It is resoundingly offensive to the generally accepted sense of fairness of our society that a person who has committed no criminal act, has not been convicted by a jury of her peers nor even charged with any crime, can because of a moral commitment be placed in jail and returned to jail by means of successive grand juries."

The support of the Council was considered by the principals in the case to be vital, for it was the culmination of all the efforts by Grusse and Turgeon, their friends, and, most of all, the Grand Jury Defense Committee to turn the spotlight on the affair as a means of discouraging the Judge from disposing of it hastily or capriciously. "It worked, too—at least to a degree," one of the lawyers in the case said that morning, after the *amicus* was filed and made public. "At the start, all the contempt here was on the court's part. Newman dismissed everything we said with utter contempt, and treated us like lepers. But as support in the community and publicity in the media increased, he got more and more judicious, and increasingly took pains to seem fair, even if he wasn't at some points.

"Now, with this huge support from the 'straight' community, he's got to be more careful than ever." In this lawyer's opinion, the stand taken by the Council prompted Judge Newman to make an unprecedented, and wholly unexpected, move to resolve the problem of grand-jury abuse—by summoning the grand jurors into the courtroom at the hearing that morning and formally asking them what they considered their purpose to be in the present inquiry. At a quarter past eleven, the grand jurors filed into the courtroom; nineteen of the twenty-three members were present, and they were roughly divided between the sexes and ranged in age from the early twenties to the late sixties. Once they were seated in and around the petit-jury box, Judge Newman explained that he had brought them into court so that he could describe to them the law governing their procedure.

While one purpose of any grand jury was to indict the guilty, he went on, another

and equally important purpose was to protect the innocent. Pointing out that it was not permissible for a grand jury in one jurisdiction to ask witnesses questions about crimes committed in another jurisdiction, or to help the prosecutor prepare a case against someone who had already been indicted, or to get information that might lead to the capture of fugitives, Judge Newman asked the grand jurors to disregard whatever they thought their proper or desired purpose was supposed to be and to express only their personal opinion of what their actual purpose was in asking the two women the nineteen questions they had refused to answer. Then he gave them the list of the questions and posed the basic issue to be resolved: "Does the grand jury seek answers to these questions from these witnesses for the purpose of investigating possible violations of federal law that may have occurred in the District of Connecticut?" He asked nothing about whether this was their dominant purpose or whether they were trying to help the F.B.I. capture Power and prepare a case against her and Saxe.

Copies of the nineteen questions and the Judge's "interrogatory" were given to the grand jurors, but as they rose to leave Avery quickly got up and asked if he could approach the bench before they went out. Newman impatiently consented, the jurors sat down again, and Avery and the other lawyers in the case went to the side of the bench away from the jury box to confer with Newman out of the jurors' hearing. Avery asked the Judge not to permit Dow to accompany the jurors, but Newman curtly dismissed the request, saying Avery knew full well that the prosecutor was always with "his" grand jury. At that, Avery said that if Dow was allowed to be with the grand jurors during their deliberations, then a lawyer from the witnesses' side should be allowed to be present, too, but Newman rejected this request as well. He didn't tell the grand jurors that they had the right to decide who would be present when they talked over their purpose in the case, that they could even fire the prosecutor and demand that a new one be appointed, or that they could refuse to take any orders from the court—in short, that they could use their broad powers as they deemed fit. In any event, they left the courtroom at eleven-thirty, and a recess was ordered until they returned.

When Newman left the bench, Grusse stared at the wall behind and above it where the word "Justice" was carved in relief on the oak panelling. Then she shook her head slowly and said, "This is the biggest farce I've ever seen put on. The Judge is covering himself on everything in case there's an appeal. First, he explained the grand jurors' duties to them, and then he asked their opinion, their personal opinion, about what their purpose is. Of course, they're going to say that their purpose conforms to their duties to investigate crime in the District of Connecticut. What else *can* they say? If they have any doubt about what they're supposed to say, Dow is in there to help them out." She shook her head again and fell silent.

A lawyer who followed the Grusse-Turgeon case but wasn't involved in it directly, and who had occasionally tried cases before Judge Newman, said that Newman's conduct throughout the affair had been typical of his and many other federal judges' approach to the law. "Newman is a decent sort of fellow and very smart," he said. "He's known as a liberal, because he always gives the appearance of being fair, but actually he's a tough law-enforcement guy. A balancing test always goes on in his mind, and the government always wins. He's not much different from other federal judges, except that he's more intelligent than most of them. Basically, like them, he reflects the system. He has an interest in seeing it operate without such gross abuse that the people will rise up and throw it out.

That's the best way to preserve the system, of course. From what I've seen of him in action, I'd say that he really tries to apply the law. He knows that while the law itself isn't against the individual, the grand jury is against the individual. So he can go along strictly applying the law, because he's fairly certain that the grand jury will come out for law enforcement rather than the individual every time. That way, he looks great, and the government gets its way. It seems pretty clear that there was abuse of the grand-jury process and that there may have been illegal surveillance in the Grusse-Turgeon case. But Newman got around all that by putting a gloss of fairness on his decision to lock up these women."

An hour after the grand jurors went out, the foreman returned alone and handed the court clerk a piece of paper. The clerk gave it to Judge Newman, who read it and announced, to no one's surprise, that the grand jurors had unanimously agreed that their purpose was to investigate federal crimes committed in Connecticut. That settled the issue of grand-jury abuse. Then the Judge gave Dow three more days in which to collect affidavits from various government agencies on the question of surveillance, and set June 6th for a hearing on that issue. He was clearly irritated by the delay, and when he left the bench Grusse said to Avery, "You know, it's incredible the way everyone acts as if it's all right to tap people, even illegally. There's a federal judge, who's sore at a federal prosecutor for taking so much time, and who says, in effect, 'Haven't you got this dirty business computerized by now?' "

At ten o'clock on the morning of June 6th, Dow announced in court that the government had completed its search of surveillance records, and added, "That search was negative." Glen argued that, given the kind of radical and criminal clients she and Avery represented, it would be extremely unlikely that the two of them or people they talked to hadn't been tapped. Newman showed little interest in this argument. He had directed the government to examine its surveillance files not only in the F.B.I. office in Hartford and in the Washington offices of the various government agencies that commonly employ such surveillance but in the field offices of the F.B.I. and the Justice Department in places where Saxe and Power were believed to have lived, such as Lexington, Kentucky, and Philadelphia.

Now Glen pointed out that the government had failed to examine its records in these field offices as ordered by the court, and demanded that the subpoenas be quashed on that ground. As she sat down, the audience in the back half of the courtroom—about a hundred people, most of them women in their twenties and thirties—burst into applause. The Judge threatened them with explusion or "other penalty," and when the tumult subsided he denied Glen's motion. Toward the end of the hearing, Newman paused for a long time, and then said that the witnesses' claims had already been largely, if not entirely, ruled on by the Court of Appeals, and that nothing new and significant had been offered to change his view of the issues. The claims about grand-jury abuse, he went on, were no different from those made in the previous contempt case, and this time he had taken the additional precaution of asking the grand jurors their personal opinion of their investigative purpose.

In the end, he added, the witnesses' overall attack was not on this grand jury's procedure but on the grand-jury system itself. The President of the United States wasn't above that process, he continued, so clearly these two witnesses were not above it. (Of course, President Nixon had refused to appear before a grand jury while in office, and he had not been found in contempt.) As for the claim about wire-tapping, Newman said that he was quite satisfied with the government's denials, which he found "more than adequate." Finally, he announced that he would issue a formal order later that day finding the two witnesses in contempt.

Avery got up to plead for leniecy in sentencing, and suggested that the court might impose "something less than confinement" or might at least limit any confinement to a specific period. Pointing out that the women had already spent twenty-eight days in prison, and that their lives had been "held in abeyance" since they were first subpoenaed more than four months before, he asked the Judge to consider "the constant strain, the constant demands, the travail" they had endured. Their refusal to testify, he went on, had been based from the start on principle, and because of that principle they would continue to refuse to testify, whatever "coercive penalty" was meted out to them, so any coercion would actually amount to punishment, which was a violation of the law in civil-contempt cases.

Finally, Avery cited the broad public support for the women, including that of the National Council of Churches, Judge Newman broke in to say that the case wasn't "a popularity contest," and that he wouldn't be influenced in any manner by publicity. At that, Grusse and Turgeon smiled at each other. Then Rosen got up and said, "No one should be compelled to choose between perishing or betraying a friend." The women had not been charged with any crime, he continued, but were being punished for refusing to betray their belief in the right to privacy. When Glen took her turn, she asked the Judge to allow a representative of the National Council of Churches to speak on behalf of the two women. Newman refused, saying that he had read the Council's *amicus curiae* memorandum and would leave it at that. "These witnesses are *women*," Glen said angrily. "They're here because they are women. . . . Letting me address you as a woman merely because I'm a lawyer and not letting women who represent this community, this state, this country address you is an outrage!" She stalked off to her seat, and Newman calmly turned to Grusse and Turgeon and asked if they had anything to say.

Turgeon went to the bench to speak for both of them. "We have refused to answer these questions on the basis of principle," she told the Judge. "Imprisonment is not coercion but punishment. We haven't done anything wrong, and I think we should either be charged and tried or let go." Finally, Dow got up and said that a robbery had been committed in Massachusetts in 1970 and that a policeman who had nine children had been killed. It wasn't true, he added, that the government was using the investigation of that crime and the search for those who were accused of committing it to find out more about the women's movement.

Judge Newman gave Grusse and Turgeon four days to settle their affairs, and ordered them to be taken into custody by the U.S. marshal at noon on Tuesday, June 10th, and to be imprisoned until they volunteered to testify or until the grand jury term ran out—in sixteen months' time.

The audience immediately began chanting, "Silence is our right, is our right, is our right! With our sisters we will fight!" The marshal, who had been standing at the door, moved toward them bellowing, "Silence!" They obeyed, except for a couple of men who cried out, "Fascist! Fascist!" Finally, they fell silent, too. Judge Newman threatened anyone who disrupted the proceedings again with contempt-of-court sentences, and then he adjourned the proceedings and left the bench.

Turgeon turned toward Grusse and shrugged helplessly. With a wan smile, Grusse nodded. Neither of them spoke until

a dozen or so women and a couple of men from among the spectators came up and embraced each of them in turn. A young woman with long brown hair and gold-rimmed glasses kissed each of them, then burst into tears and hurried out. Glen watched the group in silence. "God, I hate courtroom practice," she said. "It's so brutal."

Given the Court of Appeals' rejection of their appeal back in February, Grusse and Turgeon decided that another appeal would be a waste of everyone's time. The time spent on the case by the three lawyers had brought them little financial return—modest government pay for Rosen and Glen, who had been appointed by the court to represent the women as indigents, plus a relatively small contribution to the defense collected by the Grand Jury Defense Committee. The lawyers split the total, which came to about a tenth of what their fees would ordinarily have been. Despite their financial sacrifice, they were prepared to continue the legal battle, but in the end they agreed with their clients that an appeal would be futile.

That evening, Turgeon and Grusse left New Haven to spend the weekend at a women's retreat being held at a nearby camp in the woods. "That was what we needed most of all," Grusse said the following Monday. "We saw all our friends, but nobody talked about the case. We discussed *women's* problems, not ours, and that was just right. They know that there are real things at stake here—our personal integrity, our individuality, our independence, our sense of being ourselves—and they gave us both love and space. I've learned a lot from them. And I've learned a lot more from our experience. It has confirmed for me what the radicals have been saying about our society all along. Still, I'd hesitate to call myself a revolutionary. That word means violence to me, and I hate and fear violence of any kind. All I know for certain now is that I don't feel responsible or accountable to the United States government, because it's not responsible or accountable to me. I don't know what the future will bring—I might finally be forced into becoming a revolutionary, just as I was forced into this resistance—but for now all I want to do is fight injustice."

Turgeon listened to her and nodded slowly. "One of the big surprises in all this for me was I found I could stand up for a principle," she said. "That brought out traits in me that I didn't know were there, both strengths and weaknesses. It showed me how much I need other people, like our friends and supporters on the retreat. I *really* need them. Without the people who stood by us, I never would have made it. Then I learned how far I will go for something I believe in and how stubborn I can be. I've also been surprised by how political this has made me. Before I got involved in this case, I wasn't interested in politics at all. But now I see that all politics are personal, because they affect each of us every minute of our lives. I've always been afraid of any kind of authority, and I'm no less intimidated by it now, but at least I know where I stand and that I can stick there if I have to for my own sake. From now on, I won't talk to anybody about anybody. What goes on between two people *belongs* to those people."

Turgeon paused thoughtfully for a few moments, then went on, "Of course, all this has had a bad side, too. I relaize that my future is probably going to include some kind of government agent. The government knows who I am now, and it will probably keep an eye on me and come by and try to question me from time to time just to keep me in line. And whatever I get involved in in the future, I will always wonder in the back of my mind whether maybe the person I'm dealing with is an undercover agent. That's pretty frightening. And the threat of being watched hangs over my friends, simply because they are my friends. So in a way I feel less free, and people close to me feel less free. Someone even said to me the other day that I'm not free at all, that I'm being used by others for their own political ends. The idea that this is all some sort of power game really denies who I am—an individual acting on her own. Who I am is why I had to do what I've done. If I hadn't, I could never have been myself again."

After a week of cold, overcast, and rainy weather, June 10th turned out to be a pefect rday, with a clear Caribbean sky and the temperature in the low seventies. At eleven o'clock that morning, Grusse and Turgeon attended a rally on their behalf held on the New Haven Green—a spacious, well-tended park opposite the post office. About a hundred people, again mostly young women, were there, and they milled about in small groups, talking and laughing together. Avery was on hand, and he watched his clients as they stood chatting animatedly with a couple of friends. He looked off at the fresh spring green of the park and shook his head. "It's terrible for a lawyer the day a client is taken away," he said. "But to go to prison on an incredibly beautiful day like this is too much—too much."

A minute later, the group formed into ranks of six, with its members placing their arms around each others' shoulders or waists, and began walking at a leisurely pace toward a First World War monument—a flagpole atop a marble-and-bronze base—a few hundred yards away, near the center of the Green. As they marched, they sang, "Some of our sisters are subpoenaed./*Bella ciao, bell ciao, cido, ciao./* Their silence makes us speak out: We want our revolution now."

The group stopped at the monument, where several television and newspaper reporters were waiting, and Turgeon read a brief statement. "It is not out of respect for the courts, or for the unjust treatment we have received in those courts, but out of respect for ourselves and the people who have supported us that we are here," she said, and then repeated the charges about the government's persecution and its political motives.

Afterward, the group sang several women's-liberation songs, some of its members came up to say goodbye to the two women, and then the gathering formed into ranks again and headed off toward the post office. In the corridor on the second floor, the marshal looked out the window as the file moved toward and across Church Street. "I wish it had rained," he said to a deputy marshal. "Rain always keeps down the crowds." At that moment, the crowd reached the front door of the post office, and suddenly began chanting, "Silence is our right, is our right, is our right!" A couple of minutes later, the post-office elevator stopped at the second floor, the door slowly slid back, and Grusse, Turgeon, Polan, Avery, and Rosen stepped out.

"Are you ready to surrender, Mr. Avery?" the marshal asked. Avery nodded, and the two women stepped forward. The marshal took up a position at one side of them, the deputy took the other flank, and the group walked rapidly down the hallway to the marshal's office. This time, there was no special police guard on hand, but Turgeon and Grusse were again searched for weapons, handcuffed, chained together at the waist, and driven under guard to the Connecticut Correctional Institution at Niantic.

On September 26th, Avery filed a motion and a supporting brief with the District Court requesting a "revocation of order of confinement." Despite the court's decision that his clients' arguments "in defense of their silence are either legally insufficient or irrelevant," Avery wrote, "they have remained committed to the moral and ethical principles, and to their constitutional rights as they understand them, which underlie their decision not to respond to the questions of the government before the grand jury. They will continue to refuse to answer the questions of the government before the grand jury."

Accordingly, he concluded, "continued incarceration of the witnesses would be punitive rather than coercive." Seven weeks later, Judge Newman rejected the request. Speaking in general of witnesses who are found in contempt—"contemnors," in legalese—he said, "If a contemnor's own insistence that he will not answer could be used to hasten his release, the coercive purpose of the civil-contempt remedy would be turned upside down. The contemnor would secure his release as soon as he demonstrated the continuing contumacious nature of his conduct." And in response to Avery's contention that the grand-jury investigation of the case had not continued and was not "serious," Newman said, "Those who have thwarted its progress cannot realistically complain of its lack of success."

It seemed clear to the lawyers for Turgeon and Grusse that Judge Newman had no intention of releasing them before the grand jury's term expired, on September 19, 1976. In an attempt to make life somewhat easier for them in prison, Avery wrote the Judge a personal letter in late November asking him to intervene on their behalf. As it happened, they had been transferred in late summer to the Niantic prison's "honor cottage," which was reserved for prisoners who had been, Turgeon said later, "real, real good." The policy at the prison was to allow ordinary inmates a forty-eight-hour weekend furlough every sixty days, whereas residents of the honor cottage were allowed such furloughs, plus six extra hours, every thirty days.

Grusse and Turgeon had applied for a furlough soon after moving into the honor cottage, but so far had not been granted one—that it had to be approved by the District Court, since they were not, like the other inmates, "sentenced" prisoners but could obtain their release anytime they decided to cooperate with the government. Now Avery asked Judge Newman to allow the two women a furlough for Christmas, and said, "Whether or not they are released for brief periods of time [for] holiday or other furloughs is hardly likely to affect their decision not to testify.

Indeed, it seems to me that a brief visit outside the institution with family and friends, if it has any effect, might make long-term incarceration ever more painful than it already is. In any event, it certainly will not make the lengthy confinement these women now face any less coercive." And, he added, "It would seem not only ironic but unfair if Ms. Grusse and Ms. Turgeon, who are the only women at Niantic who have not been convicted of any criminal offense, have less privileges than other prisoners."

A couple of weeks later, before Newman had replied, Rosen learned that Dow was disturbed about the Grusse-Turgeon case, and wanted to find some way of settling it other than by keeping the two women in prison indefinitely. Rosen immediately went to see Dow, who told him that he had formerly been convinced that such middle-class women as Turgeon and Grusse wouldn't be able to endure prison life, and sooner or later would agree to testify. Now, he said, he was convinced that they would never talk. While he thought their decision was foolish, he had come to accept it, but he was upset by the adverse publicity the government might get if it let them out of prison now. Rosen knew that there had been a lot of pressure on Dow—much of it generated by the Grand Jury Defense Committee—to release the women, so he quickly pointed out that the grand-jury investigation had obviously come

to a standstill and couldn't proceed without the women's testimony, which would never be forthcoming. Dow heard him out, nodded, and, after a few minutes' thought, said that he would drop the case.

On December 18th, Dow wrote Judge Newman a letter outlining the facts in the case and concluding, "Although the grand jury's investigation remains incomplete, the subpoenas for Grusse and Turgeon's testimony are withdrawn at this time and need no longer be enforced by adjudication of contempt. It should be noted, however, that the investigation may develop further information which may cause the witnesses to be subpoenaed again." The Judge had no choice but to order the two released from prison. His order was filed with the court at twelve minutes after ten o'clock on the morning of December 19th, Grusse and Turgeon were informed at ten-thirty, and they left Niantic—for good, they hoped—at a little after one-thirty that afternoon. They had served a total of seven months and one week.

The first move the two women intended to make, after enjoying the holiday festivities, was to do whatever they could to help a woman named Jill Raymond, who had been sent to jail for contempt of court, together with four other women and a man, in Lexington, Kentucky, for refusing to talk to a federal grand jury there about Saxe and Power shortly after Grusse and Turgeon had defied the District Court in New Haven back in early February. The six in Lexington remained silent for several weeks, but finally the intolerable conditions in the local jail where they were locked up persuaded all but Jill Raymond to cooperate with the authorities.

When Turgeon and Grusse got out of Niantic, Raymond was still in jail—and, in fact, is there today, after serving more than a year for her silence. In early January of this year, Grusse and Turgeon telephoned a friend of Raymond's in Lexington and said they wanted to visit her in jail, and perhaps attend some rallies in her support. The friend gave them detailed instructions on which highway routes to take, and on January 7th the two set out, in Turgeon's Volkswagen, for the trip to Lexington. "We were followed all the way," Grusse said afterward. "At each state line, a different car, always with two men in it, would pick us up and keep us under surveillance. They were very obvious about it at times. One car followed us for a long while, and then it passed us very slowly, while the passenger carefully looked at both our rear and front license plates, and then he picked up a telephone and talked to someone. So we're not free even now."

In the view of one of the lawyers in the case, the authorities' continuing harassment of these women was further evidence that they were "just pawns in a great chess game being played by the government." He added, "They were never accused of any crime, yet they were treated worse than if they had been convicted felons. And, from beginning to end, their fate lay in the hands of Willie Dow. He tried to be a good man and to act justly, but he failed. In effect, he tried them, he sentenced them, and he let them out." In other words, ours is a government of men, not laws.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ASIAN DEVELOPMENT FUND

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 3103, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3103) to provide for increased participation by the United States in the Asian Development Fund.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. What is the pleasure of the Senate?

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

The PRESIDING OFFICER (Mr. HARRY F. BYRD, Jr.). Without objection, it is so ordered.

THE HELEN KELLER CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

Mr. RANDOLPH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 12018.

The PRESIDING OFFICER laid before the Senate H.R. 12018, an act to amend the Rehabilitation Act of 1973 to provide that the Center for Deaf-Blind Youths and Adults established by such act shall be known as the Helen Keller National Center for Deaf-Blind Youths and Adults, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

Mr. RANDOLPH. Mr. President, the House of Representatives acted on Monday of this week on this measure, bringing it before the Members of that body through the suspension of the rules.

I feel that it is proper for the RECORD to reflect that this is a bill that actually amends the Rehabilitation Act of 1973. It provides that the National Center for Deaf-Blind Youths and Adults be renamed "The Helen Keller National Center for Deaf-Blind Youths and Adults."

The Center provides rehabilitation services to handicapped people who are both blind and deaf. The Center also trains professional staff to work with deaf-blind youths and adults as well as conducting research that will benefit our deaf-blind population.

Millions of persons in this country are familiar with the name of Helen Keller. The story of her triumph over handicap is one that has inspired Americans generally, as they know what she, as one person, did. She was able to change the thinking of the American people to a great extent about the so-called handicaps of disabled individuals. This remarkable woman envisioned a national program which would meet the needs of our deaf-blind Americans.

I should like to add that construction of the Center has been completed at Sands Point, N.Y., and it is ready to begin its service to the severely handicapped. These services will be available not only to those who reside in New York, but to all deaf-blind Americans. In addition, the Center will be a prototype of programs for the deaf-blind internationally.

Mr. President, I conclude by asking unanimous consent to have printed in the RECORD a statement which has been given to the Senate Subcommittee on the Handicapped, which I have the responsibility to chair. The statement comes from Dr. Peter J. Salmon, who is the director of the National Center for Deaf-Blind Youths and Adults, which I have indicated is at Sands Point, N.Y. That statement was given on February 20 of this year during the subcommittee's oversight hearings on the implementation of the Rehabilitation Act of 1973.

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

STATEMENT

Mr. Chairman and Members of the Subcommittee:

My name is Peter J. Salmon, Director of the National Center for Deaf-Blind Youths and Adults.

Section 305 of Title III of the Rehabilitation Act of 1973 was transferred from the 1967 Amendments to the Vocational Rehabilitation Act with only very minor changes. This leaves the impression that the National Center for Deaf-Blind Youths and Adults has not yet been established. We would like to suggest that, in preparing the 1977 Amendments to the Rehabilitation Act of 1973, Section 305 of Title III might be reworded to reflect the existence of the National Center as an established, operating entity and to memorialize the late Helen Keller who has contributed so much to its becoming a reality. With this in mind, we are taking the liberty of enclosing a suggested rewording of Section 305 of Title III of the Rehabilitation Act of 1973 for the 1977 Amendments to the Act.

Our suggested redesignation of the National Center for Deaf-Blind Youths and Adults as the Helen Keller National Center for Deaf-Blind Youths and Adults is prompted by the fact that we and a great many others who have been interested in the Center from its inception feel that it would be appropriate to memorialize the late Helen Keller by naming it after her. She was still living during most of the planning for the Center and, in a very real sense, its operation represents the fulfillment of her longest and fondest dream.

You may note that in our suggested rewording, we have deleted the word "vocational" from ". . . of a center for (vocational) rehabilitation. . . ." near the end of Section 305(b). While the rehabilitation services we offer to many of the deaf-blind individuals we serve result in their employment and while employment, where feasible, is a preferred objective of rehabilitation, protracted severe deprivation, poor health, or other conditions frequently preclude employment as a realistic objective for deaf-blind individuals. Nonetheless, rehabilitation for this latter group can lead to a significant reduction in their dependency with resultant substantial improvement in their morale and the release of members of their families from the confinement of providing constant attendance for them so that they can realize greater fulfillment in their lives. Further, the

reduction of dependency in deaf-blind individuals can make it practicable to transfer many of them from hospitals, nursing homes, or other total care institutions to institutions that are less expensive to operate and that provide an environment that is more appropriate to their emotional and mental capabilities. If the authorization in the Rehabilitation Act were not limited to vocational rehabilitation, rehabilitation services to reduce dependency could be provided when indicated rather than being limited to the by-product of "failure" in vocational rehabilitation.

You will recall that you were instrumental in helping with the funding of the National Center, including construction. We are pleased to tell you that the new facilities for the National Center are practically completed and that we are already occupying the rehabilitation training and research building, which is being named for the late Mary E. Switzer, who was one of the prime movers in the development of the original authorization for the esatblishment of the Center and who worked so closely with the Congress in effecting the enactment of this authorization. We feel that in honoring Helen Keller by naming the National Center for Deaf-Blind Youth and Adults after her, we will not only recognize her great example and inspiration, but that much good from this action will accrue to the work of the Center, which, we believe, will serve as a model for services to the deaf-blind throughout the world.

Incidentally, Helen Keller's birthday falls on June 27th and this adds to our reason for wanting to accomplish the change of name suggested above.

Mr. RANDOLPH. Mr. President, finally, I think that what we do here today is fitting.

There are times when the reference to a center by the designation of a name can make that center more meaningful, because it does bring to our consciousness a person like Helen Keller. I think there will be a generally favorable response by the American people if the Senate acts in the way I have indicated we should today.

That is all I desire to say, Mr. President, I yield to my able friend from Alabama.

Mr. ALLEN. Mr. President, I am delighted that the distinguished Senator from West Virginia is taking this action in presenting this bill naming this wonderful center for Miss Helen Keller.

Miss Helen Keller was one of the most amazing, one of the most remarkable, one of the most brilliant persons who has ever lived. She overcame the handicaps of being dumb, of being blind, of being deaf. Her remarkable life has been an inspiration to countless millions of people all over the world. This fine lady and her name are revered all over the world. I would say that this lady is one whose memory is more beloved than hat of any other woman in history, because of her remarkable fight and her remarkable achievements under the handicaps that she had.

Miss Helen Keller was a native of my State of Alabama. We are proud of this lady, and her birthplace, her home, is preserved in Alabama as a historical shrine. People come from all over the world to see the circumstances under which Miss Helen Keller lived and to draw inspiration from meditating upon her life and her example.

I certainly agree with the distinguished Senator from West Virginia when he says that to name a center of this sort, that does help the handicapped, immediately tells the purpose of the center. It points out to all who are interested the type of work that goes on in that center.

I commend the distinguished Senator from West Virginia for the action he has taken and commend him for the honor that is being bestowed posthumously on Miss Keller, and pay tribute.

I had the pleasure of knowing her and knowing her quite well. My admiration for her achievements is boundless. I congratulate again the distinguished Senator from West Virginia for the action he has taken.

Mr. RANDOLPH. Mr. President, the Senator from Alabama (Mr. ALLEN) does this bill an added service by his support, based on his personal friendship and knowledge of a native Alabamian, Helen Keller.

I think that her name does epitomize triumph over handicap, but we think of more than that as we remember her. The faith she had and never lost was miraculous. She was the inspiration to literally hundreds of thousands of other people. Some people who were not handicapped from the standpoint of the loss of sight or the loss of hearing, came to a new belief that they, who were not afflicted, should do more than they were doing with their lives. So she served a double purpose. Her strength has gone out to others. Our indebtedness to her makes this tribute, I think, a very appropriate action.

Mr. President, I have no further comment.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 12018) was passed.

ASIAN DEVELOPMENT FUND

The Senate continued with the consideration of the bill (S. 3103) to provide for increased participation by the United States in the Asian Development Fund.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending business, laid aside temporarily, S. 3103.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays? The Chair hears none. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, this bill, S. 3103, to provide for increased participation by the United States in the Asian Development Fund, proposes a modest investment in a multilateral activity of significant long-term importance to the United States. It would authorize the appropriation of $50 million as an additional U.S. contribution to the Asian Development Fund.

There are 41 members of the Asian Development Bank and Fund. Our share of the total subscribed capital is about 11 percent. Ours is not the largest contribution and we are only 1 of 14 non-Asian members.

Seventy-two percent of the Bank and Fund's capital is contributed by the Asians themselves, the largest contributor being Japan at $603 million—compared to a total U.S. contribution of $362 million.

Mr. President, I call to the attention of the Senate that these figures are significant, very significant, as far as this country is concerned on the basis of the amount which we contribute to this Bank in relation to what we do in other banks in other areas.

The Asian Development Fund is the concessional lending branch of the Bank. The organizers of the Bank recognized from the outset a need to provide financing on concessional terms to meet the needs of its poorest developing member countries.

To date the Fund has approved concessionary loans totaling $659 million. The principal borrowers to date have been Bangladesh, Indonesia, Pakistan, Sri Lanka, and Nepal.

Only Asian countries with 1972 per capita incomes of less than $300 are eligible. In 1974 and 1975 more than 90 percent of Fund loans were granted to countries with a per capita GNP below $130.

The Fund is truly in need of additional subscriptions to carry on this work. As of the end of last year only $41 million in lendable resources remained.

To date the Congress has authorized $150 million for the Fund. Of this amount $125 million has been appropriated. The $50 million contribution for which authorization is sought in this bill represents the same level of funding appropriated in fiscal years 1974 and 1975. This initial U.S. payment of $50 million is necessary for the successful implementation of a new ADF replenishment package. Other members contributions are contingent upon ours.

The amount requested is included within the President's budget and the Senate's first concurrent budget resolution.

This is a successful self-help institution. It is an effective vehicle for expressing U.S. interest in the development of the poorest Asian nations. The Committee on Foreign Relations strongly recommends that the Senate approve this legislation.

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

Mr. MANSFIELD. Yes, indeed.

Mr. ALLEN. I believe I understood the majority leader to say that the United States participates to the extent of about 11 percent in the funding for the Asian Development Bank.

Mr. MANSFIELD. That is correct.

Mr. ALLEN. This $50 million that is being tossed in the pot now by the United States, will that in due course and very shortly be matched by the other contributors to this fund so that there will be approximately half a billion dollars which will be available?

Mr. MANSFIELD. It is my understanding that other contributors will add $180 million more.

Mr. ALLEN. Actually then it is considerably more than 11 percent where the difference would only be—we would be

paying about 25 percent of this added increment.

Mr. MANSFIELD. That is correct in this instance. But when the total was subscribed as far as the capital was concerned, we contributed 11 percent.

Mr. ALLEN. I believe I noticed in the committee report that about 87 percent of the money from the Fund in the form of loans has gone to four countries; is that correct?

Mr. MANSFIELD. That is correct, Bangladesh, Indonesia, Pakistan, Sri Lanka, and Nepal, five.

Mr. ALLEN. Five countries.

Mr. MANSFIELD. And Indonesia has received none since 1974 because they are not eligible based on the per capita income.

Mr. ALLEN. I thank the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that certain portions of the report be printed in the RECORD at this point, along with the remarks which have just been made.

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

ASIAN DEVELOPMENT BANK

The Asian Development Fund is the concessionary loan window of the Asian Development Bank. The Bank was established in 1966 to provide loans and technical assistance to, and promote investment in the Asian area.

Membership in the Bank is open to all members of the UN and its specialized agencies and now includes 41 countries (27 regional, 12 European, the United States, and Canada). Members include nearly 60 percent of the total population of the less developed world (excluding China and other less developed Socialist countries) and four-fifths of the population of countries designated by the UN as Most Seriously Affected Countries (MSA) by the energy crisis. The average per capita income in the region in 1972 was $135. In 1975 the ADB had an aggregate ordinary capital subscription of over $3 billion. (See Appendix —, Chart I for more detail.)

The Asian Bank inaugurated its lending program in 1968 and has now extended $1.9 billion worth of loans. Initially the industrial sector was emphasized, receiving 28 percent or $578 million. Electric power received 25 percent of loans and transport and communications used up to 20 percent. In 1975, however, in response to the food and energy crisis, the ADB reevaluated its priorities to emphasize the agricultural sector. In that year agriculture received $165 million or 29 percent of total loans, more than four times the amount received in 1974. The agricultural sector includes forestry, fisheries, irrigation, agro-business, agricultural credit and integrated area development which has been particularly emphasized. (See Appendix —, Charts II and III for more detail.)

Loans have been extended to 21 out of 23 of the Bank's borrowing countries although the four largest borrowers (the Philippines, Korea, Indonesia and Thailand) received 81 percent of resources lent in 1975. Regular capital loans carry a 20-year maturity and the interest rate is two-tiered; 8.25 percent is the minimum, but countries with GNP per capita above $850 (Hong Kong and Singapore) are charged 9.25 percent.

ASIAN DEVELOPMENT FUND

When the Asian Development Bank was established in 1965 the need for a concessional lending facility was recognized. Accordingly, provision was made in the Articles of Agreement for the establishment of Special Funds which could be used "to guarantee or make loans of high development priority, with larger maturities, larger deferred commencement of repayment and lower interest rates than those established by the Bank for its ordinary operations." To implement this provision the Articles authorized the use of not more than ten percent of the paid-in capital to establish one or more Special Funds. The Bank was also authorized to accept bilateral contributions for the Special Funds.

Initially, there were three Special Funds: one for agriculture, one for multipurposes, and one for technical assistance. Contributions to these funds from 1968 to 1974 totalled $262.2 million. Considerable variation in terms and conditions for these funds and the lack of sufficient overall concessional resources led the Board of Governors of the ADB to consolidate the funds into a single Fund, the Asian Development Fund. It was established in June 1974 with an initial target of $525 million in capital resources and actual resources of $237 million from 10 donor countries. By the end of 1975, 14 countries were donors and paid-in funds amounted to $469 million.

Resources of the Fund are used to assist the poorest countries with projects which are considered urgent. Since the establishment of the Fund only countries with a per capita GNP below $300 and pronounced problems with debt servicing are eligible for concessional financing. This has effectively eliminated Thailand, Korea and the Philippines. India has never borrowed from the Fund, although it has contributed $285 million (half in rupees) to the Asian Development Bank. Principal recipients have been Bangladesh, Sri Lanka, and Pakistan. In both 1974 and 1975 more than 90 percent of Fund loans were granted to countries with a per capita GNP below $130.

Fund loans carry a 10-year grace and 40-year amortization period with a one-percent service charge and interest rates ranging from 2 to 4 percent. Some loans combine capital and concessionary funds for countries found ineligible for strictly concessionary terms.

In aggregate terms almost $700 million out of a total of $2,600 million in loans has been granted on concessionary terms.[1] Fund loans increased from 9 percent of total commitments in 1970 to 32 percent in 1974. A total of $456 million in concessional financing was extended in 1974 and 1975. A shortage of resources forced a decrease to 30 percent or $165 million in 1975, although the goal had been $300 million.

NEED FOR NEW RESOURCES

The Committee is aware of a growing need for investment finance and most especially for concessional financing in the Asian area. The original commitments to the Asian Development Fund were designed to cover the 1973–75 period. By early 1975 the ADF was forced to cut back its level of lending and by the end of that year only $41 million in lendable resources remained. During 1975 the Board of Governors deliberated on a Fund replenishment in connection with ongoing discussions about a capital replenishment. In December the Board authorized a Fund replenishment amounting to roughly 150 percent of initial country contributions or $830 million to cover the 1976–78 period. This will entail over $300 million in contributions from Asian countries and $200 million from others.

U.S. PARTICIPATION IN THE ADB AND ADF

The United States has participated in the Asian Bank since its inception in 1966. Out of total Bank resources of more than $3 billion, the U.S. has provided $345 million. Congress authorized $200 million in 1966 and appropriated that amount in subsequent years. In 1974 Congress authorized $362 million, of which $145 million has now been appropriated.[1a] (See Appendix—Chart IV for more detail.)

The Congress authorized $150 million as the initial U.S. contribution to the Fund: $100 million in 1972 and $50 million in 1975. To date $125 million of this has been appropriated.

If the United States agrees to the recommended 150 percent formula for the current replenishment and maintained its 28 percent share in the Fund, the U.S. subscription would be $231 million to be paid in from 1976 to 1978. The U.S. representative abstained from voting on the replenishment resolution although U.S. support in principle was expressed. The resolution permits donor countries to charge or establish their contribution levels until June 1976. Consultations with members of the bank are currently being conducted about the exact amount which the Administration should agree to as the overall U.S. contribution. A figure of $150 million would represent no increase over the initial U.S. input, while $180 million would retain a U.S. share of 25 percent. The $50 million authorization for FY 1977 contained in this bill would represent the first installment of the overall replenishment. Subsequent authorization for the remaining sums would need to be requested.

COMMITTEE RECOMMENDATION

The Committee on Foreign Relations believes that during a period when U.S. relations with most Asian countries are undergoing substantial changes, continued participation in the Asian Development Fund is an important and effective means to demonstrate the United States' ongoing interest in contributing to the most basic development needs of the Asian region. The ADF's lendable resources were almost exhausted by the end of 1975, and it needs additional funds if it is to continue providing concessional financing to the poorest countries with pressing investment needs. In December 1975, the Board of Governors of the Asia Development Bank approved a total replenishment of the resources of the ADF amounting to $830 million. Other countries have agreed to a three-year payment schedule starting in 1976. S. 3103 contains a $50 million authorization for U.S. participation which would be limited to one year, fiscal year 1977.

The Foreign Relations Committee believes that it is important that the United States make this first payment to the ADF replenishment in order to ensure a continuing role for the United States in an institution for which the United States was the key nonregional founder. Furthermore, the ongoing participation of other countries is contingent upon U.S. contributions in 1977. The Committee therefore recommends that the Senate approve this legislation.

The PRESIDING OFFICER. If there be no further amendment to be proposed, 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.

Mr. MANSFIELD. Mr. President, I yield to the distinguished Senator from Tennessee.

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[1] Total Fund resources include net income and up to 10 percent of normal Bank capital funds.

[1a] In addition, the United States paid $41 million to the ADB in accordance with the maintenance of value provision which compensates for inflation and exchange rate fluctuations.

VISIT TO THE SENATE BY MEMBERS OF THE FRENCH SENATE

Mr. BROCK. Mr. President, we have the privilege of a visit from the President of the French Senate, President Poher. I would like to welcome him to the Senate and tell him that we are very pleased and grateful for his presence.

I ask unanimous consent that the Senate may stand in recess for 2 minutes in order that we may greet our visitor.

Mr. MANSFIELD. Mr. President, reserving the right to object, at the conclusion of the 2 minutes, I ask unanimous consent that the rollcall begin immediately on the pending business.

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

There being no objection, the Senate, at 2:04 p.m., recessed until 2:06 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WEICKER).

ASIAN DEVELOPMENT FUND

The Senate continued with the consideration of the bill (S. 3103) to provide for increased participation by the United States in the Asian Development Fund.

The PRESIDING OFFICER. Pursuant to the previous order, the yeas and nays having been ordered, the question is, Shall the bill pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Florida (Mr. STONE), and the Senator from California (Mr. TUNNEY), 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 Washington (Mr. JACKSON), would have voted "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), and the Senator from Delaware (Mr. ROTH), are necessarily absent.

I also announce that the Senator from New York (Mr. JAVITS), is absent on official business.

The result was announced—yeas 52, nays 32, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—52

Abourezk	Cranston	Hathaway
Baker	Culver	Hollings
Bayh	Dole	Humphrey
Beall	Fong	Kennedy
Bellmon	Ford	Leahy
Bentsen	Glenn	Mansfield
Biden	Gravel	Mathias
Brooke	Griffin	McGee
Case	Hart, Gary	McGovern
Chiles	Haskell	McIntyre
Clark	Hatfield	Metcalf
Mondale	Pearson	Stevens
Morgan	Pell	Stevenson
Moss	Percy	Taft
Nelson	Schweiker	Weicker
Nunn	Scott, Hugh	Williams
Packwood	Sparkman	
Pastore	Stafford	

NAYS—32

Allen	Eagleton	Proxmire
Bartlett	Eastland	Randolph
Brock	Fannin	Scott,
Buckley	Helms	William L.
Bumpers	Hruska	Stennis
Burdick	Johnston	Symington
Byrd,	Laxalt	Talmadge
Harry F., Jr.	Long	Thurmond
Byrd, Robert C.	Magnuson	Tower
Cannon	McClellan	Young
Curtis	McClure	
Domenici	Montoya	

NOT VOTING—16

Church	Hartke	Ribicoff
Durkin	Huddleston	Roth
Garn	Inouye	Stone
Goldwater	Jackson	Tunney
Hansen	Javits	
Hart, Philip A.	Muskie	

So the bill (S. 3103) was passed, as follows:

S. 3103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Asian Development Bank Act (22 U.S.C. 285–285h) is amended by adding at the end thereof the following new section:

"SEC. 22. (a) The United States Governor of the Bank is hereby authorized to agree to contribute on behalf of the United States $50,000,000 to the Asian Development Fund, a special fund of the Bank, in accordance with and subject to the terms and conditions of Resolution Numbered 92 adopted by the Bank's Board of Governors on December 3, 1975.

"(b) In order to pay for the United States contribution to the Asian Development Fund, there is hereby authorized to be appropriated without fiscal year limitation $50,000,000 for payment by the Secretary of the Treasury.".

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EAGLES NEST WILDERNESS, ARAPAHO AND WHITE RIVER NATIONAL FORESTS, COLO.

Mr. METCALF. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 268.

The PRESIDING OFFICER (Mr. BROCK) laid before the Senate the amendment of the House of Representatives to the bill (S. 268) to designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado, as follows:

Strike out all after the enacting clause, and insert: That, in accordance with subsection 3(b) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132(b)), the area classified as the Gore Range-Eagles Nest Primitive Area, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Eagles Nest Wilderness—Proposed", dated May 1973, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the "Eagles Nest Wilderness" within and as part of the Arapaho and White River National Forests comprising an area of approximately one hundred and thirty six thousand seven hundred and fifty acres.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Eagles Nest Wilderness with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Eagles Nest Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Gore Range-Eagles Nest Primitive Area is hereby abolished.

Mr. METCALF. Mr. President, I move that the Senate disagree to the amendment of the House to S. 628 and 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. JACKSON, Mr. METCALF, Mr. HASKELL, Mr. ABOUREZK, Mr. HATFIELD, and Mr. MCCLURE conferees on the part of the Senate.

RESUMPTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the resumption of routine morning business with statements limited therein to 5 minutes each.

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

ORDER FOR ADJOURNMENT TO MONDAY, MAY 10, 1976

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 Monday next.

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

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

ORDER FOR RECOGNITION OF SENATOR GOLDWATER AND A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized on Monday, Mr. GOLDWATER be recognized for not to exceed 10 minutes, after which there be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m. with statements limited therein to 5 minutes each.

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

SUPPLEMENTAL APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 1 p.m. on Monday, May 10, 1976, the Senate proceed to the consideration of H.R. 13172, the second supplemental appropriations bill.

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

(Later in the day the following proceedings occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order mandating the taking up of the supplemental appropriations bill at 1 p.m. on Monday be vitiated.

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

ORDER AUTHORIZING THE COMMITTEE ON THE BUDGET UNTIL MIDNIGHT FRIDAY, MAY 7, 1976, TO FILE CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 109

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Budget have permission until midnight Friday to file a conference report on Senate Concurrent Resolution 109, the first concurrent resolution on the budget.

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

ORDER AUTHORIZING THE PRESIDENT OF SENATE, THE PRESIDENT PRO TEMPORE OF THE SENATE, AND THE ACTING PRESIDENT PRO TEMPORE OF THE SENATE TO SIGN ENROLLED BILLS AND RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until 12 noon on Monday next the President of the Senate, the President of the Senate pro tempore, and the Acting President of the Senate pro tempore be authorized to sign all duly enrolled bills and joint resolutions.

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

ORDER FOR SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, during the adjournment of the Senate over until Monday next at 12 noon, the Secretary of the Senate be authorized to receive messages from the House of Representatives and the President of the United States.

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

ORDER FOR RECOGNITION OF SENATORS BARTLETT AND MANSFIELD ON MONDAY, MAY 10, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after Mr. GOLDWATER has been recognized under the order previously entered, Mr. BARTLETT be recognized for not to exceed 15 minutes, and that Mr. MANSFIELD then be recognized for not tc exceed 10 minutes.

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

ORDER FOR REFERRAL ON SENATE RESOLUTION 434

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senate Resolution 434 be referred simultaneously to the Committees on Foreign Relations, Armed Services, Appropriations, Judiciary, and Budget, with authority in each committee to make an individual report directly to the Senate.

Mr. GRIFFIN. Mr. President, reserving the right to object, I wish to ask a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. What is the effect of this request?

The PRESIDING OFFICER. The effect will be that each committee to which the bill is referred would be entitled to file a separate report without regard to any other committee or without requiring a joint report of the several committees.

Mr. GRIFFIN. Whereas under the agreement previously, the several committees had to file a joint report, as I understood it.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. If one of the named committees, under the request now pending, were to report the resolution, would it then go on the calendar of would it still be pending in the other committee?

The PRESIDING OFFICER. Under the practices of the Senate, that report would be held in abeyance until the other committee report and it would not go on the calendar.

Mr. GRIFFIN. It would not go on the calendar.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. I wish to be certain of that because, if it does go on the calendar, this arrangement would, in effect, set up a kind of race among the committees to any one reporting it. It would then go on the calendar and the referral to the other committee would be academic.

The PRESIDING OFFICER. That has been the practice of the Senate in the past.

Mr. GRIFFIN. So it would not go on the calendar until the other committees also reported?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. With that clear understanding, Mr. President, I shall not object.

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

Mr. ROBERT C. BYRD. Mr. President, I think the leadership would hesitate to call the matter up until it had been considered by all of the committees named, in any event, may I say to the distinguished Republican assistant.

ORDER AUTHORIZING SENATORS UNTIL 5 P.M. TODAY TO ENTER STATEMENTS AND INTRODUCE BILLS, RESOLUTIONS, MEMORIALS, AND PETITIONS IN THE RECORD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 5 p.m. today to enter statements in the RECORD and to introduce bills, resolutions, memorials, and petitions in the RECORD.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 noon on Monday, next.

After the two leaders or their designees have been recognized under the standing order, Mr. GOLDWATER will be recognized for not to exceed 10 minutes, Mr. BARTLETT will be recognized for not to exceed 15 minutes, and Mr. MANSFIELD will be recognized for not to exceed 10 minutes, after which there will be a period for the transaction of routine morning business, not to extend beyond 1 p.m., with statements therein limited to 5 minutes each.

As to what will be taken up at 1 p.m., I cannot say at this time, but I suggest that it will be either the supplemental appropriations bill or Senate Resolution 400, a resolution establishing a Standing Committee on Intelligence Activities.

Rollcall votes are anticipated on Monday.

ADJOURNMENT UNTIL MONDAY, MAY 10, 1976

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 12 noon on Monday next.

The motion was agreed to; and at 2:41 p.m. the Senate adjourned until Monday, May 10, 1976, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate May 6, 1976:

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Rolland Valentine Heiser, xxx-... xxxx Army of the United States (brigadier general, U.S.Army).

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. William Charles Gribble, Jr., [redacted] Army of the United States (major general, U.S. Army).

IN THE AIR FORCE

The following cadets, U.S. Air Force Academy, for appointment in the Regular Air Force in the grade of second lieutenant, effective upon their graduation, under the provisions of section 8284 and 9353, title 10, United States Code. Date of rank to be determined by the Secretary of the Air Force:

Acock, Danny J., [redacted]
Adams, Robert R., [redacted]
Agis, Edward, [redacted]
Alexander, Gerald F., Jr., [redacted]
Alis, Richard C., [redacted]
Allan, Charles T., [redacted]
Allen, Calvin L., [redacted]
Allison, Jerry N., [redacted]
Amara, Joseph, [redacted]
Anderson, David N., [redacted]
Anderson, Herman S., [redacted]
Andrew, John M., [redacted]
Andrichak, John J., III, [redacted]
Angevine, Richard T., [redacted]
Anzjon, Leslie R., [redacted]
Appolloni, Thomas J., [redacted]
Arbutina, David R., [redacted]
Armor, John A., [redacted]
Armstrong, Carl E., [redacted]
Armstrong, Rex S., [redacted]
Arnett, Robert M., [redacted]
Ashenfelter, Robert D., [redacted]
Asselanis, Kosta G., [redacted]
Auberry, Thomas W., [redacted]
Auclair, Paul F., [redacted]
Ausink, John A., [redacted]
Austin, Larry R., [redacted]
Ayer, Clyde C., [redacted]
Baer, Leon R., Jr., [redacted]
Bailey, Peter M., [redacted]
Bair, Anthony E., [redacted]
Baker, Mark W., [redacted]
Ball, Gilbert T., [redacted]
Baltes, Thomas R., [redacted]
Banaszak, Michael R., [redacted]
Baran, Ronald B., [redacted]
Barber, Garald L., [redacted]
Barfield, James P., [redacted]
Barfield, Richard E., [redacted]
Barley, Kevin R., [redacted]
Barnes, Jay T., [redacted]
Barnett, Grady R., Jr., [redacted]
Bartlett, Robert B., [redacted]
Battig, William D., [redacted]
Bauer, James D., [redacted]
Bauschlicher, Jon M., [redacted]
Beatty, Daniel J., Jr., [redacted]
Beauchamp, Michael J., [redacted]
Beck, Steven P., [redacted]
Becker, Jeffrey D., [redacted]
Belcher, Michael F., [redacted]
Bell, Kirk D., [redacted]
Benton, Jimmie L., [redacted]
Berg, David H., [redacted]
Berg, Nolan I., [redacted]
Berger, Steven M., [redacted]
Berrian, Michael L., [redacted]
Birchman, Joseph A., [redacted]
Birtell, William P., [redacted]
Bischoff, Martin F., III, [redacted]
Bivins, Robert L., [redacted]
Blaikie, Thomas B., III, [redacted]
Blish, Jay D., [redacted]
Blythe, John M., [redacted]
Bollinger, Peter W., [redacted]
Boma, James R., [redacted]
Boomgaard, Gregory K., [redacted]
Borsare, Terrence E., [redacted]
Bosworth, Jamie L., [redacted]
Bowen, John J., [redacted]
Bowie, Thomas G., Jr., [redacted]
Boyd, Stephen P., [redacted]
Boyd, William D., [redacted]
Boyes, Larry G., [redacted]
Bozzuto, Richard C., [redacted]
Bradley, Kenneth B., [redacted]
Bradley, Roger P., [redacted]
Brandt, John E., [redacted]
Bricker, Gregory A., [redacted]
Britten, Scott M., [redacted]
Brock, Don E., [redacted]
Brown, Charles T., [redacted]
Brown, Jeffrey S., [redacted]
Brozovic, Richard L., [redacted]
Brundage, William H., [redacted]
Brunelle, Raymond R., Jr., [redacted]
Bruns, John R., Jr., [redacted]
Buchanan, Brad O., [redacted]
Buck, James W., [redacted]
Budelier, John A., [redacted]
Burbank, Patrick C., [redacted]
Burgie, Thomas J., [redacted]
Burnette, George G., III, [redacted]
Burns, John F., [redacted]
Bush, Robert W., [redacted]
Butdorf, Garold R., [redacted]
Butler, Lindsay W., III, [redacted]
Butler, Michael W., [redacted]
Bych, Robert P., [redacted]
Byerly, Joseph L., [redacted]
Byers, Michael B., [redacted]
Byers, Michael J., [redacted]
Byron, Michael W., [redacted]
Caballero, Ricardo S., [redacted]
Cady, James R., [redacted]
Cahdon, Neil T., [redacted]
Camden, Jimmy E., [redacted]
Campbell, John O., [redacted]
Campbell, John S., Jr., [redacted]
Campbell, Stephen C., [redacted]
Cantwell, Michael T., [redacted]
Carlson, Richard P., [redacted]
Carlton, Brian T., [redacted]
Carolan, William J., [redacted]
Carpenter, Stephen K., [redacted]
Carroll, William D., [redacted]
Carter, James E., [redacted]
Casella, Robert R., [redacted]
Casey, Raymand J., [redacted]
Casey, Richard L., [redacted]
Caslick, David R., [redacted]
Catton, John J., Jr., [redacted]
Cavalier, James S., [redacted]
Chang, Randy Y. U., [redacted]
Chase, Lewis D., IV, [redacted]
Chase, Robert W., [redacted]
Chavez, Mark C., [redacted]
Childress, Rory H., [redacted]
Chilton, Kevin P., [redacted]
Christian, Lance D., [redacted]
Christianson, John M., [redacted]
Clark, Douglas N., [redacted]
Clary, David E., [redacted]
Clement, Martin J., [redacted]
Clements, Donald W., [redacted]
Clements, Roger F., [redacted]
Clemovitz, Fred M., [redacted]
Clifford, William S., [redacted]
Cloud, David J., [redacted]
Coker, Michael F., [redacted]
Combs, Charles C., Jr., XXXX
Connors, David L., xxx-
Cook, Marvin E., [redacted]
Coppin, Eric P., [redacted]
Corl, David N., [redacted]
Cornali, Del J., [redacted]
Correia, Stanley C., [redacted]
Corrie, Robert M., [redacted]
Covington, John R., [redacted]
Cox, Franklin E., [redacted]
Craig, William R., [redacted]
Crocco, James R., [redacted]
Crockett, David, J., Jr., [redacted]
Crombie, Robert B., [redacted]
Crosley, Hilton C., [redacted]
Cross, Jeffrey R., [redacted]
Crouser, David T., [redacted]
Crowe, James L., [redacted]
Crowley, John J., [redacted]
Cuda, Daniel L., [redacted]
Cuevas, Eliseo J., [redacted]
Cummins, Michael L., [redacted]
Cunningham, Paul M., [redacted]
Curry, Christopher L., [redacted]
Dalros, Steven W., [redacted]
Damiens, Dennis J., [redacted]
Daniels, Murray E., [redacted]
Dankenbring, Thomas A., [redacted]
Dantzler, Willie C., [redacted]
Darnall, Walter W., Jr., [redacted]
Davila, Richard, Jr., [redacted]
Davis, Dee S., [redacted]
Davis, Steven M., [redacted]
Davis, William R., [redacted]
Dea, William F., [redacted]
Deane, Bruce W., [redacted]
Deand, Charles C., Jr., [redacted]
Dearmond, Frederic A., [redacted]
Deaux, James D., [redacted]
Deblanc, Robert K., [redacted]
Debruhl, Harry C., Jr., [redacted]
Dedic, John K., [redacted]
Deil, Lothar W., [redacted]
Delphenich, John R., [redacted]
Delpinto, Michael A., [redacted]
Delventhal, Michael A., [redacted]
Detrick, Ted A., [redacted]
Dickinson, Allen J., [redacted]
Dieffenbach, Brian E., [redacted]
Diener, David A., [redacted]
Dilla, Benjamin L., [redacted]
Dingley, David K., [redacted]
Dittmer, Karl K., Jr., [redacted]
Dobson, Robert H., [redacted]
Dodgen, Byron C., [redacted]
Dolan, James T., [redacted]
Domingue, Edward N., [redacted]
Donisi, Angelo A., Jr., [redacted]
Dorman, Glenn A., [redacted]
Dowell, Larry D., [redacted]
Drew, Joseph G., [redacted]
Duclos, Michael S., [redacted]
Dundore, Steven W., [redacted]
Dunn, Andrew W., [redacted]
Dunn, Luckey M., [redacted]
Dunn, William J., [redacted]
Dunstan, John D., [redacted]
Dutchyshyn, Harry V., Jr., [redacted]
Duvall, Michael W., [redacted]
Echols, John B., [redacted]
Eddy, Steven R., [redacted]
Eisen, Stefan, Jr., [redacted]
Ellen, Michael R., [redacted]
Elson, Randolph R., [redacted]
Ely, Michael V., [redacted]
Engel, Keneth D., [redacted]
Engleson, Lawrence E., [redacted]
Erdle, Michael P., [redacted]
Erickson, Mazel B., [redacted]
Eriksen, Larry E., [redacted]
Errigo, John A., [redacted]
Esbenshade, Kent A., [redacted]
Estrada, Edward A., [redacted]
Evans, David R., [redacted]
Evans, Joseph T., Jr., [redacted]
Evans, Mark W., [redacted]
Eyolfson, Michael F., [redacted]
Faber, Robert K., [redacted]
Fagan, James S., [redacted]
Fagot, Bradley F., [redacted]
Fairbrother, Edward F., Jr., [redacted]
Fallon, Andrew D., [redacted]
Farmer, David K., [redacted]
Fauver, John M., [redacted]
Feder, Eric L., [redacted]
Feigh, Keith A., [redacted]
Felder, Lloyd R., [redacted]
Fellows, Charles R., [redacted]
Fellows, Mark A., [redacted]
Felman, Marc D., [redacted]
Fisher, Alan D., [redacted]
Fisher, James P., [redacted]
Fisher, Robert R., [redacted]
Flanagan, Patrick R., [redacted]
Flemings, Garrison H., [redacted]
Floersch, John E., [redacted]
Flood, Scott K., [redacted]
Flower, Dean R., [redacted]
Foertsch, James W., [redacted]
Fondrow, Owen R., [redacted]
Ford, Douglas J., [redacted]
Fortner, Raymond L., [redacted]
Foster, Daniel A., [redacted]

Francis, Keith I., xxx-xx-xxxx
Franklin, Steven R., xxx-xx-xxxx
Franklin, William H., xxx-xx-xxxx
Frasier, Don A., Jr., xxx-xx-xxxx
Free, Jerry L., xxx-xx-xxxx
Freeman, Doyle K., xxx-xx-xxxx
Freer, Harrison C., xxx-xx-xxxx
French, Douglas W., xxx-xx-xxxx
French, Harold G., xxx-xx-xxxx
Freund, Bruce R., xxx-xx-xxxx
Fricano, Michael, xxx-xx-xxxx
Frith, Marc W., xxx-xx-xxxx
Fronk, Thomas M., xxx-xx-xxxx
Frozena, John D., xxx-xx-xxxx
Fry, Douglas W., xxx-xx-xxxx
Frye, Stephen B., xxx-xx-xxxx
Gajeski, Antone E., xxx-xx-xxxx
Galavotti, Louis J., Jr., xxx-xx-xxxx
Gallagher, Edward A., xxx-xx-xxxx
Gamblin, Barry S., xxx-xx-xxxx
Gandy, Edward R., Jr., xxx-xx-xxxx
Garcia, Jose A., xxx-xx-xxxx
Gardner, Ralph E., xxx-xx-xxxx
Gardner, Robert S., xxx-xx-xxxx
Garito, Douglas, J., xxx-xx-xxxx
Garland, Todd R., xxx-xx-xxxx
Garner, Larry E., xxx-xx-xxxx
Garrett, James M., xxx-xx-xxxx
Garrison, Leslie C., xxx-xx-xxxx
Garten, David N., xxx-xx-xxxx
Garza, Carlos, Jr., xxx-xx-xxxx
Gaughan, Miles M., xxx-xx-xxxx
Gegg, Michael P., xxx-xx-xxxx
Geiselhart Gerald J., Jr., xxx-xx-xxxx
George Arthur L., III, xxx-xx-xxxx
Gerdes, Bradley D., xxx-xx-xxxx
Getzelman, Harold D., xxx-xx-xxxx
Gibson, Ralph D., xxx-xx-xxxx
Glines, Brent P., xxx-xx-xxxx
Gold, Aaron H., xxx-xx-xxxx
Gold, Robert P., xxx-xx-xxxx
Goldbach, Bernard F., xxx-xx-xxxx
Goodrich, Bert F., xxx-xx-xxxx
Gosen, Richard B., xxx-xx-xxxx
Gough, Scott W., xxx-xx-xxxx
Gould, Michael C., xxx-xx-xxxx
Granger, Alan T., xxx-xx-xxxx
Gray, Robert M., xxx-xx-xxxx
Green, Franklin F., xxx-xx-xxxx
Greene, Thomas A., xxx-xx-xxxx
Gresham, Donald D., xxx-xx-xxxx
Grijalba, Apolonio S., Jr., xxx-xx-xxxx
Gronewald, Curtis J., xxx-xx-xxxx
Grosvenor, Robert C., xxx-xx-xxxx
Guindon, Bruce D., xxx-xx-xxxx
Gunderson, Steven G., xxx-xx-xxxx
Gustafson, Richard A., xxx-xx-xxxx
Gutierrez, George A., xxx-xx-xxxx
Hall, Donald D., xxx-xx-xxxx
Hall, Steven D., xxx-xx-xxxx
Hamburg, John, xxx-xx-xxxx
Hamed, Steven M., xxx-xx-xxxx
Hancock, Thomas W., xxx-xx-xxxx
Hanley, Patrick M., xxx-xx-xxxx
Hanley, Richard A., xxx-xx-xxxx
Hanson, William E., xxx-xx-xxxx
Hanus, Glen J., xxx-xx-xxxx
Harrison, Jeffrey B., xxx-xx-xxxx
Hass, Jeff T., xxx-xx-xxxx
Hatfield, David D., xxx-xx-xxxx
Hatt, Gerald R., xxx-xx-xxxx
Haug, Clifford M., xxx-xx-xxxx
Hauser, Michael L., xxx-xx-xxxx
Hazen, John T., xxx-xx-xxxx
Hebb, Alan D., xxx-xx-xxxx
Hedding, Truman J., III, xxx-xx-xxxx
Heidmous, Walter N., Jr., xxx-xx-xxxx
Heinz, Steven D., xxx-xx-xxxx
Heise, Kevin R., xxx-xx-xxxx
Heitman, Lee R., Jr., xxx-xx-xxxx
Henabray, Kevin F., xxx-xx-xxxx
Henager, Donald E., xxx-xx-xxxx
Henchey, Michael C., xxx-xx-xxxx
Henkel, Casey L., xxx-xx-xxxx
Henry, Christopher M., xxx-xx-xxxx
Hepburn, Byron C., xxx-xx-xxxx
Heppner, James J., xxx-xx-xxxx
Hiebert, Donald W., xxx-xx-xxxx
Higgins, Daniel M., xxx-xx-xxxx
Higgins, Donald P., Jr., xxx-xx-xxxx
Hildebrandt, John H., xxx-xx-xxxx
Hinger, Robert J., xxx-xx-xxxx
Hinkel, Clark R., xxx-xx-xxxx
Hobart, William C., Jr., xxx-xx-xxxx
Hoffman, Chris P., xxx-xx-xxxx
Hogan, Stephen J., xxx-xx-xxxx
Hogue, James R., xxx-xx-xxxx
Holdridge, Richard D., xxx-xx-xxxx
Holland, Martin K., xxx-xx-xxxx
Holley, Robert C., xxx-xx-xxxx
Holm, Gregory S., xxx-xx-xxxx
Holt, Hal P., xxx-xx-xxxx
Holtz, Thomas R., xxx-xx-xxxx
Hook, Peter S., xxx-xx-xxxx
Hope, John E., xxx-xx-xxxx
Houren, Patrick J., xxx-xx-xxxx
Houser, Phil C., xxx-xx-xxxx
Hoyes, Michael B., xxx-xx-xxxx
Hrncir, David E., xxx-xx-xxxx
Hudson, Robert W., xxx-xx-xxxx
Huerta, Jesse A., xxx-xx-xxxx
Huffman, Gary D., xxx-xx-xxxx
Hughes, Mark T., xxx-xx-xxxx
Hunt, James P., xxx-xx-xxxx
Ingersoll, Scott R., xxx-xx-xxxx
Inglis, John C., xxx-xx-xxxx
Isaacs, Charles B., xxx-xx-xxxx
Iverson, Robert B., xxx-xx-xxxx
Jackson, David R., xxx-xx-xxxx
Jackson, Jack A., Jr., xxx-xx-xxxx
Jackson, Jimmy D., xxx-xx-xxxx
Jacobs, Mark A., xxx-xx-xxxx
James, Douglas, xxx-xx-xxxx
Janiszewski, Alan M., xxx-xx-xxxx
Jared, David L., xxx-xx-xxxx
Jaskey, Armas J., Jr., xxx-xx-xxxx
Jensen, Craig R., xxx-xx-xxxx
Johnson, Anthony R., xxx-xx-xxxx
Johnson, Chase J., xxx-xx-xxxx
Johnson, Randall G., xxx-xx-xxxx
Johnson, Robert C., xxx-xx-xxxx
Johnson, William C., xxx-xx-xxxx
Johnston, Walter H., Jr., xxx-xx-xxxx
Johnstone, Thomas S., xxx-xx-xxxx
Jones, Bradley W., xxx-xx-xxxx
Jones, Budd A., Jr., xxx-xx-xxxx
Jones, William M., xxx-xx-xxxx
Jordan, Daniel W., III, xxx-xx-xxxx
Jorgensen, Stephen A., xxx-xx-xxxx
Julien, Philip A., xxx-xx-xxxx
Jumper, Geoffrey W., xxx-xx-xxxx
Kaiser, Daniel D., xxx-xx-xxxx
Kamrad, Kurt M., xxx-xx-xxxx
Kane, John P., xxx-xx-xxxx
Kaneshird, Kevin S., xxx-xx-xxxx
Kasprzyk, Stanley J., Jr., xxx-xx-xxxx
Keane, Michael J., xxx-xx-xxxx
Kearns, William A., xxx-xx-xxxx
Kehl, Randall H., xxx-xx-xxxx
Keithcart, Kerry E., xxx-xx-xxxx
Kelly, Henry F., IV, xxx-xx-xxxx
Kelly, Michael K., xxx-xx-xxxx
Kelly, Sean M., xxxx
Kelso, Thomas S., xxx-xx-xxxx
Kempton, Richard L., xxx-xx-xxxx
Kennon, Jay G., xxx-xx-xxxx
Kidd, Michael S., xxx-xx-xxxx
King, Gary M., xxx-xx-xxxx
King, Richard P., xxx-xx-xxxx
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Zimmerman, Ronald W., xxx-xx-xxxx

The following cadets, U.S. Military Academy, for appointment in the Regular Air Force in the grade of second lieutenant, effective upon their graduation, under the provisions of section 541 and 8284, title 10, United States Code, date of rank to be determined by the Secretary of the Air Force:

Allgood, Robert C., Jr., xxx-xx-xxxx
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Falcon, Carlos A., xxx-xx-xxxx
Foy, John J., xxx-xx-xxxx
Harvel, Donald D., xxx-xx-xxxx
Layman, Charles R., xxx-xx-xxxx
Little, Linwood L., xxx-xx-xxxx
Pietryka, Paul J., xxx-xx-xxxx
Shelton, Larry E., xxx-xx-xxxx
Williams, James L., xxx-xx-xxxx

The following midshipmen, U.S. Naval Academy, for appointment in the Regular Air Force in the grade of second lieutenant, effective upon his graduation under the provisions of section 541 and 8284, title 10, United States Code, date of rank to be determined by the Secretary of the Air Force:

O'Hagan, Timothy, xxx-xx-xxxx

IN THE NAVY

The following midshipman, U.S. Naval U.S. Navy for appointment in the Supply Corps as permanent lieutenants (junior grade) and temporary lieutenants:

Fremont, Robert F. II Grasham, Michael W.
Hoffman, Thomas L. Kane, Jerry A.
Roundtree, Ronald T. Schlegel, Merrill E. I.

The following-named line officers of the U.S. Navy for appointment in the Supply Corps as permanent lieutenants (junior grade):

Larue, Stephen L. Spicer, Ronald W.
Murphy, James C. Bennett, Gregory J.

The following-named line officers of the U.S. Navy for appointment in the Supply Corps as permanent ensigns:

Bristow, William D. Carr, Stephen M.
McLean, Robert M. O'Day, Patrick M.

The following-named line officers of the U.S. Navy for appointment in the Civil Engineer Corps as permanent lieutenants (junior grade) and temporary lieutenants:

Roach, David G.
White, Judson H., Jr.

Lt. Michael P. Green, U.S. Navy, an officer of the line, for appointment in the Judge Advocate General's Corps as a permanent lieutenant (junior grade) and temporary lieutenant.

Lt. Comdr. David C. Larson, U.S. Navy, an officer of the line, for appointment in the Judge Advocate General's Corps as a permanent lieutenant and temporary lieutenant commander.

Lt. (junior grade) Macgregor H. Paul, U.S. Navy, an officer of the line, for appointment in the Supply Corps as a permanent ensign and temporary lieutenant.

IN THE MARINE CORPS

The following-named (Naval Reserve Officer Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Chamberlain, Crystal M. McGill, Samuel
Hutch, Harry L., Jr. Taylor, Christopher K.
Kusch, Carl F. Vaughn, Joseph H.

The following-named (Navy Enlisted Scientific Education program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Brereton, John M. Martelli, Anthony D.
Granger, Kenneth A. Mathern, Daniel P.
Janecek, James F. Segovia, Arnold P.
Jorde, Erik L. Sell, James B.
Junkersfeld, Steven P. Washington,
Kitto, Thomas H. William C.
Knox, Calvin A.

The following-named (Marine Corps Enlisted Commissioning Education program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Cluck, James W. McKenna, William L.
Donovan, Rick O. Neitzey, Maurice J., III.
Grubb, Mark A. Prather, John S.
Herlihy, Joseph B. Williams, Kenneth L.
Ibarra, Ernest D.
Kellogg, William G.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 6, 1976:

DEPARTMENT OF JUSTICE

Eldon L. Webb, of Kentucky, to be U.S. attorney for the eastern district of Kentucky for the term of 4 years.

William D. Keller, of California to be U.S. attorney for the central district of California for the term of 4 years.

Ermen J. Pallanck, of Connecticut, to be U.S. marshal for the district of Connecticut for the term of 4 years.

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.

THE JUDICIARY

Harlington Wood, Jr., of Illinois, to be U.S. circuit judge for the seventh circuit.

Phil M. McNagny, Jr., of Indiana, to be U.S. district judge for the northern district of Indiana.

Charles Schwartz, Jr., of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

Morey L. Sear, of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

George C. Pratt, of New York, to be U.S. district judge for the eastern district of New York.

Ross N. Sterling, of Texas, to be U.S. district judge for the southern district of Texas.

Robert M. Takasugi, of California, to be U.S. district judge for the central district of California.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. William Allen Knowlton, [redacted] Army of the United States (major general, U.S. Army).

IN THE NAVY

Vice Adm. Emmett H. Tidd, U.S. Navy, for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code section 5233.

Navy nominations beginning Donald T. Adams, to be captain, and ending Genevieve L. Jones, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on April 9, 1976.

Navy nominations beginning Jean M. Cackowski, to be ensign, and ending Michael P. Vincent, to be lieutenant which nominations were received by the Senate and appeared in the Congressional Record on April 9, 1976.

HOUSE OF REPRESENTATIVES—*Thursday, May 6, 1976*

The House met at 12 o'clock noon.

Rev. Donald S. McPhail, St. Peter's Episcopal Church, Bay Shore, N.Y., offered the following prayer:

O God most high, who alone rulest the universe: grant to all Members of this body, the light and guidance of Thy Holy-Spirit, that they may wisely take counsel together.

May no prejudice or self-interest blind them to the needs of the peoples they serve, and no cowardice prevent them from doing their duty.

Let the Sun of Righteousness abide continually in our hearts that He may keep far from us the darkness of evil thoughts, through the same Thy Son, Jesus Christ, our Lord. 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate having proceeded to reconsider the bill (H.R. 9803) entitled "An act to facilitate and encourage the implementation by States of child day care services programs conducted pursuant to title XX of the Social Security Act, and to promote the employment of welfare recipients in the provision of child day care services, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved that the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2679. An act to establish a Commission on Security and Cooperation in Europe;

S. 3031. An act to authorize the erection of a statue of Bernardo de Galvez on public grounds in the District of Columbia; and

S. 3107. An act 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.

THE REVEREND DONALD S. McPHAIL

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, it is a privilege to introduce to my colleagues the Reverend Donald S. McPhail who just honored us with the eloquent prayer that opened today's session.

He is an active and vibrant member of the Bay Shore community. A leader in every sense of the word. It is my distinct pleasure to have him here with us today.

Reverend McPhail, a well-respected constituent from Bay Shore, N.Y., is rector of St. Peter's Episcopal Church in Bay Shore. Educated at Lord Strathcona Academy, Montreal, he was graduated with a B.A. degree from Sir George Williams University in Montreal and received into the Anglican Church of Canada in April 1955.

Before entering the study for the ministry, Father McPhail worked for more than 6 years as a purchasing assistant with the Shawinigan Water & Power Co. He left this work in 1959 to go to England in order to prepare for holy orders at the College of the Resurrection, Mirfield, Yorkshire. While in England, Father McPhail also taught in a secondary modern school in East London.

In September 1961 Father McPhail returned to New York to pursue graduate studies at the General Theological Seminary and the following year received his STB degree from that institution. He was ordained to the diaconate in April 1962 and to the priesthood in December of that year.

Reverend McPhail is currently a member of the program and budget committee of the diocese of Long Island; the Bicentennial committee of the diocese; the advisory council of Southside Hospital in Bay Shore, N.Y.; and he is an elected deputy to the general convention of the Episcopal Church.

I am pleased to have Reverend McPhail here in Washington and I am sure my colleagues join in my thanks to Father McPhail for his inspiring prayer.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL MIDNIGHT FRIDAY, MAY 7, 1976, TO FILE REPORT ON H.R. 9560

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight Friday night, May 7, 1976, to file a report on H.R. 9560, the water pollution control bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. SISK. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

KUDOS TO CARNEGIE HALL FOR 85 YEARS OF CULTURAL ENRICHMENT AND ARTISTIC ACHIEVEMENT

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I am today introducing a resolution expressing the congratulations and deep appreciation of the House of Representatives to Carnegie Hall for its 85 years of cultural enrichment and artistic achievement.

Carnegie Hall has long been our Nation's most prestigious showcase for the performing arts. It has presented leading performers in every field. In addition to great musical programs, it has brought hundreds of lectures, rallies, dance programs, religious services and art exhibits to our people. But even more importantly, it has brought untold joy and greater artistic understanding to countless Americans.

It was at Carnegie Hall that Yehudi Menuhin performed at age 11. It was there that "An American in Paris" had its world premiere and it was there that in 1912 many white Americans got their first taste of a new musical phenomena called jazz.

On its stage we have seen the world's greatest symphonies and its finest Dixieland bands. We have heard poets from Yeats to Ogden Nash. We have listened to singers from Maria Callas to Billie Holliday and we have watched performances from Paderewski to the Beatles. This varied repetoire is more than just